

Pay-roll Tax Assessment

No. 61 of 1968

An Act to amend the *Pay-roll Tax Assessment Act* 1941–1967 in relation to Rebates of Tax by reference to Exports.

[Assented to 25 June 1968]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1) This Act may be cited as the *Pay-roll Tax Assessment Act* 1968.

Short title
and citation.

(2.) The *Pay-roll Tax Assessment Act* 1941–1967* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Pay-roll Tax Assessment Act* 1941–1968.

2. This Act shall come into operation on the first day of July, One thousand nine hundred and sixty-eight.

Commence-
ment.

3. Section 2 of the Principal Act is amended by omitting the words—

Parts.

“Division 2.—Rebate of Tax by reference to Exports (Sections 16A–16R).”

and inserting in their stead the words—

“Division 2.—Rebate of Tax by reference to Exports (Sections 16A–16Y).”

* Act No. 2, 1941, as amended by No. 48, 1942; Nos. 1 and 40, 1953; No. 37, 1954; No. 68, 1957; No. 28, 1961; No. 41, 1962; No. 33, 1963; Nos. 114 and 148, 1965; Nos. 54 and 93, 1966; and Nos. 20 and 88, 1967.

Officers to
observe secrecy.

4. Section 11 of the Principal Act is amended by adding at the end thereof the following sub-sections:—

“(7.) Where the Treasurer is satisfied that it is desirable to do so for the purpose of enabling the Government of the Commonwealth to review the operation of the provisions of this Act relating to rebates of tax by reference to exports, he may, by writing under his hand, request the Commissioner to communicate to him, or to a person specified in the request, being a Minister of State, the Secretary to the Department of the Treasury or the Secretary to the Department of Trade and Industry, information relating to such matters as are specified in the request, and, notwithstanding anything contained in this section, the Commissioner, or an officer authorized by him, shall communicate information relating to those matters to the person specified in the request.

“(8.) The Secretary to the Department of the Treasury, the Secretary to the Department of Trade and Industry or any other officer or employee of the Commonwealth shall not, either while he is, or after he ceases to be, such an officer or employee—

(a) except in the performance of a duty as an officer or employee of the Commonwealth, make a record of, or divulge or communicate to a Minister of State or any other officer or employee of the Commonwealth, any information relating to the affairs of a person acquired by him by reason, directly or indirectly, of a communication in accordance with the last preceding sub-section; or

(b) divulge or communicate any such information to any person who is not a Minister of State or officer or employee of the Commonwealth.

Penalty: Five hundred dollars.

“(9.) A person to whom the last preceding sub-section applies shall not be required to produce in any court a document containing information referred to in that sub-section or to divulge or communicate to a court any such information.”.

5. Division 2 of Part III. of the Principal Act is repealed and the following Division inserted in its stead:—

“ *Division 2.—Rebate of Tax by reference to Exports.*

Interpretation.

“ 16A.—(1.) In this Division, unless the contrary intention appears—

‘ claim ’ means a claim under section sixteen J of this Act;

‘ commercial container ’ means a container other than—

(a) a tank or other compartment that forms part of a ship or aircraft; or

(b) a container system unit or other container in which goods have been placed primarily and principally for the purpose of their carriage in a ship or aircraft;

- ‘ complete motor vehicle ’ includes a motor vehicle of a kind ordinarily used on roads for the transport of goods that has been assembled to a stage at which it is capable of being driven under its own power;
- ‘ complete unit ’, in relation to prescribed goods of a particular kind, means a unit of prescribed goods of that kind that has been manufactured or assembled to a stage where it is capable of being used for the purpose for which prescribed goods of that kind are manufactured or produced;
- ‘ components for prescribed goods ’, in relation to prescribed goods of a particular kind, means goods that—
- (a) are components (including accessories and handbooks) for prescribed goods of that particular kind; and
 - (b) are exported from Australia for use, without the substantial addition of other goods, in the original manufacture or assembly, in the country to which the goods are exported, of complete units of prescribed goods of the particular kind or for sale or disposal with such units,
- and includes the containers (not being container system units) in which such components are so exported;
- ‘ consideration receivable ’ means—
- (a) in relation to a disposal of prescribed goods, industrial property rights or know-how—
 - (i) in the case of a disposal other than one to which the next succeeding paragraph applies—the amount or value of the consideration received or receivable for the disposal; or
 - (ii) where the disposal is part of, or is connected with, a transaction in which any other assets, or any services, are disposed of or supplied—such part of the amount or value of the consideration or considerations received or receivable in respect of the transaction as is reasonably attributable to the disposal of the prescribed goods, industrial property rights or know-how,
- less, in the case of a disposal of prescribed goods, any amounts paid or payable (otherwise than as agent) by the person disposing of the prescribed goods by way of freight for carriage of the prescribed goods outside Australia or by way of insurance (other than export payments insurance) or other outgoings, in relation to the prescribed goods, attributable to events or contingencies occurring or arising, or services performed, after the placing of the prescribed goods on a ship or aircraft for export from Australia; and

- (b) in relation to the supply of prescribed professional services—the amount or value of the consideration received or receivable for the supply of the services;
- ‘ container ’ includes any inner or outer covering in which goods are packed, secured or otherwise placed, but does not include a container, other than a container system unit, that is exported while not containing goods;
- ‘ container system unit ’ means a container (including a lift-van or a tank, but not including a vehicle)—
 - (a) designed for repeated use as a unit of cargo-handling equipment in the transport of goods by ships or aircraft specially constructed, adapted or equipped for the handling and carrying of containers of the kind to which the container belongs in the course of a transportation system in which goods are transported to, in and from the ship or aircraft in containers of that kind; and
 - (b) fitted with devices to permit its ready handling in the course of that system,and includes normal accessories and equipment of such a container when exported from Australia with the container;
- ‘ disposal ’ includes sale, grant, assignment or supply, and ‘ disposed of ’ has a corresponding meaning;
- ‘ export certificate ’ means an export certificate duly issued under section sixteen s of this Act;
- ‘ exported ’ does not include exported by way of gift;
- ‘ export merchant ’ means a person who, in the course of carrying on business in Australia—
 - (a) exports from Australia prescribed goods in relation to which a previous owner is the producer for export; or
 - (b) sells to another person prescribed goods that are later exported from Australia and of which a previous owner is the producer for export;
- ‘ industrial property rights ’ means rights in relation to inventions or trade marks, or copyright in relation to works, designs and other things, being—
 - (a) inventions, works, designs or things that have, to a substantial extent, resulted from research or work performed in Australia; or
 - (b) trade marks that have been used commercially in Australia and were not, before that use, used commercially in any other country;
- ‘ know-how ’ means scientific or technological knowledge or information in relation to industrial operations, being knowledge or information that has, to a substantial extent, resulted from research or other work performed in Australia, and includes

drawings, models or other material things, or services, supplied for the purpose of enabling or facilitating the use or enjoyment of such knowledge or information or of industrial property rights;

'marketing authority' means an authority constituted under a law of the Commonwealth, of a State or of a Territory of the Commonwealth, or under two or more such laws, and having the function of marketing goods produced in Australia;

'minerals' means—

(a) minerals, other than petroleum, of a kind obtainable by mining operations, and products of such minerals obtained by—

(i) concentration;

(ii) any other treatment applied to the minerals before concentration or, in the case of minerals not requiring concentration, that would, if the minerals had required concentration, have been applied before the concentration; or

(iii) sintering or calcining;

(b) the following products, namely—

(i) alumina;

(ii) pellets and other agglomerated forms of iron;

(iii) coke; and

(iv) briquettes of coal or of coke,

and other products obtained by the processes by which those products are produced, or processes carried on in connexion with those processes;

(c) petroleum, including petroleum gas and shale oil, and products of petroleum obtained by refining, treating or blending processes;

(d) materials of a kind obtainable by quarrying operations, and products of such materials obtained by splitting or roughly squaring; or

(e) precious and semi-precious stones and natural or cultured pearls, including stones and pearls that have been polished, cut or otherwise treated but not including stones or pearls that are mounted, set or permanently strung,

but does not include—

(f) gold;

(g) goods of a kind used as fertilisers; or

(h) salt, or products obtained by the treatment of salt;

'motor vehicle' means a motor vehicle of a kind ordinarily used on roads for the transport of persons or of goods;

'motor vehicle components' means goods that—

(a) are components (including accessories and handbooks) for a motor vehicle; and

(b) are exported from Australia for use in the original manufacture or assembly, in the country to which the goods are exported, of a complete motor vehicle or for sale or disposal with such a vehicle,

and includes the containers (not being container system units) in which such components are exported;

'original commercial container' means a commercial container in which no other container is contained;

'prescribed goods' means goods other than minerals;

'prescribed professional services' means services supplied by a person for the purposes of the construction of a building or other work outside Australia, being services of one or more of the following kinds, namely, architectural, design, engineering or surveying services, where—

(a) the work involved in the supply of the services is performed by the person supplying the services or his employees; and

(b) a predominant part of the cost of supplying the whole of the services is attributable to work performed in Australia,

but does not include services supplied—

(c) under a contract for the construction of a building or other work by the person supplying the services unless the contract specifies an amount of consideration as being attributable to the services; or

(d) to a person for the purposes of the construction of a building or other work by that person in the course of a business carried on by him in Australia;

'producer for export' means a person of one of the following descriptions:—

(a) in relation to prescribed goods that have been exported from Australia in an original commercial container in which they were placed in Australia (whether or not that original commercial container was, before the export, placed in another container)—the person who was the owner of the prescribed goods at the time when they were placed, or were last placed, in that original commercial container;

(b) in relation to other prescribed goods, being prescribed goods (other than containers) that have been exported from Australia after having been, by manufacture, production, assembling or processing, or by grading and

sorting, carried out in Australia, brought into the form or condition in which they were so exported—the person who was the owner of those prescribed goods when they were brought into that form or condition;

(c) in relation to containers (other than container system units) in which prescribed goods have been exported from Australia and in which those prescribed goods were placed by the person who is the producer for export of those prescribed goods—that person; and

(d) in relation to a container system unit that has been exported from Australia after having been, by manufacture or assembling carried out in Australia, brought into the condition in which it was ready for use as a container system unit—the person who was the owner of the container system unit at the time when it was brought into that condition;

‘rebate’ means a rebate under this Division;

‘rebate year’ means the financial year beginning on the first day of July, One thousand nine hundred and sixty-eight, or one of the four next succeeding financial years;

‘rebate value’ means—

(a) in relation to an increase in export sales of a person for a rebate year—an amount ascertained in accordance with the formula—

$$\frac{21a}{200}$$

where *a* is the increase in export sales of that person for that rebate year; and

(b) in relation to an export certificate—the amount specified in the certificate as the rebate value of the certificate;

‘supplier of components’ means a person who supplies goods in relation to which the expression is used to another person and is not a producer for export in relation to those goods;

‘tax’, in respect of a financial year, means tax (not including additional tax) imposed on wages paid or payable by the employer concerned in respect of that financial year;

‘the base period’, in relation to a person means, in relation to a rebate year—

(a) except where that person is a new exporter and the rebate year is one of the first eight export years—the period comprising the first three of the eight financial years immediately preceding that rebate year; or

- (b) where that person is a new exporter and the rebate year is one of the first eight export years other than the first export year—the period comprising the years the values of export sales for which are referred to in the formula applicable in relation to that rebate year under sub-section (4.) of section sixteen c of this Act;

‘ the Secretary ’ means the Secretary to the Department of Trade and Industry;

‘ value of export sales ’, in respect of a year or other period, means, in relation to a person, the sum of—

- (a) the amounts of consideration receivable by that person in respect of the disposal of prescribed goods that have been exported from Australia during that period, being prescribed goods that were disposed of by him before or at the time at which they were exported and in relation to which he was a producer for export;
- (b) the amounts of consideration receivable by that person in respect of the disposal of prescribed goods that have been exported from Australia, being goods that were, after they were exported, disposed of by him during that period and in relation to which he was a producer for export;
- (c) the amounts of consideration receivable by that person, otherwise than as royalties or payments in the nature of royalties, in respect of the disposal by him in that period, in the course of carrying on a business in Australia, to a person resident outside Australia of industrial property rights or know-how to be used or enjoyed outside Australia;
- (d) the amounts of consideration receivable by that person as royalties, or payments in the nature of royalties, in respect of the use or enjoyment outside Australia in that period of industrial property rights or know-how disposed of by him, in the course of carrying on a business in Australia, to a person resident outside Australia; and
- (e) the amounts of consideration receivable by that person in that period in respect of the supply by him of prescribed professional services.

“ (2.) For the purposes of this Division—

- (a) a person is a new exporter if the first year after the year that ended on the thirtieth day of June, One thousand nine hundred and fifty-eight, in respect of which there was or is, in relation to that person, a value of export sales was or is the year that ended on the thirtieth day of June, One thousand nine hundred and sixty-two, or a later year;

- (b) the first export year of a new exporter is the first year after the year that ended on the thirtieth day of June, One thousand nine hundred and sixty-one, in respect of which there was or is, in relation to him, a value of export sales; and
- (c) the second, third, fourth, fifth, sixth, seventh and eighth export years of a new exporter are the first, second, third, fourth, fifth, sixth and seventh years, respectively, after his first export year.

“(3.) For the purposes of this Division, where a person has received or is entitled to receive an amount under a policy of insurance or otherwise in respect of loss, destruction or damage that has occurred in respect of goods owned by him after their export from Australia—

- (a) in the case of loss or destruction—that person shall be deemed to have sold those goods, at the time of the loss or destruction, for a consideration equal to that amount; and
- (b) in the case of damage—
 - (i) if that person has sold the goods for a consideration—the consideration shall be deemed to be increased by that amount; and
 - (ii) if that person ceased to be the owner of the goods in any other manner—he shall be deemed to have sold the goods, at the time when he so ceased, for a consideration equal to that amount.

“(4.) For the purposes of this Division, goods shall be taken to have been physically included in goods exported from Australia if they have been used, directly or indirectly, in the manufacture, production, assembling or processing of the goods that have been exported so that the whole or a substantial part of the goods so used has been incorporated in the goods exported, or so that the goods exported have been derived solely from the goods so used (whether or not the goods so used have retained their identity or physical or chemical form or condition).

“(5.) For the purposes of this Division, goods, other than container system units, shall not be taken to be exported from Australia where they are taken or sent out of Australia with the intention that they will, at a later time, be brought or sent back to Australia.

“(6.) For the purposes of this Division, where a person who carried on the production of motor vehicles in Australia during the whole or any part of the base period has, during the base period, exported from Australia motor vehicle components in relation to which he would not, but for this sub-section, have been a producer for export—

- (a) that person shall be deemed to have been a producer for export in relation to those components; and
- (b) any other person who would, but for this sub-section, have been a producer for export in relation to those components, shall be deemed not to have been a producer for export in relation to those components.

“(7.) For the purposes of this Division, where, in relation to a rebate year, a person is deemed, by virtue of sub-section (2.) of section sixteen B of this Act, to be a producer for export of components for prescribed goods, being prescribed goods of a particular kind, and, in any year (in this sub-section referred to as ‘ the base year ’) that is included in the base period in relation to that rebate year, that person carried on in Australia the production of prescribed goods of that particular kind and exported from Australia components for prescribed goods, being prescribed goods of that kind, in relation to which he would not, but for this sub-section, have been a producer for export—

- (a) that person shall, for the purposes of his increase in export sales in respect of that rebate year or of any later rebate year in respect of which the base year is included in the base period, be deemed to have been a producer for export in relation to those components so exported in the base year; and
- (b) any other person who would, but for this sub-section, have been a producer for export in relation to those components shall be deemed not to have been a producer for export in relation to those components so exported in the base year.

“(8.) For the purposes of this Division—

- (a) the performance by a person, or by employees of a person, of work of a particular kind for the purposes of the carrying out by that person of a contract for the construction by that person of a building or other work shall be deemed to be the supply by that person of services of a corresponding kind; and
- (b) except as otherwise expressly provided in the contract, moneys payable at any time under such a contract to the person supplying the services, to the extent to which those moneys do not exceed the amount of consideration specified in the contract as being attributable to the supply of those services, less any amount payable at any earlier time that is, or under this sub-section is to be deemed to be, payable for the supply of those services, shall be deemed to be payable for the supply of those services.

Exports of
certain
components.

“ 16B.—(1.) Where the Secretary or a person authorized by him certifies to the Treasurer that he is of opinion that, and the Treasurer is satisfied that, a person who, during a specified period, carried on the production in Australia of, and the export from Australia of motor vehicle components for, motor vehicles of a specified kind has significantly assisted in the development of manufacturing in Australia, and of the export from Australia of goods manufactured in Australia, by following a policy of using for the purposes of that production and export, to such extent as is reasonably practicable, components manufactured in Australia, the Treasurer shall, by notice in writing to the Commissioner signed by or on behalf of the Treasurer, direct that that person shall, for the purposes

of this Division, be deemed to have been a producer for export in relation to motor vehicle components (being components in relation to which he would not otherwise have been a producer for export) that—

- (a) were exported from Australia by that person during the period specified in the certificate; and
- (b) were components for motor vehicles of the kind specified in the certificate,

and, where such a direction is given, any other person who would, but for this sub-section, have been a producer for export in relation to those components shall, for the purposes of this Division, be deemed not to have been a producer for export in relation to those components.

“(2.) Where the Secretary or a person authorized by him certifies to the Treasurer that he is of opinion that, and the Treasurer is satisfied that—

- (a) a person who, during a rebate year, carried on the production in Australia of prescribed goods of a particular kind and the export from Australia of components for prescribed goods of that kind, has followed a policy of using for the purposes of that production and export, to such extent as is reasonably practicable, components that are Australian products; and
- (b) the amount by which the total of the considerations receivable by that person for the sale of components for prescribed goods of that kind exported by him from Australia during the rebate year exceeds the total cost to that person of components that are not Australian products and are included in the components for which those considerations are receivable is not less than one-half of the total of those considerations,

the Treasurer shall, by notice in writing to the Commissioner signed by or on behalf of the Treasurer, direct that that person shall, for the purposes of this Division, be deemed to have been a producer for export in relation to components for prescribed goods of that kind exported by the employer from Australia during the rebate year, and, where such a direction is given, any other person who would, but for this sub-section, have been a producer for export in relation to those components shall, for the purposes of this Division, be deemed not to have been a producer for export in relation to those components.

“(3.) Where, in relation to any goods, being motor vehicle components or components for prescribed goods, that were exported from Australia by a person during a specified period, the Secretary or the Treasurer is satisfied that that person should not be deemed, in accordance with sub-section (1.) or (2.) of this section, to be a producer for export of those goods, he shall cause that person to be notified accordingly.

“(4.) A certificate under sub-section (2.) of this section in relation to a rebate year shall not be issued unless an application for the certificate is lodged with the Secretary within six months after the end of that rebate year.

“(5.) In sub-section (2.) of this section—

‘Australian products’ means goods that have, by manufacture, production, assembling or processing, or by grading and sorting, carried out in Australia, been brought into the form or condition in which they were used in the production of prescribed goods of the kind concerned or were exported from Australia;

‘cost’, in relation to components, not being Australian products, that are exported by a person, means—

- (a) where that person imported the components into Australia—the cost to that person of the components, excluding any customs duty paid or payable in respect of the importation; or
- (b) in any other case—the cost to that person of the components, less any customs duty that became payable by any other person upon the importation of the components into Australia;

‘prescribed goods of a particular kind’ does not include—

- (a) motor vehicles; or
- (b) parts, fittings or accessories for motor vehicles, not being goods of a kind marketed as additions to complete motor vehicles.

Ascertainment
of increase in
export sales.

“16C.—(1.) For the purposes of this Division, the amount of the increase in export sales of a person for a rebate year shall be ascertained in accordance with this section.

“(2.) Subject to the next succeeding sub-section, the amount is the excess, if any, of the value of export sales of the person for the rebate year over one-third of the value of export sales of the person for the base period.

“(3.) In the case of a person who is a new exporter, the amount in relation to a rebate year that is the first, second, third, fourth, fifth, sixth, seventh or eighth export year is the excess, if any, of the value of export sales of the person for the rebate year over the amount, if any, ascertained in respect of that year in accordance with the next succeeding sub-section.

“(4.) The amount to be ascertained for the purposes of the last preceding sub-section is—

- (a) in respect of the first export year—nil; and
- (b) in respect of any other year—the amount ascertained in accordance with the formula set out opposite the reference to that year in the following table:—

Second export year	—	$\frac{a}{8}$
Third export year	—	$\frac{a + b}{8}$
Fourth export year	—	$\frac{a + b + c}{8}$

$$\begin{aligned} \text{Fifth export year} & \quad \text{---} \quad \frac{a + b + c}{6} \\ \text{Sixth export year} & \quad \text{---} \quad \frac{5(a + b + c)}{24} \\ \text{Seventh export year} & \quad \text{---} \quad \frac{a + b + c}{4} \\ \text{Eighth export year} & \quad \text{---} \quad \frac{7(a + b + c)}{24} \end{aligned}$$

“(5.) For the purposes of the formulae in the last preceding sub-section, *a*, *b* and *c* are the value of export sales of the person for the first, second and third export years respectively.

“16D.—(1.) Where, during or after the period that is the base period in relation to a person in relation to a rebate year but before the commencement of that rebate year, that person (in this sub-section referred to as ‘the purchaser’) acquired from another person (in this sub-section referred to as ‘the vendor’), whether by purchase or otherwise, a business or any industrial property rights, the amount that would otherwise be the value of export sales of the purchaser for that base period shall be deemed to be increased—

Changes in ownership of business, &c.

- (a) except where the next succeeding paragraph applies—by an amount equal to so much of the value of export sales (apart from this section) of the vendor, and an amount equal to so much of the value of export sales (apart from this section) of any previous owner of the business or rights, for a year that is included in the base period in relation to the vendor in relation to the rebate year as is attributable to the business or rights, as the case may be; or
- (b) where the acquisition took place during the base period first referred to in this sub-section and the base periods of the vendor and the purchaser respectively in relation to the rebate year are not the same period—such part of the amount, or of each of the amounts, specified in the last preceding paragraph as bears to that amount, or to that sum, the same proportion as the number of days from and including the first day of the base period of the purchaser in relation to the rebate year to and including the day next preceding the day of the acquisition bears to the number of days in the whole of that base period.

“(2.) Where, during a rebate year, a person acquired from another person, whether by purchase or otherwise, a business or any industrial property rights, the amount that would otherwise be the value of export sales of the first-mentioned person for a year of the base period in relation to that person in relation to that rebate year shall be deemed to be increased by an amount or amounts equal to so much of any amount by which that value would be required, under the last preceding sub-section, to be deemed to be increased if the acquisition had taken place immediately before the rebate year as bears to that amount, or as bears to each of

those amounts, as the case may be, the same proportion as the number of days from the date of the acquisition to the end of the rebate year bears to the number of days in the whole of the rebate year.

“(3.) Where, during or after the base period in relation to a person in relation to a rebate year, that person has disposed of a business or any industrial property rights, the amount that would otherwise be the value of export sales of that person for that base period shall be reduced—

- (a) where the disposal took place before the commencement of the rebate year—by an amount equal to so much of that value of export sales as is attributable to that business or those rights (including any amount that is, under the preceding provisions of this section, to be deemed to be added to that value of export sales by reason of a previous acquisition by that person of that business or of those rights); or
- (b) where the disposal took place during the rebate year—by an amount that bears to the amount first-mentioned in the last preceding paragraph the same proportion as the number of days from the date of disposal to the end of the rebate year bears to the number of days in the whole of the rebate year.

“(4.) In this section—

- (a) a reference to the value of export sales of a person shall be read as a reference to the value of export sales of that person apart from any reduction under section sixteen Q of this Act; and
- (b) a reference to a business shall be read as including a reference to a part of a business.

Rebate entitlements.

“16E.—(1.) Subject to this Division, the rebate entitlement of an employer in respect of a rebate year is the amount, if any, by which the sum of—

- (a) the rebate value of any increase in export sales of the employer for that rebate year; and
- (b) the total of the rebate values of export certificates issued to the employer in relation to that rebate year,

exceeds the total of the rebate values of export certificates issued by the employer in relation to that rebate year.

“(2.) The rebate values of export certificates issued to the employer as an export merchant shall not be taken into account for the purposes of the last preceding sub-section to the extent, if any, to which the total of those rebate values exceeds the amount calculated in accordance with the formula—

$$\frac{a \times b}{c}$$

where—

a is the amount of tax in respect of the rebate year;

b is the total of considerations receivable by that employer for disposals in the rebate year of prescribed goods purchased by him from the producers for export of the goods and exported by him from Australia; and

c is the total of considerations receivable by that employer in respect of all disposals of goods by him during the rebate year;

“ 16F.—(1.) Subject to this Division, there is allowable to an employer, Rebates. in respect of a year for which it has been determined under this Act that he has a rebate entitlement, a rebate of an amount equal to the rebate entitlement so determined.

“ (2.) For the purposes of this Division—

(a) an employer shall be taken to have a rebate credit for a rebate year if his rebate entitlement for that rebate year, as determined under this Act, exceeds his tax for that rebate year; and

(b) the amount of the rebate credit is so much of the amount of that excess as does not exceed one-half of the amount of that tax.

“ (3.) Subject to the next succeeding section, where an employer has a rebate credit for a rebate year, a rebate is allowable to the employer in respect of a financial year that is one of the three next succeeding years (including a financial year subsequent to the last rebate year) of an amount equal to so much of the rebate credit as exceeds any rebate that has, by virtue of that rebate credit, become allowable under this sub-section in respect of an earlier year.

“ 16G.—(1.) A rebate allowable under sub-section (1.) or sub-section (3.) of the last preceding section in respect of a financial year, and the sum of the rebates allowable under both those sub-sections in respect of a financial year, shall not exceed the amount of the employer's tax for that financial year. Limit and order of rebates.

“ (2.) Where, by reason of the last preceding sub-section, two or more rebates otherwise allowable to an employer in respect of a financial year are not allowable in full—

(a) a rebate allowable under sub-section (1.) of the last preceding section is allowable in priority to a rebate under sub-section (3.) of that section; and

(b) a rebate under sub-section (3.) of that section in respect of a rebate credit for an earlier financial year is allowable in priority to a rebate in respect of a rebate credit for a later financial year.

“ 16H.—(1.) This section applies in relation to the calculation of the increase in export sales of a person for the year ending on the thirtieth day of June, One thousand nine hundred and sixty-nine (in this section referred to as ‘ the year to which this section applies ’). Alternative basis for rebate for 1968-1969 by reason of currency devaluation.

“ (2.) A person may, by application in writing to the Secretary, request the Secretary to certify that he is satisfied that the value of export sales of the person for the year to which this section applies is substantially less

than it would have been if the currency of a country or countries outside Australia specified in the application had not been devalued during the next preceding financial year.

“(3.) The application shall be made after the end of the year to which this section applies and at or before the time of lodging a claim in respect of that year.

“(4.) The Secretary shall notify the Commissioner of receipt of an application under this section, and the Commissioner shall not determine a claim by the applicant in respect of the year to which this section applies unless and until—

- (a) the Secretary has notified the applicant that the application has been rejected; or
- (b) the Secretary has delivered to the applicant a certificate in accordance with sub-section (6.) of this section and—
 - (i) the applicant has not, within forty-two days from the date of receipt of the certificate, made an election under sub-section (7.) of this section; or
 - (ii) the applicant has duly made an election under sub-section (7.) of this section.

“(5.) The Secretary is not required to determine the application unless the applicant has furnished such information, verified by such declarations, as the Secretary requires for the purposes of this section.

“(6.) Subject to the last preceding sub-section, the Secretary shall consider the application and, if he decides to grant the application, shall—

- (a) in respect of each of the two financial years next preceding the year to which this section applies, determine whether, in his opinion, the value of export sales of the applicant for that financial year was, by reason of abnormal trading conditions or other extraordinary circumstances in that financial year, in excess of the amount that would otherwise have been that value and, if so, the amount of the excess; and
- (b) sign a certificate certifying as requested in the application and certifying also, in respect of each of the two financial years next preceding the year to which this section applies, the opinion formed by him, and the amount, if any, of the excess determined by him, in accordance with the last preceding paragraph; and
- (c) deliver the certificate by post to the applicant and furnish a copy of the certificate to the Commissioner.

“(7.) Where the Secretary has delivered to a person a certificate in accordance with the last preceding sub-section, the person may, by notice in writing signed by him or on his behalf and delivered to the Commissioner within forty-two days from the date of receipt of the certificate, elect that his increase in export sales for the year to which this section applies shall be ascertained by reference to the value of export sales of the person for whichever of the two years next preceding the year to which this section applies is specified in the election.

“(8.) Where a person makes an election under the last preceding sub-section, his increase in export sales for the year to which this section applies shall be deemed to be an amount ascertained in accordance with the formula—

$$a - \frac{b}{2}$$

where—

a is the value of export sales of the person for whichever of the two years next preceding the year to which this section applies is specified in the election, less any excess in respect of that year determined by the Secretary in accordance with paragraph (a) of sub-section (6.) of this section; and

b is the value of export sales of the person for the period of two years that began on the first day of July, One thousand nine hundred and fifty-eight.

“(9.) A person who is dissatisfied with a determination of the Secretary under sub-section (6.) of this section of an excess amount in respect of the value of export sales for a financial year may apply in writing to the Commissioner for a review by a Board of Review of the Secretary’s determination.

“(10.) An application under the last preceding sub-section shall be made within the time allowed under sub-section (7.) of this section for making an election under that sub-section and, if the applicant makes such an election, not later than the date on which he makes that election, but the application shall not be considered before the date of service on the applicant of notice of a determination by the Commissioner of a claim by the applicant in respect of the year to which this section applies.

“(11.) The Commissioner shall refer an application duly made in accordance with the last two preceding sub-sections to a Board of Review, and the Board of Review shall determine, in respect of the financial year, or each of the two financial years, to which the application relates, whether, in its opinion, the value of export sales of the applicant for that financial year was, by reason of abnormal trading conditions or other extraordinary circumstances in that financial year, in excess of the amount that would otherwise have been that value and, if so, the amount of the excess.

“(12.) Where a determination has been made by a Board of Review in accordance with the last preceding sub-section, the person concerned may, by notice in writing signed by him or on his behalf and delivered to the Commissioner within forty-two days from the date of the determination—

(a) elect that his increase in export sales for the year to which this section applies shall be ascertained by reference to the value of export sales of that person for whichever of the two financial years next preceding that year is specified in the election; or

(b) elect that his increase in export sales for the year to which the section applies shall be ascertained as if this section did not apply.

“(13.) Where a person makes an election in accordance with paragraph (a) of the last preceding sub-section, the increase in export sales of the person for the year to which this section applies shall be deemed to be an amount ascertained in accordance with the formula—

$$a - \frac{b}{2}$$

where—

a is the value of export sales of the person for the year specified in the election, less any excess in respect of that year determined by the Board of Review in accordance with sub-section (11.) of this section; and

b is the value of export sales of the person for the period of two years that began on the first day of July, One thousand nine hundred and fifty-eight.

“(14.) For the purposes of sub-sections (8.) and (13.) of this section, where the value of export sales for the period of two years that began on the first day of July, One thousand nine hundred and fifty-eight, has been determined by the Commissioner for the purposes of the Division for which this Division was substituted, the amount last so determined to be that value (whether upon an amendment of a determination of the Commissioner as a result of a determination of a Board of Review, or otherwise) shall be deemed to be the value of export sales for that period.

“(15.) A power or duty of the Secretary under this section may be exercised or performed on his behalf by a person authorized by him to act on his behalf under this section.

Claims.

“16j.—(1.) A person may make a claim in accordance with the next succeeding sub-section in respect of a rebate year or any of the three years next succeeding the last rebate year.

“(2.) The claim shall be—

- (a) in accordance with a form determined by the Commissioner;
- (b) accompanied by such documents and declarations (including declarations made by or on behalf of the person making the claim) as are indicated on the form; and
- (c) lodged with the Commissioner within one year after the end of the year in respect of which it is made, or within such further time as the Commissioner allows.

Determinations.

“16k.—(1.) Where a person has duly made a claim in respect of a rebate year, the Commissioner shall determine—

- (a) whether the person has a rebate entitlement for that year and, if so, the amount of the rebate entitlement; and
- (b) whether that person has a rebate credit for that year and, if so, the amount of the credit.

“(2.) Where a person has duly made a claim, whether in respect of a rebate year or a year subsequent to the last rebate year, the Commissioner shall determine whether a rebate is allowable to the employer in respect of that year under sub-section (1.) or sub-section (3.) of section sixteen F of this Act and, if so, the amount of any such rebate allowable.

“(3.) Subject to sub-section (5.) of this section, if the person, in the claim, claims that there is, in relation to him, a value of export sales for the rebate year, the determination shall, whether or not a rebate entitlement is determined, include a determination of the value of export sales of the employer for each year of the base period and for the rebate year.

“(4.) Except as otherwise required by reason of the provisions of sub-section (6.) or sub-section (7.) of section sixteen A, section sixteen D, section sixteen Q or section sixteen R of this Act, the value of export sales of an employer for a year of the base period as determined in relation to a claim in respect of a rebate year shall be adopted in any determination in relation to a claim by that employer in respect of any subsequent rebate year in the base period in relation to which the first-mentioned year is included.

“(5.) Subject to the next succeeding sub-section, if the Commissioner is not satisfied, upon consideration of the information furnished or otherwise available to him, as to the value of export sales of a person for the base period in relation to a rebate year, the Commissioner is not required to determine that value and this Division has effect, in relation to any rebate entitlement of that person or the issue of export certificates by that person, in relation to that rebate year, as if that person had no increase in export sales for that rebate year.

“(6.) Where, in a case to which the last preceding sub-section would otherwise apply, the Commissioner is satisfied that the value of export sales of the person for the base period does not exceed a particular amount, but is not satisfied that the value is less than that amount, this Division has effect, for the purposes referred to in that sub-section, as if that amount were the value of export sales of the person for the base period.

“(7.) As soon as conveniently may be after a determination is made, the Commissioner shall serve upon the person making the claim, by post or otherwise, a notice in writing of the determination.

“16L.—(1.) Subject to this section, the Commissioner may at any time amend a determination in such manner as he thinks necessary.

Amendment of determinations.

“(2.) Where a person making a claim has made to the Commissioner a full and true disclosure of all the material facts necessary for the making of a determination and a determination is made after that disclosure, an amendment of that determination adversely affecting that person shall not be made except to correct an error in calculation or a mistake of fact and no such amendment shall be made more than three years from the date of service upon that person of notice of the determination.

“(3.) An amendment favourable to the person to whom the determination relates shall not be made to a determination except to correct an error in calculation or a mistake of fact, and no such amendment shall be made more than three years from the date of service upon that person of notice of the determination.

“(4.) Nothing in this section prevents the amendment of a determination—

- (a) in order to give effect to a decision upon an appeal or a review or upon an application under section sixteen Q or section sixteen R of this Act;
- (b) as a consequence of an election under sub-section (12.) of section sixteen H of this Act;
- (c) as a consequence of an amendment of the value of export sales for a year of the base period as determined by another determination;
- (d) as a consequence of the issue or receipt of export certificates by the person to whom the determination relates after the making of the claim to which the determination relates;
- (e) so far as it relates to a rebate credit or a rebate allowable, to the extent necessary by reason of an assessment of tax for the year to which the determination relates, or an amendment of such an assessment; or
- (f) in a manner favourable to the person to whom the determination relates, in pursuance of an objection made by him or pending an appeal or review.

“(5.) An amendment of a determination shall, for the purposes of this Act, be deemed to be a determination.

Allowance
of rebates.

“16M.—(1.) Notwithstanding anything contained in this Act, rebates under this Division are allowable in accordance with this section and not otherwise.

“(2.) The amount of a rebate allowable in accordance with this section is the amount of the rebate as determined in accordance with this Act.

“(3.) Subject to this section, the amount of a rebate allowable to an employer is a debt due and payable to the employer by the Commissioner on behalf of the Commonwealth.

“(4.) The Commissioner may apply the whole or a part of a rebate allowable to an employer in total or partial discharge of any liability to the Commonwealth of the employer arising under or by virtue of this Act or any other Act of which the Commissioner has the general administration.

“(5.) Where, under the last preceding sub-section, the Commissioner has applied an amount of rebate in discharge of a liability of an employer to the Commonwealth, that employer shall be deemed to have paid the amount so applied for the purpose for which, and at the time at which, it has been so applied.

“(6.) Where, by reason of an amendment of a determination, the amount, or the sum of the amounts, applied or paid by the Commissioner in respect of a rebate exceeds the amount of the rebate allowable to the employer, the Commissioner may recover the amount of the excess as if it were tax due and payable by the employer.

“(7.) An amount payable by the Commissioner under this section is payable out of the Consolidated Revenue Fund, which is, to the necessary extent, appropriated accordingly.

“16N.—(1.) A person (in this sub-section referred to as ‘the producer’) from whom prescribed goods were, during the base period in relation to a rebate year or within one year before that base period, acquired by a person who was, at the time of the acquisition, an export merchant (in this sub-section referred to as ‘the export merchant’) may, by notice in writing, require the export merchant to furnish to the Commissioner a declaration in accordance with this section giving particulars of all prescribed goods that were acquired by the export merchant at any time from the producer and were exported from Australia during that base period, other than prescribed goods—

Declarations
regarding goods
exported.

- (a) of which the export merchant or some other person became, by reason of something done by him to or in relation to the prescribed goods since the acquisition, the producer for export; or
- (b) which were, after the acquisition and before being exported, physically included in other goods,

and the producer is not entitled to have a claim in respect of that rebate year considered unless—

- (c) he has made such a requirement and states that fact in the claim, specifying the name and address of the export merchant; or
- (d) he satisfies the Commissioner that it was impossible or impracticable for him to make such a requirement or that the failure to make the requirement will not prejudice the proper determination of the claim.

“(2.) A person (in this sub-section referred to as ‘the producer’) from whom prescribed goods were, during a rebate year or within one year before a rebate year, acquired by a person who was, at the time of the acquisition, an export merchant (in this sub-section referred to as ‘the export merchant’) may, by notice in writing require the export merchant to furnish to the Commissioner a declaration in accordance with this section giving particulars of all prescribed goods that were acquired by the export merchant at any time from the producer and were exported from Australia during that rebate year, other than prescribed goods—

- (a) of which the export merchant or some other person became, by reason of something done by him to or in relation to the prescribed goods after the acquisition, the producer for export;
- (b) which were, after the acquisition and before being exported, physically included in other goods;

- (c) that are motor vehicle components that have been exported from Australia by a person who carried on the production of motor vehicles in Australia, not being components in respect of which a notification under sub-section (3.) of section sixteen B of this Act has been given; or
- (d) that are components for prescribed goods of a particular kind that have been exported from Australia by a person who carried on the production in Australia of prescribed goods of that kind, not being components in respect of which a notification under sub-section (3.) of section sixteen B of this Act has been given.

“(3.) Subject to the next succeeding sub-section, a person who receives a notice in accordance with either of the last two preceding sub-sections shall, within sixty days after the receipt by him of the notice, or within such further time as the Commissioner in special circumstances allows, furnish to the Commissioner a declaration in accordance with the notice and the requirements of sub-section (6.) of this section.

Penalty: Two hundred dollars.

“(4.) Where a person who receives a notice in accordance with sub-section (1.) or (2.) of this section does not know, and is unable to ascertain from his books, accounts or records, a matter that is required by this section to be contained in the declaration, a declaration furnished by him to the Commissioner shall be taken to comply with the requirements of this section so far as that matter is concerned if the declaration states that that person does not know and is unable to ascertain that matter and sets out adequate reasons for the inability.

“(5.) A person who, in pursuance of this section, furnishes a declaration to the Commissioner shall, at the same time, furnish a copy of the declaration to the person who requested that the declaration be so furnished.

Penalty: Forty dollars.

“(6.) A declaration furnished in pursuance of this section shall specify the amount of the consideration given, or to be given, by the person furnishing the declaration in respect of the prescribed goods referred to in the declaration and shall be in accordance with a form determined by the Commissioner.

“(7.) A person shall not—

- (a) in a declaration furnished to the Commissioner by reason of a request made in accordance with sub-section (1.) of this section, knowingly specify as the amount of a consideration an amount that is less than the true consideration; or
- (b) in a declaration furnished to the Commissioner by reason of a request made in accordance with sub-section (2.) of this section, knowingly specify as the amount of a consideration an amount that is greater than the true consideration.

Penalty: An amount equal to the amount by which the consideration is understated or overstated, as the case may be, or One thousand dollars, whichever is the greater.

“(8.) A person shall not, in a declaration furnished to the Commissioner by reason of a notice under sub-section (2.) of this section, knowingly specify a consideration in respect of goods that should not be included in the declaration.

Penalty: An amount equal to the consideration specified in the declaration or One thousand dollars, whichever is the greater.

“16P.—(1.) Where a person has reason to believe that a copy of a declaration that has been furnished to him in pursuance of the last preceding section contains information that is incorrect or does not contain information that should be contained in it, he shall, not later than the day prescribed by the next succeeding sub-section, notify the Commissioner in writing accordingly, giving particulars of the extent to which he believes the information to be incorrect or deficient.

**Notice to
Commissioner
as to incorrect
declarations.**

Penalty: One thousand dollars.

“(2.) The prescribed day for the purposes of the last preceding sub-section is—

- (a) the last day of the financial year next succeeding the relevant rebate year or if, on or before that day, the Commissioner has allowed to the person a further time for the making of a claim in respect of that rebate year, the day on which that further time expires; or
- (b) the day on which that person makes a claim in respect of that rebate year,

whichever is the earlier day, but, where that day is earlier than the thirtieth day after the day of receipt by the person of the copy of the declaration, the prescribed day is that thirtieth day.

“16Q.—(1.) A person may, in relation to a rebate year, apply in writing to the Commissioner for a reduction in the amount that would, apart from this section and section sixteen D of this Act, be the value of export sales of that person for a financial year (in this section referred to as ‘the base year’) that is included in the base period in relation to the rebate year on the ground that, by reason of abnormal trading conditions or other extraordinary circumstances during the base year, that amount is greater than it would otherwise have been and he is, by reason of that fact, unfairly disadvantaged for the purposes of this Division.

**Review of
base period
export sales.**

“(2.) Applications under this section in relation to the one rebate year may be made in respect of more than one base year.

“(3.) An application under this section shall be made at the time of the making by the applicant of a claim in respect of the rebate year in relation to which the application is made or at any time after the making of such a claim and before the expiration of forty-two days from the date

of service on the applicant of notice of a determination of that claim by the Commissioner, but such an application shall not be considered before such a notice has been served.

“(4.) The Commissioner shall refer every application duly made under this section to a Board of Review.

“(5.) The Board of Review shall determine—

- (a) whether the amount to which the application relates is, for the reasons referred to in sub-section (1.) of this section, greater than it would otherwise have been and, if so, the amount of the excess; and
- (b) if there is such an excess, whether any reduction should be made in the value of export sales for the base year on the ground that the applicant is unfairly disadvantaged for the purposes of this Division by reason of the excess, and the extent of the reduction that should be so made.

“(6.) In making a determination under paragraph (b) of the last preceding sub-section, the Board of Review shall take into account—

- (a) the amount, if any, of rebate of tax in respect of the base year allowed to the person under the *Pay-roll Tax Assessment Act* 1941–1961, or under that Act as amended at any time, that was attributable to the amount of the excess; and
- (b) where there was such an amount of rebate, the amount of rebate that will, or is likely to be, attributable to the effect of the determination on the rebate entitlement of the person for each of the rebate years in relation to which the base year is or will be included in the base period.

“(7.) Where, upon an application under this section, a Board of Review has determined that the value of export sales of a person for the base year should be reduced by a specified amount, the value of export sales as reduced by that amount shall, for the purposes of this Division but subject to the application of section sixteen D of this Act and the next succeeding section, be deemed to be the value of export sales of that person for that year for the purpose of ascertaining the increase in export sales of that person for the rebate year and for any subsequent rebate year in relation to which the base year is included in the base period, and the Commissioner shall give effect to the determination accordingly.

“(8.) A person is not entitled to make more than one application under this section in relation to the one base year.

Review of amounts added to value of export sales for base period under section 16D.

“16R.—(1.) Where a person has acquired a business or any industrial property rights and, under section sixteen D of this Act, an amount is to be deemed to be added to the value of export sales of that person for the base period in relation to a rebate year, being the whole or a part of the value of export sales of a previous owner of the business or of the industrial property rights for a year (in this section referred to as ‘the vendor’s base year’), that first-mentioned person may, in relation to that rebate year, apply in writing to the Commissioner for a reduction, for the purpose

of calculating the amount to be so added, of the amount that represents so much of the value of export sales of the previous owner (apart from section sixteen D of this Act) for the vendor's base year as is attributable to that business or those industrial property rights, on the ground that, by reason of abnormal trading conditions or other extraordinary circumstances during the vendor's base year, the amount to which the application relates is greater than it would otherwise have been and the applicant is, by reason of that fact, unfairly disadvantaged for the purposes of this Division.

“(2.) Applications under this section in relation to the one rebate year may be made in respect of the value of export sales of more than one previous owner.

“(3.) An application under this section shall be made at the time of the making by the applicant of a claim in respect of the rebate year in relation to which the application is made or at any time after the making of such a claim and before the expiration of forty-two days from the date of service on the applicant of notice of a determination of that claim by the Commissioner, but such an application shall not be considered before such a notice has been served.

“(4.) The Commissioner shall refer every application duly made under this section to a Board of Review.

“(5.) The Board of Review shall determine—

- (a) whether the amount to which the application relates is, for the reasons referred to in sub-section (1.) of this section, greater than it would otherwise have been and, if so, the amount of the excess; and
- (b) if there is such an excess, whether any reduction should be made in the amount on the ground that the applicant is unfairly disadvantaged for the purposes of this Division by reason of the excess, and the extent of the reduction that should be made.

“(6.) Where, upon an application under this section, a Board of Review has determined that the amount to which the application relates should be reduced, that amount shall be deemed to be reduced, to the extent determined by the Board, for the purposes of the application of section sixteen D of this Act in relation to the applicant in respect of the rebate year to which the application related or in respect of any later rebate year in relation to which that amount is relevant, and no further application under this section shall be made in respect of that amount in respect of any later rebate year.

“16s.—(1.) Export certificates may be issued in accordance with this section, and every export certificate—

- (a) shall be in a form determined by the Commissioner; and
- (b) shall specify a rebate value within the limits provided by this section and such other matters as are indicated on the form.

Export
certificates.

“(2.) Subject to and in accordance with this section a person being—

(a) a person who has, in a rebate year, acquired from a supplier of components goods of the same kind as—

(i) prescribed goods that have, in that rebate year, been exported from Australia and in relation to which that person was the producer for export; or

(ii) goods that have been physically included in goods referred to in the last preceding sub-paragraph; or

(b) a supplier of components who has received an export certificate in relation to a rebate year in respect of goods and has, in that rebate year, acquired from another supplier of components goods of the same kind as the goods to which the certificate relates or goods of the same kind as goods that have been physically included in the goods to which the certificate relates,

may, during or after the end of the rebate year in which he so acquired those goods from the supplier of components, issue to the supplier of components an export certificate in relation to that rebate year.

“(3.) Where a person issues an export certificate in relation to a rebate year to a supplier of components in respect of goods of any kind—

(a) he shall not specify in the certificate a rebate value that, when added to the rebate values specified in respect of goods of that kind in any other export certificate issued by him to suppliers of components (including that supplier) in relation to that rebate year, exceeds the amount ascertained in accordance with the formula—

$$\frac{21a}{200}$$

$$200$$

where a is the total of the considerations for which the person issuing the certificate has, during that rebate year and on or before the date of issue of the certificate, acquired from suppliers of components goods of that kind; and

(b) where the total of the considerations for which he has, during that rebate year and on or before the date of issue of the certificate, acquired from that supplier of components goods of that kind is less than one-tenth of the total of the considerations for which he has, during that rebate year and on or before that date, acquired from suppliers of components (including that supplier) goods of that kind—he shall not specify in the certificate a rebate value that, when added to the rebate values specified in respect of goods of that kind in any other export certificates issued by him in relation to that rebate year in respect of goods of that kind to that supplier of components, exceeds the amount ascertained in accordance with the formula—

$$\frac{21a}{200}$$

$$200$$

where a is the total of the considerations for which he has, during that rebate year and on or before the date of issue of the certificate, acquired from that supplier of components goods of that kind.

Penalty: The greater of—

- (a) One thousand dollars; or
- (b) the amount ascertained in accordance with the formula—

$$\frac{200a}{21}$$

where a is the amount of the excess.

“(4.) Where—

- (a) a person has, during a rebate year, sold prescribed goods of any kind to an export merchant;
- (b) any of those goods have, whether during that rebate year or later, been exported from Australia and the first-mentioned person is the producer for export of the goods so exported; and
- (c) goods of that kind have been exported from Australia during that rebate year by that export merchant,

that first-mentioned person may, subject to and in accordance with this section, issue to that export merchant an export certificate in relation to that rebate year.

“(5.) A person shall not, in an export certificate issued under the last preceding sub-section in relation to a rebate year by reference to the sale to an export merchant of goods of any kind, specify a rebate value that, when added to the rebate values specified in other export certificates issued by him under that sub-section in relation to that rebate year to export merchants (including that export merchant) by reference to sales of goods of that kind, gives a total exceeding the amount ascertained in accordance with the formula—

$$\frac{21a}{200}$$

where a is the total of the considerations for which the person issuing the certificate has, during that rebate year and on or before the date of issue of the certificate, sold goods of that kind, to export merchants who have, during that rebate year, exported goods of that kind.

Penalty: The greater of—

- (a) One thousand dollars; or
- (b) the amount ascertained in accordance with the formula—

$$\frac{200a}{21}$$

where a is the amount of the excess.

“(6.) A person shall not specify in an export certificate issued by him in relation to a rebate year a rebate value that, when added to the rebate values specified in any other export certificates issued by him in relation to that rebate year, gives a total exceeding—

- (a) if the certificate is issued after the rebate year—the total of the rebate values of the increase in export sales of the person for the rebate year and of any export certificates issued to him in respect of that rebate year; or
- (b) if the certificate is issued during the rebate year—the total of the rebate values of the amount that would be the increase in export sales of the person for the rebate year if the rebate year ended on the day on which the certificate is issued and of any export certificates issued to him on or before that day in respect of that rebate year.

Penalty: The greater of—

- (a) One thousand dollars; or
- (b) an amount ascertained in accordance with the formula—

$$\frac{200a}{21}$$

where a is the amount of the excess.

“(7.) A person shall not, except with the approval in writing of the Commissioner, issue an export certificate in relation to a rebate year—

- (a) after the making of a claim by that person in respect of the rebate year; or
- (b) after the expiration of one year from the end of the rebate year and of the further time, if any, allowed by the Commissioner for the making of a claim by that person in respect of that rebate year.

Penalty: The greater of—

- (a) One thousand dollars; or
- (b) an amount ascertained in accordance with the formula—

$$\frac{200a}{21}$$

where a is the rebate value specified in the export certificate.

“(8.) In this section—

- (a) a reference to prescribed goods shall be read as not including—
 - (i) a reference to motor vehicle components that have, in a rebate year, been exported from Australia by a person who carried on the production of motor vehicles in Australia and in relation to which the exporter is not the producer for export; or

- (ii) a reference to components for prescribed goods of a kind in relation to which sub-section (2.) of section sixteen B of this Act applies, being components that have, in a rebate year, been exported from Australia by a person who carried on the production of prescribed goods of that kind in Australia and in relation to which the exporter is not the producer for export,

not being components in respect of which a person is, by virtue of section sixteen B of this Act, deemed to be a producer for export or in respect of which a notification under sub-section (3.) of section sixteen B of this Act has been given; and

- (b) a reference to the increase in export sales of a person for a rebate year shall be read as not including a reference to such part (if any) of that increase as is attributable to components in relation to which the last preceding paragraph applies.

“ 16r.—(1.) Where the Commissioner is satisfied that arrangements have been made between any persons with a view to the affairs of those persons being so arranged or conducted that this Division, or the Division for which this Division was substituted, would have effect more favourably in relation to one of those persons than would otherwise have been the case, the amount of any increase in export sales, or of any rebate entitlement, of that person shall not exceed the amount that would, in the opinion of the Commissioner, have been the amount of that increase in export sales or of that rebate entitlement if those arrangements had not been made.

Certain
arrangements
and
transactions.

“ (2.) Where—

- (a) by virtue of sub-section (8.) of section sixteen A of this Act, prescribed professional services are to be deemed to have been supplied by a person in relation to a contract for the construction by that person of a building or other work, being a contract that specifies an amount of consideration as being attributable to those services; and
- (b) that amount exceeds the amount that, in the opinion of the Commissioner, could reasonably be expected to have been the cost to that person of obtaining the performance of the work involved in those services by a person other than himself and his own employees, being a person with whom he was dealing at arm's length,

the Commissioner may treat the consideration receivable for the supply of those services as being reduced by the amount of the excess.

“ 16u. A person shall not, by wilful act, default or neglect, by fraud, art or contrivance or by a wilfully false statement—

Obtaining
rebate by
fraud.

- (a) obtain or attempt to obtain a determination of a rebate entitlement to which he is not entitled; or

- (b) obtain or attempt to obtain a determination of a rebate entitlement of an amount exceeding the amount of the rebate entitlement to which he is entitled.

Penalty: In the case of an offence against paragraph (a) of this section, not less than One hundred dollars and the amount of the rebate entitlement or more than One thousand dollars and treble the amount of the rebate entitlement, and in the case of an offence against paragraph (b) of this section, not less than One hundred dollars and the amount of the excess or more than One thousand dollars and treble the amount of the excess.

Businesses
conducted by
States.

“ 16v. Where a trade or business, or more than one trade or business, is carried on by the Crown in right of a State, this Division applies as if—

- (a) the Crown were, in respect of each trade or business, a separate employer; and
(b) the Crown were not, as such an employer, entitled to any deduction under section fourteen of this Act.

Elections by
marketing
authorities.

“ 16w.—(1.) A marketing authority that came into existence on or after the date of commencement of the *Pay-roll Tax Assessment Act* 1968, or within sixty days before that date, may, by notice in writing lodged with the Commissioner, elect to be treated, for the purposes of this Division, as a producer for export in relation to prescribed goods produced in Australia of a class specified in the election exported or sold for export by the authority (including goods exported or sold before the date of the election), being goods in relation to which the authority would not, but for the election, be the producer for export.

“ (2.) A notice under this section shall be lodged not later than sixty days after the date on which the marketing authority came into existence.

“ (3.) Where a marketing authority duly makes an election under this section in relation to any goods—

- (a) the marketing authority shall be deemed to be, and to have been, a producer for export in relation to those goods; and
(b) no other person shall be taken to be, or to have been, a producer for export in relation to those goods.

“ (4.) For the purposes of this section, an election by a marketing authority that had effect, immediately before the date of commencement of the *Pay-roll Tax Assessment Act* 1968, for the purposes of section sixteen P of the *Pay-roll Tax Assessment Act* 1941–1967 shall be deemed to be an election duly made under this section.

“ 16x.—(1.) For the purposes of this Division, where gold has been ^{Gold.} delivered in accordance with section forty-two of the *Banking Act 1959*—

- (a) the gold shall be deemed to have been exported from Australia on the date on which the gold was so delivered;
- (b) the person who by mining (including the working of alluvial or surface deposits) produced the minerals from which the gold was obtained, and no other person, shall be deemed to be the producer for export of the gold;
- (c) the value of export sales of that producer for export shall be deemed to include—
 - (i) in relation to a period in which the gold was so delivered—the consideration received in respect of the delivery of the gold by the person who so delivered the gold (whether the gold was so delivered by that producer for export or by another person); and
 - (ii) in relation to any period (including a period in which the gold was so delivered)—any dividend, within the meaning of the *Income Tax Assessment Act 1936–1968*, of the kind referred to in sub-section (2.) of section twenty-three c of that Act received by him in that period; and
- (d) any actual export of the gold shall not be taken into account for the purposes of this Division.

“(2.) For the purposes of this section, gold delivered in accordance with section forty-two of the *Banking Act 1959* shall be deemed to have been so delivered at the time treated by the Reserve Bank of Australia as the time of delivery of the gold for the purpose of payment of the price fixed and published under section forty-four of the *Banking Act 1959*.

“(3.) A reference in this section to the *Banking Act 1959* shall be read as including a reference to that Act as amended at any time.

“ 16y. For the purposes of this Division, all amounts shall be expressed in terms of Australian currency.”

Amounts to be expressed in Australian currency.

6. Section 37 of the Principal Act is amended—

Evidence.

- (a) by inserting in sub-section (1.), after the word “ Act ” (first occurring), the words “, or to be a copy of a determination made under this Act,”;
- (b) by inserting in that sub-section, after the word “ specified ”, the words “ or making the determination ”; and
- (c) by adding at the end of that sub-section the words “ or on which that determination is based ”.

Burden of proof in relation to rebates.

7. Section 40A of the Principal Act is amended by omitting the words “ that the employer is entitled to a rebate, and the amount of the rebate to which the employer is entitled ” and inserting in their stead the words “ that the employer has a rebate entitlement, and the amount of the rebate entitlement ”.

Application of amendments.

8. Notwithstanding the amendments made by this Act, the provisions of the Principal Act continue to apply in relation to rebate in respect of tax imposed on wages paid or payable by an employer in respect of a financial year before the financial year that begins on the first day of July, One thousand nine hundred and sixty-eight, and in relation to the issue of export certificates in respect of such a financial year.
