

## SALES TAX ASSESSMENT (NO. 1).

## No. 25 of 1930.

An Act relating to the Imposition, Assessment and Collection of a Tax upon the Sale Value of Goods manufactured in Australia and sold by the Manufacturer, or applied to his own use, and for other purposes.

[Assented to 18th August, 1930.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

## PART I.—PRELIMINARY.

- Short title.**        1. This Act may be cited as the *Sales Tax Assessment Act (No. 1)* 1930.
- Parts.**            2. This Act is divided into Parts, as follows :—
- Part    I.—Preliminary.
  - Part    II.—Administration.
  - Part    III.—Registration and Certificates.
  - Part    IV.—Liability to Taxation.
  - Part    V.—Returns.
  - Part    VI.—Collection and Recovery of Tax.
  - Part    VII.—Objections and Appeals.
  - Part    VIII.—Penal Provisions.
  - Part    IX.—Taxation Prosecutions.
  - Part    X.—Miscellaneous.
- Definitions.**     3.—(1.) In this Act, unless the contrary intention appears—
- “Agent” includes every person who in Australia, for or on behalf of any person out of Australia (in this section called “the principal”), holds or has the management or control of the business of his principal, and every person declared by the Commissioner to be an agent or the sole agent for any person for the purposes of this Act ;

- “Board of Review” means a Board of Review constituted under the *Income Tax Assessment Act 1922-1929* ;
- “Certificate” means a certificate of registration under this Act ;
- “Company” includes all bodies or associations corporate or unincorporate, but does not include partnerships ;
- “Goods” includes commodities ;
- “Liquidator” means the person who, whether or not appointed as liquidator, is the person required by law to carry out the winding-up of a company ;
- “Manufacture” includes production ;
- “Manufactured” includes produced ;
- “Manufacturer” means a person who engages, whether exclusively or not, in the manufacture of goods, and includes a printer, publisher, lithographer or engraver ; and, where one person makes goods wholly or in part for another out of materials supplied by that other, the person supplying the materials shall be deemed to be the manufacturer, and the person so making the goods shall not be deemed to be the manufacturer ;
- “Person” includes a company ;
- “Registered person” means a manufacturer or wholesale merchant who is registered under this Act ;
- “Taxpayer” means a person chargeable with sales tax under this Act ;
- “the Commissioner” means the Commissioner of Taxation ;
- “the Second Commissioner” means the Second Commissioner of Taxation ;
- “Trustee”, in addition to every person appointed or constituted trustee by act of parties, by order or declaration of a court, or by operation of law, includes—
- (a) an executor or administrator, guardian, committee, receiver or liquidator ; and
  - (b) every person having or taking upon himself the administration or control of goods affected by any express or implied trust, or acting in any fiduciary capacity, or having the possession, control or management of the goods of a person under any legal or other disability ;
- “Unregistered person” means a person who is not registered under this Act ;
- “Wholesale merchant” means a person who engages whether exclusively or not in the sale of goods by wholesale.

(2.) For the purpose of this Act, a person shall be deemed to have quoted his certificate where, in any transaction, act or operation in relation to goods the sale value of which is subject to tax, he represents in the prescribed manner that he is the holder of a certificate issued under this Act.

(3.) Any reference in this Act to the amount for which goods are sold shall, where the goods are sold subject to the payment of a royalty, be deemed to include such amount as, in the opinion of the Commissioner, is the value of the royalty.

#### PART II.—ADMINISTRATION.

**Commissioner.** 4. The Commissioner of Taxation shall have the general administration of this Act.

**Powers of  
Second  
Commissioner.** 5.—(1.) Subject to this section, the Second Commissioner of Taxation shall have and may exercise all the powers and functions of the Commissioner under this Act.

(2.) Where in this Act the exercise of any power or function by the Commissioner or the operation of any provision of this Act is dependent upon the opinion, belief or state of mind of the Commissioner in relation to any matter, that power or function may be exercised by the Second Commissioner or that provision may operate (as the case may be) upon the opinion, belief or state of mind of the Second Commissioner in relation to that matter.

(3.) Nothing in this section shall be deemed to confer upon the Second Commissioner any power or function of the Commissioner under section four, or under section seven or nine, of this Act, or to prevent the exercise of any power or function by the Commissioner under this Act, and the Commissioner shall have, in relation to any act of the Second Commissioner, the same power as if that act were done by himself.

**Deputy  
Commissioners.** 6. The Deputy Commissioners of Taxation shall, subject to the control of the Commissioner, have such powers and functions as are prescribed, or as the Commissioner directs.

**Delegation  
by the  
Commissioner.** 7.—(1.) The Commissioner may, in relation to any particular matters or class of matters, or to any particular State or part of the Commonwealth, by writing under his hand, delegate to a Deputy Commissioner or other person all or any of his powers or functions under this Act (except this power of delegation) so that the delegated powers or functions may be exercised by the Deputy Commissioner or person with respect to the matters or class of matters or the State or part of the Commonwealth specified in the instrument of delegation.

(2.) Every delegation under this section shall be revocable at will, but any delegation shall not prevent the exercise of any power or function by the Commissioner.

(3.) Any delegation under this section may be made subject to a power of review and alteration, within the period specified in the instrument of delegation, by the Commissioner of any act done in pursuance of the delegation and the decision given upon any such review or alteration shall be deemed to be that of the Commissioner.

8. Any reference in this Act to the Commissioner shall be deemed to include— References to Commissioner.

- (a) in respect of matters as to which the Second Commissioner has exercised any power or function conferred upon him by this Act—a reference to the Second Commissioner; and
- (b) in respect of matters as to which a Deputy Commissioner has exercised any power or function conferred upon him by delegation under this Act—a reference to that Deputy Commissioner.

9.—(1.) The Commissioner shall furnish to the Treasurer annually, for presentation to the Parliament, a report on the working of this Act. Report by the Commissioner.

(2.) In the report the Commissioner shall draw attention to any breaches or evasions of this Act which have come under his notice.

10.—(1.) Every person executing any power or duty conferred or imposed on an officer under this Act or the Regulations thereunder shall, before entering upon his duties or exercising any power under this Act, make before a Justice of the Peace or a Commissioner for taking Affidavits or a Commissioner for Declarations, a declaration in the form prescribed. Officers to observe secrecy.

(2.) Any person who acts in the execution of any duty under this Act or the Regulations thereunder before he has made the prescribed declaration or who after making the declaration makes a record of or divulges any information relating to the affairs of a person except in the performance of any duty under this Act shall be guilty of an offence.

Penalty : Two hundred and fifty pounds.

(3.) Any person who has been an officer or has performed any duty under this Act, and who communicates any information acquired by him in the performance of any duty under this Act or Regulations thereunder to any person, other than a person to whom he is authorized by the Commissioner, Second Commissioner or a Deputy Commissioner to communicate it, shall be guilty of an offence.

Penalty : Two hundred and fifty pounds.

(4.) Notwithstanding anything contained in this section, the Commissioner, the Second Commissioner or a Deputy Commissioner may communicate any matter, which comes to his knowledge in the performance of his official duties, to a Board of Review appointed under this Act or to the Commissioner of Income Tax for any State,

or the officer or authority administering any Act of a State relating to Stamp Duties or Succession Duties (who is authorized by law to afford similar information to the Commissioner, the Second Commissioner or a Deputy Commissioner) or to the Comptroller-General of Customs :

Provided that, where any matter is communicated to a Board of Review in pursuance of this section and that matter consists of returns, or information derived from returns, of a taxpayer other than the taxpayer whose assessment is under review in the review in the course of which the communication is made, the members of the Board shall be subject to the same obligation as is imposed by sub-section (3.) of this section upon a person who has been an officer under this Act.

(5.) An officer shall not be required to produce in any Court any return, assessment or notice of assessment, or to divulge or communicate to any Court any matter or thing coming under his notice in the performance of his duties under this Act except as may be necessary for the purpose of carrying into effect the provisions of this Act.

#### PART III.—REGISTRATION AND CERTIFICATES.

Issue of  
certificates.

11.—(1.) Every person who is, at the commencement of this Act, a manufacturer or wholesale merchant shall, within twenty-eight days after that commencement, become registered as prescribed and give security to the satisfaction of the Commissioner in an amount not less than twenty-five pounds and not more than One thousand pounds for compliance with the conditions of the certificate.

(2.) Every person who becomes a manufacturer or wholesale merchant after the commencement of this Act shall, within twenty-eight days after he becomes a manufacturer or wholesale merchant, become registered as prescribed and give security to the satisfaction of the Commissioner in an amount not less than twenty-five pounds and not more than One thousand pounds for compliance with the conditions of the certificate.

(3.) Upon registration a certificate of registration shall be issued to such manufacturer or wholesale merchant and shall, subject to this Act, remain in force—

(a) until the thirtieth day of June next following the date of issue of such certificate; or

(b) where the holder of the certificate has applied for a fresh certificate, until the date of the issue of the fresh certificate, whichever date is the later.

(4.) Every manufacturer or wholesale merchant, whether or not he is the holder of a certificate under this Part, shall, not less than fourteen days prior to such thirtieth day of June, unless, being the holder of a certificate, he has notified the Commissioner as specified in section sixteen of this Act, apply for a certificate or fresh certificate (as the case may be), for the next ensuing period of twelve months and shall give or renew security to the satisfaction of the Commissioner for compliance with the conditions of the fresh certificate.

(5.) Certificates shall be issued by the Commissioner or by a person thereto authorized in writing by the Commissioner.

(6.) Certificates under this Part shall be subject to the following conditions :—

(a) That the person to whom the certificate is issued will—

(i) keep proper books or accounts for the purposes of this Act ;

(ii) render true statements of all sales made by him as and when required by the Commissioner ; and

(iii) duly pay all tax required by or under this Act to be paid by him ; and

(b) Such other conditions as are prescribed.

(7.) In respect only of the period commencing on the first day of August One thousand nine hundred and thirty and ending on the expiration of twenty-eight days after the commencement of this Act the following provisions shall apply :—

(a) Any person required by this Act to be registered shall be deemed to be a registered person until in fact so registered ;

(b) Every person so deemed to be a registered person shall, upon every purchase of goods by him for the purpose of sale, or for use in the manufacture of goods for sale, certify in writing to the vendor that the goods are purchased for that purpose ;

(c) Where in respect of any sale of goods the purchaser so certifies, he shall be deemed, for the purposes of this Act, to have quoted his certificate in respect of the purchase of those goods, and where he does not so certify he shall be deemed not to have quoted his licence.

(8.) The last preceding sub-section shall not operate so that sales tax will be payable upon the sale value of goods sold on or after the first day of August One thousand nine hundred and thirty, but prior to the commencement of this Act, in any case in which the Commissioner is satisfied that sales tax is payable or has been paid under any Act upon the sale value of those goods in respect of a prior sale thereof.

12.—(1.) A registered person shall quote his certificate in such manner and under such circumstances as are prescribed. Quotation of certificates.

(2.) A registered person shall not quote his certificate except as prescribed.

Penalty : One hundred pounds.

13. Any person carrying on business as a manufacturer or as a wholesale merchant who fails within the time specified in section eleven of this Act to become registered under this Part or fails within the time so specified to apply for a fresh certificate, or, in either case, to give security to the satisfaction of the Commissioner, shall be guilty of a separate offence for each day during which he fails to become so registered or so to apply for a fresh certificate or so, in either case, to give such security. Failure to register or give security.

Penalty : One hundred pounds, for each separate offence.

Non-observance  
of conditions.

14. Any manufacturer or wholesale merchant to whom a certificate has been issued under this Part who contravenes or fails to observe any condition of the certificate shall be guilty of an offence.

Penalty : One hundred pounds.

Wrongful  
quotation of  
certificate.

15. Any person who, in relation to any transaction, act or operation in respect of goods the sale value of which is subject to tax under this Act, falsely represents that he is a registered person or falsely quotes a certificate, shall be guilty of an offence.

Penalty : One hundred pounds.

Registered  
person ceasing  
to carry on  
business.

16. Any manufacturer or wholesale merchant to whom a certificate has been issued under this Part who, during the currency of the certificate, ceases to carry on the business to which the certificate relates shall forthwith notify the Commissioner in writing of his having so ceased to carry on business and shall forward his certificate to the Commissioner who, upon being satisfied that the conditions of the certificate have been observed, shall cause it to be cancelled.

#### PART IV.—LIABILITY TO TAXATION.

Sales tax

17. Subject to, and in accordance with, the provisions of this Act, the sales tax imposed by the *Sales Tax Act* (No. 1) 1930 shall be levied and paid upon the sale value of goods manufactured in Australia by a taxpayer and sold by him or treated by him as stock for sale by retail or applied to his own use.

Sale value of  
goods.

18.—(1.) For the purposes of this Act, the sale value of goods, not being goods to which the next succeeding sub-section applies, which are sold on or after the first day of August One thousand nine hundred and thirty, shall be the amount for which those goods are sold to an unregistered person, or to a registered person who has not quoted his certificate in respect of that sale.

(2.) For the purposes of this Act the sale value of goods treated by the manufacturer of the goods on or after the first day of August One thousand nine hundred and thirty as stock for sale by him by retail, shall be the amount which would be the fair market value of those goods if sold by him by wholesale.

(3.) For the purposes of this Act, the sale value of goods manufactured by any person and, on or after the first day of August One thousand nine hundred and thirty, applied to his own use shall be such amount as, in the opinion of the Commissioner, would be the fair market value of the goods if sold by that person in the ordinary course of trade.

(4.) Notwithstanding anything contained in sub-section (1.) of this section, where, in respect of any sale to which that sub-section applies—

- (a) the vendor and the purchaser are companies the shareholding interests of which are, in the opinion of the Commissioner, directly or indirectly in substantially the same hands ;
- (b) the vendor or the purchaser is a company in which, in the opinion of the Commissioner, the purchaser or the vendor, as the case may be, directly or indirectly controls the voting power of the company ; or

- (c) the circumstances are such that, in the opinion of the Commissioner, the vendor or the purchaser is directly or indirectly in substantial control of the business operations of the other,

and it appears to the Commissioner that the amount for which those goods were sold is less than their fair market value in the ordinary course of trade, the sale value shall be altered by the Commissioner to the value which, in his opinion, would be the fair market value of the goods if sold by that person in the ordinary course of trade, and the altered value shall be the sale value of those goods for the purposes of this Act.

(5.) For the purposes of this section, the amount for which goods are sold shall not be taken to include any amount payable in respect of sales tax, but, when the goods are sold in bond, shall be taken to include the amount of any duty of Excise to which the goods would be subject upon entry for home consumption.

(6.) In the case of goods delivered on or after the first day of August One thousand nine hundred and thirty under a contract of sale made on or after the tenth day of July One thousand nine hundred and thirty and before the first day of August One thousand nine hundred and thirty the goods shall, for the purposes of this Act, be deemed to have been sold on the date of their delivery.

19. Sales tax shall be paid by the manufacturer of goods the sale value of which is specified in the last preceding section. Liability for tax.

20. Notwithstanding anything contained in the last preceding section, sales tax shall not be payable under this Act by the person specified in that section upon the sale value of— Exemptions.

- (a) goods sold by him for export by the purchaser from him or exported by him for sale after export ;
- (b) goods sold by a dispensing chemist who sells goods exclusively by retail ;
- (c) goods, being medicines, sold by a society duly registered under any Friendly Societies' Act of the Commonwealth or a State ;
- (d) goods sold exclusively by retail by a person (not being a person who manufactures articles for human wear), whose principal business consists of the manufacture of goods to the order of individual customers ;
- (e) goods sold exclusively by retail by a person who manufactures some or all of those goods and total value of whose average yearly sales is not, or would not be, in the opinion of the Commissioner, in excess of One thousand pounds ;
- (f) goods manufactured by a person exclusively in his own home for sale the total value of whose average yearly sales is not, or would not be, in the opinion of the Commissioner, in excess of Five hundred pounds ;



- (g) goods, being primary products which are derived directly from operations carried on in Australia in—
- (i) mining ;
  - (ii) the cultivation of land ;
  - (iii) the maintenance of animals, poultry and bees ;
  - (iv) fisheries ; or
  - (v) timber getting,
- and which have not been subject to any process or treatment resulting in an alteration of the form, nature or condition of the goods ; or
- (h) the goods specified in the First Schedule to this Act.

## PART V.—RETURNS.

Returns, &amp;c.

21.—(1.) Every manufacturer who, during any month—

- (a) makes any of the sales specified in section eighteen of this Act ; or
- (b) treats any goods as stock for sale by him by retail ; or
- (c) applies to his own use any goods specified in sub-section (3.) of section eighteen of this Act,

shall, within twenty-one days after the close of that month, furnish to the Commissioner a return in the prescribed form—

- (i) in cases to which paragraph (a) of this sub-section applies—setting forth the aggregate of the amounts for which the goods were sold during that month, together with the aggregate of all discounts, rebates, deductions or other credits given during that month in respect of those sales, and such other information as is prescribed ;
- (ii) in cases to which paragraph (b) of this sub-section applies—setting forth the aggregate amount which would be the fair market value of goods treated as stock for sale by retail if those goods were sold by the manufacturer by wholesale ;
- (iii) in cases to which paragraph (c) of this sub-section applies—setting forth full particulars of the goods so applied and such other information as is prescribed.

Further returns.

22. In addition to any return that may have been required under the last preceding section, the Commissioner may, by notice in writing, call upon any person to furnish to him, within the time specified in the notice, such return, or such further or fuller return, as the Commissioner requires, whether in that person's own behalf or as an agent or a trustee.

Department to obtain information and evidence.

23.—(1.) The Commissioner may, by notice in writing, require any person, whether a taxpayer or not—

- (a) to furnish him with such information as he requires ; or
- (b) to attend and give evidence before him or before any officer authorized by him in that behalf,

for the purpose of inquiring into or ascertaining his or any other person's liability under any of the provisions of this Act, and may require him to produce all books, documents and other papers whatsoever in his custody or under his control relating thereto.

(2.) The Commissioner may require the information or evidence to be given on oath, and either verbally or in writing, and for that purpose he or the officer so authorized by him may administer an oath.

(3.) The Regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

#### PART VI.—COLLECTION AND RECOVERY OF TAX.

24.—(1.) Every person liable to pay tax upon the sale value of any goods, sold or treated by him during any month as specified in sub-section (1.) or (2.) of section eighteen of this Act, shall, within twenty-one days after the close of that month, pay sales tax upon the sale value of the goods sold. Time of payment of tax.

(2.) Every person liable to pay tax upon the sale value of any goods as ascertained under sub-section (3.) of section eighteen of this Act shall, on or before the date specified in the notice served on him by post by the Commissioner stating the amount of his liability under that sub-section, pay sales tax upon the sale value of those goods.

25.—(1.) Where the Commissioner finds in any case that tax or further tax is payable by any person, the Commissioner may— Further tax.

(a) assess the sale value upon which tax should be or should have been paid ; and

(b) calculate the tax or further tax which is payable.

(2.) Where, under sub-section (4.) of section eighteen of this Act, the sale value of any goods has been altered, the Commissioner shall calculate the further tax (if any) payable in consequence of that alteration.

(3.) As soon as conveniently may be after an assessment is made or a sale value is altered, the Commissioner shall cause notice in writing of the assessment or alteration and of the tax or further tax to be given to the person liable to pay the tax or further tax.

(4.) The amount of tax or further tax specified in the notice shall be payable on or before the date specified in the notice, together with any other amount which may be payable in accordance with any other provision of this Act.

(5.) The omission to give any such notice shall not invalidate the assessment and calculation made by the Commissioner.

26.—(1.) Where the Commissioner finds in any case that tax has been overpaid, he may refund the amount of tax found to be overpaid. Refunds of tax.

(2.) Where the sale value in respect of which tax has been paid is the amount for which goods have been sold and the whole or any part of that amount has actually been written off by the taxpayer as a bad debt, the Commissioner may, to the extent to which it is proved to his satisfaction that the debt is a bad debt, refund the tax paid upon the amount of the sale value so proved to be a bad debt :

Provided that, if the whole or any part of any amount in respect of which tax has been so refunded is at any time recovered by the taxpayer, sales tax shall become payable by him upon the amount so recovered and the provisions of sections twenty-one and twenty-four of this Act shall apply to any such amount as if that amount were the sale value of goods sold by the taxpayer during the month in which that amount was so recovered.

(3.) Where the Commissioner is satisfied that sales tax has been paid under the provisions of any other Act upon the sale value of goods used in, wrought into or attached to goods, the sale value of which is subject to sales tax under this Act, the Commissioner may refund so much of the tax paid under this Act as is in his opinion equivalent to the tax paid under that other Act upon the sale value of the goods so used wrought into or attached.

Taxpayer  
leaving  
Australia.

27.—(1.) When the Commissioner has reason to believe that a taxpayer may leave Australia before the tax or further tax becomes due and payable by him the tax or further tax shall be due and payable on such date as the Commissioner fixes and notifies to the taxpayer.

(2.) Subject to this section, every taxpayer who is about to leave Australia shall apply to the Commissioner at his office or at the office of a Deputy Commissioner for a certificate that—

(a) sales tax is not payable by that person ; or

(b) all sales tax which is due by that person has been paid or that arrangements satisfactory to the Commissioner have been made for the payment of that tax and of any further sales tax which may become due and payable by that person,

and the Commissioner, Second Commissioner or Deputy Commissioner, upon being satisfied as to the facts, may issue a certificate accordingly.

(3.) Every certificate issued under the last preceding sub-section shall be presented by or on behalf of the person to whom it is issued to the office of the owner or charterer, or of the representative of the owner or charterer, of the ship by which the person intends to leave Australia at the port at which passage by the ship is to be booked, and unless and until such certificate is so presented an authority for that person to travel by that ship shall not be issued by the owner or charterer or a representative or employee of the owner or charterer.

(4.) Any owner or charterer or the representative or employee of the owner or charterer of any ship who issues in contravention of the provisions of the last preceding sub-section an authority to any person to travel by the ship shall be guilty of an offence.

Penalty : The amount of tax, if any, which is, or may become, due and payable by the person to whom the authority to travel is issued and in addition a fine not less than Fifty pounds or more than Two hundred pounds.

(5.) The owner, charterer, or the representative of the owner or charterer, of every ship which takes passengers on board at any port shall, on the first working day after the advertised date of departure of the ship from the port in Australia at which the certificate mentioned in this section is required to be presented, lodge all certificates so presented at the office of the Deputy Commissioner of Taxation for the State in which that port is situated, together with a list showing the name and last-known address in Australia of every person (other than members of the crew and staff of the ship) who sailed on the ship.

(6.) Every owner or charterer of a ship or his representative who fails to comply with the provisions of the last preceding sub-section shall be guilty of an offence.

Penalty : Not less than Ten pounds or more than One hundred pounds.

28. The Commissioner may, in such cases as he thinks fit—

- (a) extend the time for payment as he considers the circumstances warrant ; or
- (b) permit the payment of tax to be made by instalments within such time as he considers the circumstances warrant.

Time to pay—  
extensions and  
instalments.

29. If the tax or further tax is not paid before the expiration of the time specified in section twenty-four or twenty-five of this Act, or such further time as may be allowed by the Commissioner under section twenty-eight of this Act, additional tax shall be payable at the rate of ten per centum per annum upon the amount of tax unpaid, to be computed from the expiration of the time specified in section twenty-four or twenty-five of this Act, or, where further time has been allowed by the Commissioner under section twenty-eight of this Act, from the expiration of that further time :

Penal tax.

Provided that the Commissioner may, in any particular case, for reasons which in his discretion he thinks sufficient, remit the additional tax imposed or any part thereof.

30.—(1.) Tax shall be deemed when it becomes due and payable to be a debt due to the King on behalf of the Commonwealth and payable to the Commissioner in the manner and at the place prescribed.

Recovery of  
tax.

(2.) Any tax unpaid, including any additional tax, may be sued for and recovered in any court of competent jurisdiction by the Commissioner or a Deputy Commissioner suing in his official name.

31. If, in any proceedings against a taxpayer for the recovery of tax or additional tax, the defendant—

Substituted  
service.

- (a) is absent from Australia and has not to the knowledge of the Commissioner after reasonable inquiry in that behalf any attorney or agent in Australia on whom service of process can be effected ; or
- (b) cannot after reasonable inquiry be found.

service of any process in the proceedings may, without leave of the Court, be effected on him by posting the same or a sealed copy thereof in a letter addressed to him at his last known place of business or abode in Australia.

Liquidator to  
give notice.

32.—(1.) Where a company is being wound up the liquidator of the company shall give notice to the Commissioner within fourteen days after the approval of the shareholders for the winding-up has been given, or the order for the winding-up has been made, and shall set aside such sum out of the assets of the company as appears to the Commissioner to be sufficient to provide for any tax that then is or will thereafter become payable.

(2.) A liquidator who fails to give notice to the Commissioner within the time specified in the last preceding sub-section or fails to provide for payment of the tax as required by this section shall be personally liable for any tax that then is or thereafter becomes payable in respect of the company.

(3.) Where more persons than one are appointed liquidators or required by law to carry out the winding-up, the obligations and liabilities attaching to a liquidator under this section shall attach to each of such persons :

Provided that where any one of such persons has paid the tax due in respect of the company being wound-up the other person or persons shall be liable to pay that person each his equal share of the amount of the tax so paid.

Agent for  
absentee  
principal  
winding-up  
business.

33.—(1.) Where an agent for an absentee principal has been required by the principal to wind-up the business of his principal he shall, before taking any steps to wind-up the business, notify the Commissioner of his intention so to do, and shall set aside such sum out of the assets of the principal as appears to the Commissioner to be sufficient to provide for any tax that becomes payable.

(2.) An agent who fails to give notice to the Commissioner or fails to provide for payment of the tax as required by this section shall be personally liable for any tax that becomes payable in respect of the business of the principal.

When tax not  
paid during  
lifetime.

34. In any case where, whether intentionally or not, a taxpayer escapes full taxation in his lifetime by reason of not having duly made full, complete and accurate returns—

- (a) the Commissioner shall have the same powers and remedies against the executors and administrators of the taxpayer in respect of the liability which the taxpayer had as he would have had against the taxpayer in his lifetime ;
- (b) the executors and administrators shall make such returns and furnish such information as the Commissioner requires for the purpose of an accurate assessment ;
- (c) the amount of tax shall (where the taxpayer's default was intentional) be double the amount of the difference between the sales tax so assessed and the amount actually paid

by the taxpayer, and shall be a first charge on all the taxpayer's estate in the hands of the executors and administrators; and

- (d) no lapse of time shall prevent the operation of this section, and the Commissioner may take all such proceedings and exercise all such powers and remedies for the purpose of giving effect to this section and recovering the double tax as in the case of ordinary assessments and taxation.

35.—(1.) Where, at the time of a taxpayer's death, he had not paid the whole of the tax payable up to the date of his death, the Commissioner shall have the same powers and remedies for the assessment and recovery of tax from the executors and administrators as he would have had against that person, if that person were alive.

Provision for  
payment of tax  
by executors or  
administrators.

(2.) The executors or administrators shall furnish such of the returns mentioned in Part V. of this Act as have not been made by the deceased person.

(3.) Where the executors or administrators are unable or fail to furnish a return, the Commissioner may estimate and make an assessment of the sale value on which, in his judgment, tax ought to be charged.

(4.) Where, in respect of the estate of any deceased taxpayer, probate has not been granted or letters of administration have not been taken out within six months of his death, the Commissioner may cause an assessment to be made of the amount of tax due by the deceased.

(5.) The Commissioner shall cause notice of the assessment to be published twice in a daily newspaper circulating in the State in which the taxpayer resided.

(6.) Any person claiming an interest in the estate of the taxpayer, may, within forty-two days after the first publication of notice of the assessment, post to or lodge with the Commissioner an objection in writing against the assessment stating fully and in detail the grounds on which he relies, and the provisions of this Act relating to objections and appeals shall thereupon apply in relation to the objection as if the person so claiming an interest were the taxpayer.

(7.) Subject to any amendment of the assessment by the Commissioner, or by the Board of Review or by a Court, the assessment so made shall be conclusive evidence of the indebtedness of the deceased to the Commissioner.

(8.) The Commissioner may issue an order in the form in the Second Schedule to this Act authorizing any member of the police force of the Commonwealth or of a State or of a Territory of the Commonwealth or any other person named therein to levy the amount of tax due by the deceased, with costs, by distress and sale of any property of the deceased.

(9.) Upon the issue of any such order the member or person so authorized shall have power to levy that amount accordingly in the rescribed manner.

(10.) Notwithstanding anything contained in the last three preceding sub-sections, if at any time probate of the will of the deceased is granted to, or letters of administration of the estate are taken out by, a person, that person may, within forty-two days after the date on which probate was granted or letters of administration were taken out, lodge an objection against the assessment, stating fully and in detail the grounds on which he relies, and the provisions of this Act relating to objections and appeals shall thereupon apply in relation to the objection as if that person were the taxpayer.

Recovery of  
tax paid on  
behalf of  
another person.

36. Every person who, under the provisions of this Act, pays any tax for or on behalf of any other person shall be entitled to recover the amount so paid from that other person as a debt, together with the costs of recovery, or to retain or deduct that amount out of any money in his hands belonging or payable to that other person.

Contributions  
from joint  
taxpayers.

37. Where two or more persons are jointly liable to tax they shall each be liable for the whole tax, but any of them who has paid the tax may recover contributions as follows:—

- (a) a person who has paid the tax in respect of the sale value of any goods may recover by way of contribution from any other person jointly liable to that tax a sum which bears the same proportion to the tax as the interest which that other person had in those goods bears to the total interests therein of the persons jointly liable to tax;
- (b) every person entitled to contribution under this section may sue therefor in any court of competent jurisdiction as money paid to the use of the person liable to contribute at his request; or may retain or deduct the amount of the contribution out of any moneys in his hands belonging or payable to the person liable to contribute.

Commissioner  
may collect tax  
from person  
owing money  
to taxpayer.

38.—(1.) The Commissioner may, by notice in writing (a copy of which shall be forwarded to the taxpayer to the last place of address known to the Commissioner), require—

- (a) any person by whom any money is due or accruing or may become due to a taxpayer;
- (b) any person who holds or may subsequently hold money for or on account of a taxpayer;
- (c) any person who holds or may subsequently hold money on account of some other person for payment to a taxpayer; or
- (d) any person having authority from some other person to pay money to a taxpayer,

to pay to him, forthwith, upon the money becoming due or being held, or within such further time as the Commissioner, Second Commissioner, or Deputy Commissioner allows, the money or so much thereof as is sufficient to pay the tax due by the taxpayer or the fines and costs (if any) imposed by a Court on him in respect of an offence against this Act.

(2.) Any person who fails to comply with any notice under this section shall be guilty of an offence.

Penalty : Fifty pounds.

(3.) Where the amount payable by the person to the taxpayer is less than the amount of tax due by the taxpayer, the person shall pay to the Commissioner in reduction of the amount of tax due the amount payable by that person to the taxpayer.

(4.) Any person making any payment in pursuance of this section shall be deemed to have been acting under the authority of the taxpayer and of all other persons concerned and is hereby indemnified in respect of such payment.

(5.) If the tax due by the taxpayer, or the fine and costs (if any) imposed by a court on him, are paid before any payment is made under a notice given in pursuance of this section, the Commissioner shall forthwith give notice to the person of the payment.

(6.) In this section—

“Tax” means sales tax and includes additional tax chargeable under this Act, and any judgment debt and costs in respect of tax ;

“Person” includes company, partnership, Commonwealth or State Officer, and any public authority (corporate or unincorporate) of the Commonwealth or a State.

39.—(1.) The production of any document or a copy of a document under the hand of the Commissioner, Second Commissioner or a Deputy Commissioner purporting to be a notice or a copy of a notice specifying any liability of a taxpayer under this Act shall be conclusive evidence of the due exercise of any act required by this Act to be done or performed by the Commissioner, Second Commissioner, or a Deputy Commissioner for the purpose of ascertaining the liability so specified and (except in proceedings on appeal when it shall be *prima facie* evidence only) shall be conclusive evidence of the correctness of any calculations upon which that liability is ascertained. Evidence.

(2.) The production of any document under the hand of the Commissioner, Second Commissioner or a Deputy Commissioner purporting to be a copy of or extract from any document or return furnished to or of any document issued by the Commissioner shall for all purposes be sufficient evidence of the matter therein set forth, without producing the original.

#### PART VII.—OBJECTIONS AND APPEALS.

40. A Board of Review shall have power to review such decisions of the Commissioner, Second Commissioner or Deputy Commissioner as are referred to it by the Commissioner under this Act and, for the purpose of reviewing such decisions, shall have all the powers and functions of the Commissioner in making assessments, determinations and decisions under this Act, and such assessments, Powers of Board.



determinations and decisions of the Board, and the decisions of the Board upon review, shall for all purposes (except for the purposes of sub-section (4.) of section forty-one and sub-section (6.) of section forty-two of this Act) be deemed to be assessments, determinations or decisions of the Commissioner.

**Objections.**

41.—(1.) A taxpayer who considers that any amount upon which he is required to pay sales tax in respect of any goods is not the sale value of those goods as declared by this Act or who is dissatisfied with any assessment or decision made by the Commissioner under this Act by which the sale value of any goods is ascertained may, within forty-two days after the first day upon which he is required by or under this Act to pay sales tax upon that amount or value, post to or lodge with the Commissioner an objection in writing against that amount or value stating fully and in detail the grounds on which he relies.

(2.) The Commissioner shall consider the objection, and may either disallow it, or allow it, either wholly or in part.

(3.) The Commissioner shall give to the objector written notice of his decision on the objection.

(4.) A taxpayer who is dissatisfied with the decision of the Commissioner, Second Commissioner or Deputy Commissioner may within thirty days after the service by post of notice of that decision request the Commissioner in writing to refer the decision to a Board of Review for review.

**References to  
Board of  
Review.**

42.—(1.) Where a taxpayer has, in accordance with the last preceding section, requested the Commissioner to refer a decision to a Board of Review, the Commissioner shall, if the taxpayer's request is accompanied by a deposit of such amount as is prescribed for the particular class of case, refer the decision to the Board not later than thirty days after receipt of the request.

(2.) A taxpayer shall be limited on the review to the grounds stated in his objection.

(3.) If the amount or sale value has been reduced by the Commissioner after considering the objection, the reduced amount or value shall be that to be dealt with by the Board under the next succeeding sub-section.

(4.) The Board, on review, shall give a decision and may either confirm the amount or sale value or reduce, increase or vary the amount or value.

(5.) The Board may, if it considers the reference to be frivolous or unreasonable, order the forfeiture of the whole or part of the amount deposited in accordance with sub-section (1.) of this section.

(6.) The Commissioner or a taxpayer may appeal to the High Court from any decision of the Board under this section which, in the opinion of the High Court, involves a question of law and the Board shall, upon the request of the Commissioner or a taxpayer, refer to the High Court any question of law arising before the Board and the decision of the High Court thereon shall be final and conclusive.

43.—(1.) The fact that an appeal or reference is pending shall not in the meantime interfere with or affect the amount or sale value the subject of that appeal or reference ; and sales tax may be levied and recovered on the assessment as if no appeal or reference were pending.

Pending appeal  
not to delay  
payment  
of tax.

(2.) If the amount or value is altered on appeal or reference, a due adjustment shall be made, for which purpose amounts paid in excess shall be refunded, and amounts short paid shall be recoverable as arrears.

44. Where, as a result of the consideration of any objection, reference to a Board of Review, or decision by the High Court under this Part, the sale value of any goods is increased or reduced, sales tax shall be payable in accordance with this Act upon the sale value as so increased or reduced.

Adjustment of  
tax consequent  
upon objections.

#### PART VIII.—PENAL PROVISIONS.

45.—(1.) Any person who—

Offences.

- (a) fails or neglects duly to furnish any return or information or to comply with any requirement of the Commissioner as and when required by this Act or the Regulations thereunder, or by the Commissioner ; or
- (b) without just cause shown by him refuses or neglects duly to attend and give evidence when required by the Commissioner or any officer duly authorized by him, or to answer truly and fully any questions put to him, or to produce any book or papers required of him by the Commissioner or any such officer ; or
- (c) makes or delivers a return which is false in any particular or makes any false answer whether verbally or in writing ; or
- (d) contravenes any provision of this Act for the contravention of which no penalty is expressly provided,

shall be guilty of an offence.

Penalty : Not less than Two pounds nor more than One hundred pounds.

(2.) A prosecution in respect of an offence against paragraph (a) or (c) of sub-section (1.) of this section may be commenced at any time.

(3.) Any person who, after conviction for an offence against this section, continues to fail to comply with the requirements, in respect of which he was convicted, shall be guilty of an offence and punishable as provided in section forty-nine of this Act.

(4.) It shall be a defence to a prosecution for an offence against paragraph (c) of sub-section (1.) of this section if the defendant proves that the false particulars were given or the false statement was made through ignorance or inadvertence.

Additional tax  
in certain cases.

**46.**—(1.) Notwithstanding anything contained in the last preceding section, any person who—

(a) fails or neglects duly to furnish any return or information as and when required by this Act or the Regulations thereunder or by the Commissioner ; or

(b) fails to include any particulars of goods the sale value of which is subject to tax under this Act in any return,

shall, if a taxpayer to whom paragraph (a) of this sub-section applies, be liable to pay additional tax at the rate of ten per centum per annum upon the amount of tax assessable to him (such percentage to be calculated for the period commencing on the last day allowed for furnishing the return or information and ending on the day upon which the return or information is furnished or the day upon which the assessment is made, whichever first happens), or the sum of One pound, whichever is the greater, or, if a taxpayer to whom paragraph (b) of this sub-section applies, shall be liable to pay by way of additional tax the amount of One pound or double the amount of the difference between the tax properly payable and the tax payable upon the basis of the return lodged, whichever is the greater :

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.

(2.) If the Commissioner considers that the circumstances of any case warrant action being taken to recover the penalty provided by the last preceding section, or by section forty-eight of this Act, such action may be taken by the Commissioner, and in that case the additional tax payable under this section shall not be charged.

False  
declarations.

**47.** If any person, in any declaration made under, or authorized or prescribed by, this Act or the Regulations thereunder, knowingly or wilfully declares to any matter or thing which is false or untrue, he shall be deemed to be guilty of wilful and corrupt perjury and shall upon conviction be liable to imprisonment for a period not exceeding four years.

Under-  
statement of  
sale value of  
any goods.

**48.** Any person who, with intention to defraud, in any return understates the amount of the sale value of any goods shall be guilty of an offence.

Penalty : Not less than Fifty pounds, nor more than Five hundred pounds, and in addition an amount equal to treble the amount of sales tax which would have been avoided if the amount stated in the return had been accepted as the correct amount.

Avoiding  
taxation.

**49.** Any person who, by any wilful act, default or neglect, or by any fraud, art or contrivance whatever, avoids or attempts to avoid tax chargeable under this Act, shall be guilty of an offence.

Penalty : Not less than Fifty pounds nor more than Five hundred pounds and in addition treble the amount of tax payment whereof he has avoided or attempted to avoid.

50. A prosecution in respect of any offence against either of the last two preceding sections may be commenced at any time within three years after the commission of the offence.

Time for  
commencing  
prosecutions.

51. Payment of penalties under this Act shall not relieve any person from liability to any tax for which he would otherwise be liable.

Penalties not  
to relieve from  
tax.

52. Any person who obstructs or hinders any officer acting in the discharge of his duty under this Act or the Regulations thereunder shall be guilty of an offence.

Obstructing  
officers.

Penalty : Not less than One pound nor more than Fifty pounds.

#### PART IX.—TAXATION PROSECUTIONS.

53. Proceedings by the Crown for the recovery of penalties under this Act are hereinafter referred to as "taxation prosecutions".

Taxation  
prosecutions.

54. Taxation prosecutions may be instituted in the name of the Commissioner by action, information or other appropriate proceeding—

How instituted.

- (a) in the High Court of Australia ; or
- (b) in the Supreme Court of any State,

and when the prosecution is for a pecuniary penalty not exceeding Five hundred pounds or the excess is abandoned, the taxation prosecution may be instituted in the name of the Commissioner or a Deputy Commissioner—

- (c) in a County Court, District Court, Local Court or Court of Summary Jurisdiction.

55.—(1.) Where any taxation prosecution has been instituted by an officer in the name of the Commissioner or Deputy Commissioner the prosecution shall, in the absence of evidence to the contrary, be deemed to have been instituted by the authority of the Commissioner or the Deputy Commissioner, as the case may be.

Evidence of  
authority to  
institute  
proceeding.

(2.) The production of a telegram purporting to have been sent by the Commissioner or Deputy Commissioner and purporting to authorize an officer to institute any taxation prosecution or proceedings shall be admissible as evidence in the prosecution or proceedings, and shall be accepted as evidence of the authority of the officer to institute the prosecution or proceedings in the name of the Commissioner or Deputy Commissioner, as the case may be.

56. In any taxation prosecution where the penalty exceeds One hundred pounds and the excess is not abandoned, the defendant within seven days after service of process shall have the right in manner prescribed to elect to have the case tried in the option of the prosecutor either in the High Court of Australia or in the Supreme Court of the State in which the prosecution has been instituted and thereupon the proceedings shall stand removed accordingly and may be conducted as if originally instituted in the Court to which they are so removed.

Defendant to  
have right of  
trial in High  
or State Court.

Prosecution in  
accordance with  
Practice Rules.

57. Every taxation prosecution in the High Court of Australia or the Supreme Court of any State may be commenced prosecuted and proceeded with in accordance with any rules of practice established by the Court for Crown suits in revenue matters or in accordance with the usual practice and procedure of the Court in civil cases or in accordance with the directions of the Court or a Judge.

State Court  
practice.

58. Subject to this Act the provisions of the law relating to summary proceedings before Justices in force in the State where the proceedings are instituted shall apply to all taxation prosecutions before a Court of Summary Jurisdiction in that State and an appeal shall lie from any conviction or order of dismissal to the Court, and in the manner, provided by the law of the State where such a conviction or order is made for appeals from convictions or orders of dismissal.

Information,  
&c., to be valid  
if in words of  
Act.

59. All informations, summonses, convictions and warrants shall suffice if the offence is set forth as nearly as may be in the words of this Act.

No objection  
for informality.

60.—(1.) An objection shall not be taken or allowed to any information or summons for any alleged defect therein in substance or in form or for any variance between the information or summons and the evidence adduced at the hearing in support thereof, and the Court shall at all times make any amendment necessary to determine the real question in dispute or which may appear desirable.

(2.) If any such defect or variance appears to the Court to be such that the defendant has been thereby deceived or misled, it shall be lawful for the Court, upon such terms as it thinks just, to adjourn the hearing of the case to some future day.

Conviction not  
to be quashed.

61. A conviction, warrant of commitment or other proceeding, matter or thing done or transacted in relation to the execution or carrying out of any taxation act shall not be held void, quashed or set aside by reason of any defect therein or want of form, and no party shall be entitled to be discharged out of custody on account of such defect.

Protection to  
witnesses.

62. A witness on behalf of the Commissioner or Deputy Commissioner in any taxation prosecution shall not be compelled to disclose the fact that he received any information or the nature thereof or the name of the person who gave such information and an officer appearing as a witness shall not be compelled to produce any reports made or received by him confidentially in his official capacity or containing confidential information.

Averment of  
prosecutor  
sufficient.

63.—(1.) In any taxation prosecution the averment of the prosecutor or plaintiff contained in the information, complaint, declaration or claim shall be *prima facie* evidence of the matter or matters averred.

(2.) This section shall apply to any matter so averred although—

- (a) evidence in support or rebuttal of the matter averred or of any other matter is given by witnesses ; or
- (b) the matter averred is a mixed question of law and fact, but in that case the averment shall be *prima facie* evidence of the fact only.

(3.) Any evidence given by witnesses in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this section.

(4.) The foregoing provisions of this section shall not apply to—

- (a) an averment of the intent of the defendant ; or
- (b) proceedings for an indictable offence or an offence directly punishable by imprisonment.

(5.) This section shall not lessen or affect any onus of proof otherwise falling on the defendant.

64. No minimum penalty provided by this Act shall be liable to reduction under any power of mitigation which would but for this section be possessed by the Court.

Minimum penalties.

65. Where any pecuniary penalty is adjudged to be paid by any convicted person, the Court—

Treatment of convicted offenders.

- (a) may commit the offender to gaol until the penalty is paid ; or
- (b) may release the offender upon his giving security for the payment of the penalty ; or
- (c) may exercise for the enforcement and recovery of the penalty any power of distress or execution possessed by the Court for the enforcement and recovery of penalties in any other case.

66. The gaoler of any gaol to which any person has been committed for non-payment of any penalty shall discharge such person—

Release of offenders.

- (a) on payment to him of the penalty adjudged ;
- (b) on a certificate by the Commissioner or the Deputy Commissioner that the penalty has been paid or released ;
- (c) if the penalty adjudged to be paid is not paid or released according to the following table :—

Amount of Penalty.	Period after commencement of imprisonment on the expiration of which defendant is to be discharged.
£2 and under .. .. .	7 days.
Over £2 and not more than £5 .. .. .	14 days.
Over £5 and not more than £20 .. .. .	1 month.
Over £20 and not more than £50 .. .. .	2 months.
Over £50 and not more than £100 .. .. .	3 months.
Over £100 and not more than £200 .. .. .	6 months.
Over £200 .. .. .	1 year.

Parties may  
recover costs.

67. In all taxation prosecutions the Court may award costs against any party and all provisions of this Act relating to the recovery of penalties except commitment to gaol shall extend to the recovery of any costs adjudged to be paid.

PART X.—MISCELLANEOUS.

Public officer  
of company.

68. Every company which carries on business in Australia shall at all times be represented by a person residing in Australia duly appointed by the company or by its duly authorized agent or attorney and with respect to every such company and person the following provisions shall apply :—

- (a) Such person shall be called the public officer of the company for the purposes of this Act and shall, if not already appointed, be appointed within three months after the commencement of this paragraph or after the company commences to carry on business in Australia.
- (b) The company shall keep the office of public officer constantly filled and no appointment of a public officer shall be deemed to be duly made until after notice thereof in writing, specifying the name of the officer and address for service, has been given to the Commissioner.
- (c) If the company fails or neglects to duly appoint a public officer when and as often as such appointment becomes necessary, it shall be guilty of an offence.  
Penalty : Fifty pounds for every day during which the failure or neglect continues.
- (d) Service of any document at the address for service or on the public officer of a company shall be sufficient service upon the company for all the purposes of this Act or the Regulations thereunder, and if at any time there is no public officer then service upon any person acting or appearing to act in the business of the company shall be sufficient.
- (e) The public officer shall be answerable for the doing of all such things as are required to be done by the company under this Act or the Regulations thereunder by a taxpayer, and in case of default shall be liable to the same penalties.
- (f) Everything done by the public officer which he is required to do in his representative capacity shall be deemed to have been done by the company. The absence or non-appointment of a public officer shall not exclude the company from the necessity of complying with any of the provisions of this Act or the Regulations thereunder, or from the penalties provided by any section on the failure to comply therewith, but the company shall be liable to the provisions of this Act as if there were no requirement to appoint a public officer.

- (g) In any proceedings under this Act taken against the public officer of the company the proceedings shall be deemed to have been taken against the company, and the company shall be liable for any penalty imposed upon the public officer.
- (h) Notwithstanding anything contained in this section, and without in any way limiting, altering or transferring the liability of the public officer of a company, every notice, process or proceeding which under this Act or the Regulations thereunder may be given to, served upon or taken against the company or its public officer may, if the Commissioner thinks fit, be given to, served upon or taken against any director, secretary or other officer of the company or any attorney or agent of the company.

69. With respect to every agent and with respect also to every trustee, the following provisions shall apply :—

Agents and  
trustees.

- (a) He shall be answerable as taxpayer for the doing of all such things as are required to be done by virtue of this Act in respect of any transaction, act or operation in relation to any goods the sale value of which is subject to tax under this Act.
- (b) He shall, in respect of any such transaction, act or operation, make the returns and be chargeable with tax on such sale value, but in his representative capacity only, and each return shall, except as otherwise provided by this Act, be separate and distinct from any other.
- (c) If he is an executor or administrator, the returns shall be the same as far as practicable as the deceased person, if living, would have been liable to make.
- (d) Where as agent or trustee he pays sales tax, he is hereby authorized to recover the amount so paid from the person in whose behalf he paid it, or to deduct it from any money in his hands belonging to that person.
- (e) He is hereby authorized and required to retain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the sales tax which is or will become due in respect of such sale value.
- (f) He is hereby made personally liable for the sales tax payable in respect of such sale value if, after the Commissioner has required him to make a return, or while the tax remains unpaid, he disposes of or parts with any fund or money which comes to him from or out of which sales tax could legally be paid, but he shall not be otherwise personally liable for the tax :

Provided that the Commissioner may, upon application by the agent, permit disposal of such fund or money or part thereof as he considers necessary.



- (g) He is hereby indemnified for all payments which he makes in pursuance of this Act or by the requirements of the Commissioner.
- (h) For the purpose of insuring the payment of sales tax the Commissioner shall have the same remedies against attachable property of any kind vested in or under the control or management or in the possession of any agent or trustee, as he would have against the property of any other taxpayer in respect of sales tax, and in as full and ample a manner.

Person in receipt or control of money for absentee.

70. With respect to every person who has the receipt control or disposal of money belonging to a person resident out of Australia, and engaging in any transaction, act or operation in respect of goods the sale value of which is subject to tax under this Act, the following provisions shall, subject to this Act, apply :—

- (a) He shall when required by the Commissioner pay the sales tax due and payable by the person on whose behalf he has the control, receipt or disposal of money.
- (b) Where he pays sales tax in accordance with the preceding paragraph he is hereby authorized to recover the amount so paid from the person on whose behalf he paid it or to deduct it from any money in his hands belonging to that person.
- (c) He is hereby authorized and required to retain from time to time out of any money which comes to him on behalf of the person resident out of Australia so much as is sufficient to pay the sales tax which is or will become due by that person.
- (d) He is hereby made personally liable for the sales tax payable by him on behalf of the person resident out of Australia after the tax becomes payable, or if, after the Commissioner has required him to pay the tax, he disposes of, or parts with, any fund or money then in his possession, or which comes to him from or out of which the tax could legally be paid, but he shall not be otherwise personally liable for the tax :

Provided that the Commissioner may upon application permit disposal of such fund or money or part thereof as he considers necessary.

- (e) He is hereby indemnified for all payments which he makes in pursuance of this Act or by the requirements of the Commissioner until this Act.

Access to books, &c.

71. The Commissioner, or any officer authorized by him in that behalf, shall at all times have full and free access to all buildings, places, books, documents and other papers for any of the purposes of this Act and for that purpose may make extracts from or copies of any such books, documents or papers.

72. This Act shall be read and construed subject to the Constitution, and so as not to exceed the legislative power of the Commonwealth, to the intent that where any enactment thereof would, but for this sub-section, have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Construction of  
Act.

73. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and, in particular—

Regulations.

- (a) for providing for the making of such refunds as are, in the opinion of the Commissioner, necessary for the purpose of obviating double taxation of the sale value of any goods under two or more Acts of the Parliament relating to the payment of sales tax; and
- (b) for prescribing penalties not less than One pound nor more than Twenty pounds for any breach of the Regulations.

## THE SCHEDULES.

### THE FIRST SCHEDULE.

#### Section 20.

The following goods manufactured in Australia :—

Bacon and hams ;  
 Bags and sacks used for marketing primary products as described in paragraph (g) of section twenty of this Act and items specified in this Schedule ;  
 Beer ;  
 Boxes, cases and crates, and wood in shooks for the manufacture of boxes, cases and crates, used in marketing any goods specified in this Schedule, or in paragraph (g) of section twenty of this Act, when the Commissioner is satisfied that the boxes, cases and crates have been or will be so used within such time as the Commissioner considers reasonable in the circumstances ;  
 Bread ;  
 Briquettes ;  
 Butter, including margarine and similar substitutes for butter ;  
 Cheese ;  
 Cigarettes ;  
 Cigars ;  
 Compressed air ;  
 Cream ;  
 Dried fruits ;  
 Electric current for lighting or power ;  
 Fertilizers and raw materials for use in the manufacture of fertilizers ;  
 Flotation reagents for mining purposes ;  
 Flour, including bran, pollard and semolina ;  
 Foods for poultry, birds and live stock ;  
 Gas, commercially known as coal gas ;  
 Meat, raw ;  
 Metals as recovered from ores ;  
 Milk products, viz., casein, milk powder, milk, condensed or concentrated ;  
 Newspapers ;  
 Pastry but not including cakes or biscuits ;  
 Petrol ;  
 Sugar ;  
 Tobacco ;  
 Water supplied by public bodies or public authorities ; and  
 Wool packs.

No. 25.

*Sales Tax Assessment (No. 1).*

1930.

THE SECOND SCHEDULE.

Commonwealth of Australia.

Section 35.

*Sales Tax Assessment Act (No. 1) 1930.*

Order.

To \_\_\_\_\_ at \_\_\_\_\_

WHEREAS at the time of the death of \_\_\_\_\_ deceased, sales tax has not been levied and/or paid on the whole of the sale value of any goods the subject of any transaction, act or operation entered into or performed by the said \_\_\_\_\_ up to the date of his death :

AND WHEREAS probate has not been granted or letters of administration have not been taken out in respect of the estate of the said \_\_\_\_\_ deceased :

AND WHEREAS the amount of sales tax remaining due by the said \_\_\_\_\_ at the time of his death is \_\_\_\_\_

THESE ARE THEREFORE to require and authorize you forthwith to levy the said sum of \_\_\_\_\_ together with the costs of these presents by distress and sale of any property of the estate of the said \_\_\_\_\_ day of \_\_\_\_\_ found by you and that you certify to me on the \_\_\_\_\_ what you shall do by virtue of this warrant.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ One thousand nine hundred and \_\_\_\_\_

Commissioner of Taxation.