

SENATE STANDING COMMITTEE

FOR THE

SCRUTINY OF BILLS

EIGHTH REPORT

OF

2000

21 June 2000

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ISSN 0729-6258

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MEMBERS OF THE COMMITTEE

Senator B Cooney (Chairman) Senator W Crane (Deputy Chairman) Senator T Crossin Senator J Ferris Senator B Mason Senator A Murray

TERMS OF REFERENCE

Extract from Standing Order 24

(1)

- (a) At the commencement of each Parliament, a Standing Committee for the Scrutiny of Bills shall be appointed to report, in respect of the clauses of bills introduced into the Senate, and in respect of Acts of the Parliament, whether such bills or Acts, by express words or otherwise:
 - (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make rights, liberties or obligations unduly dependent upon non-reviewable decisions;
 - (iv) inappropriately delegate legislative powers; or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.
- (b) The Committee, for the purpose of reporting upon the clauses of a bill when the bill has been introduced into the Senate, may consider any proposed law or other document or information available to it, notwithstanding that such proposed law, document or information has not been presented to the Senate.

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

EIGHTH REPORT OF 2000

The Committee presents its Eighth Report of 2000 to the Senate.

The Committee draws the attention of the Senate to clauses of the following bills which contain provisions that the Committee considers may fall within principles 1(a)(i) to 1(a)(v) of Standing Order 24:

Financial Management and Accountability Amendment Bill 2000

Sales Tax (Industrial Safety Equipment) (Transitional Provisions) Bill 2000

Financial Management and Accountability Amendment Bill 2000

Introduction

The Committee dealt with this bill in *Alert Digest No 7 of 2000*, in which it made various comments. The Minister for Finance and Administration has responded to those comments in a letter dated 19 June 2000. A copy of the letter is attached to this report. An extract from the *Alert Digest* and relevant parts of the Minister's response are discussed below.

Extract from Alert Digest No. 7 of 2000

This bill was introduced into the House of Representatives on 10 May 2000 by the Parliamentary Secretary to the Minister for Finance and Administration. [Portfolio responsibility: Finance and Administration]

The bill proposes to amend the *Financial Management and Accountability Act 1997* to provide for a supplement to annual and special appropriations on account of amounts of GST paid by Commonwealth entities. This amendment is required as the amounts appropriated in the Appropriation Bills 2000-2001 represent net amounts, and do not include an allowance for recoverable GST. This approach, which is in line with accepted accounting practice for GST, requires an additional appropriation to cover the following payments that give rise to recoverable GST:

- payments to suppliers to the extent of the GST embedded in the acquisition price; and
- payments of GST on creditable importations.

Indefinite appropriation Proposed new section 30A

Schedule 1 to this bill proposes to insert a new section 30A in the *Financial Management and Accountability Act 1997*. This section covers payments for acquisitions, and payments of GST on importations, made in reliance on a limited appropriation where a GST qualifying amount arises. A 'GST qualifying amount' means an input tax credit or a decreasing adjustment (within the meaning of the GST Act).

Under new section 30A, in each case "the appropriation is increased by the amount of the GST qualifying amount". This suggests that an amount appropriated may be automatically increased by an indefinite amount with no scope for Parliamentary scrutiny of that appropriation.

However, proposed new section 30A limits the amount of any increase to the total of the GST qualifying amount for any acquisition or importation. And the Explanatory Memorandum notes that this appropriation will apply "only where the Commonwealth can recover the amount of the payment as an input tax credit (recoverable GST) under the GST law". The Explanatory Memorandum goes on to note that, as a result, the additional appropriation "will have no effect on recorded revenues, expenses and assets" and "will not have any impact on the cash or Fiscal Budget balances".

Therefore, this particular additional appropriation – though indefinite, and, arguably, not subject to separate Parliamentary scrutiny – is akin to a book entry which notes that a GST amount is payable and then recoverable. While the circumstances surrounding this particular appropriation seem unobjectionable, the Committee would be concerned if a similar approach were to be used in more problematic circumstances. The Committee, therefore, **seeks the Minister's advice** as to whether there are have been any previous occasions on which such an indefinite appropriation has been sought, and why such an approach was adopted on this occasion.

Pending the Minister's advice, the Committee draws Senators' attention to this provision, as it may be considered to insufficiently subject the exercise of legislative power to Parliamentary scrutiny in breach of principle 1(a)(v) of the Committee's terms of reference.

Relevant extract from the response from the Minister

The aspect giving rise to the Committee's comments is the "indefinite" nature of the appropriation created by this Bill. The Committee has said that, while the circumstances surrounding this particular appropriation seem unobjectionable, the Committee would be concerned if a similar approach were to be used in more problematic circumstances. The Committee therefore sought my advice as to whether there have been any previous occasions in which such an indefinite appropriation has been sought, and why such an approach was accepted on this occasion.

Many appropriations are indefinite as to amount, in the sense that the amount appropriated in any given year can only be determined in retrospect.

Appropriations that are very similar to the one proposed in the *Financial Management and Accountability Amendment Bill 2000* are the appropriations that have been established under clauses in Annual Appropriation Acts in respect of net appropriations. As in the appropriation under scrutiny, each of these appropriations supplements a basic appropriation to the extent of receipts of a specified character.

There are a number of appropriations, eg for social security payments, which are indefinite as to amount but the amount is tied down by specification of eligibility and rates of payment.

There are other appropriations which are open ended as to amount, but the nature of the expenditure is tightly controlled; for example the appropriation to the Commissioner of Taxation for the making of refunds.

Against this background, I suggest that it is not so much the indefinite nature of the appropriation that is the issue, but rather the extent of parliamentary control over expenditure. Presumably all the appropriations mentioned above were considered acceptable because Parliament, in setting the parameters for expenditure, established the degree of control it considered appropriate in the circumstance of each appropriation. In this regard, the Senate can be assured that parliamentary control would not be lessened by the enactment of the *Financial Management and Accountability Amendment Bill 2000*. This is because an appropriation would only arise under this enactment where there has been an expenditure under another appropriation approved by the Parliament; then only if an input tax credit (or decreasing adjustment) arises in respect of that expenditure; and then only to the extent of the input tax credit (or decreasing adjustment).

The Committee has also asked why the "indefinite" approach was adopted on this occasion. As noted in the Explanatory Memorandum, this form of appropriation is suggested by the accepted accounting treatment for GST and the requirements of section 83 of the Constitution. It also makes good sense since, under the approach adopted, the appropriation figures in the Annual Bills represent the net resources that the Government is proposing be allocated to particular purposes. The approach has the further advantage that only the amount actually required for recoverable GST is appropriated – this would not necessarily be the case if basic appropriation items in Annual Appropriations were presented grossed up for estimated GST.

I trust that the Committee will find this response satisfactory.

The Committee thanks the Minister for this comprehensive response.

Sales Tax (Industrial Safety Equipment) (Transitional Provisions) Bill 2000

Introduction

The Committee dealt with this bill in *Alert Digest No 7 of 2000*, in which it made various comments. The Assistant Treasurer has responded to those comments in a letter dated 19 June 2000. A copy of the letter is attached to this report. An extract from the *Alert Digest* and relevant parts of the Assistant Treasurer's response are discussed below.

Extract from Alert Digest No. 7 of 2000

This bill was introduced into the House of Representatives on 11 May 2000 by the Parliamentary Secretary to the Minister for Finance and Administration as part of a package of four bills relating to the sales tax exemption for industrial safety equipment. [Portfolio responsibility: Treasury]

This bill provides for transitional measures to ensure that the amendments made by the three related bills do not affect credit claims lodged, or liabilities for dealings that occurred, before 5 October 1999.

Retrospectivity and legislation by press release Schedule 1, item 6

The Explanatory Memorandum accompanying this and the related modification bills points out that their collective purpose is to retrospectively modify the effect of the *Sales Tax (Exemptions and Classifications) Act 1992* from the commencement of that Act on 1 January 1993.

However, this retrospectivity is largely ameliorated by the operation of item 6 in the Schedule to this bill. In general terms, this item states that the modifications will increase liability to sales tax only in relation to dealings in goods after 5 October 1999 – the date of a Press Release issued by the Assistant Treasurer.

This Press Release followed a number of Federal Court decisions, including the recent case of *Commissioner of Taxation v NSW Cancer Council* (1999) FCA 1146. In that case, the Court held that sunglasses were exempt from sales tax as safety equipment because it could be demonstrated that outdoor workers used them to protect their eyes from glare and cancer. The effect of the decision is said to be that all sunglasses which meet Australian Standard AS 1067.1 and which are not fashion glasses would be exempt from sales tax, even though most are used as personal protection in activities unrelated to industrial operations.

The Explanatory Memorandum notes that this modification "will correct the unintended consequences of the 1992 legislation which aimed to streamline the sales tax law". In replacing the phrase "of a kind used exclusively or primarily and principally" with the phrase "of a kind ordinarily used", the 1992 legislation had intended no substantive change to the law. The revenue said to be at risk should the amendments not be made "could be in excess of \$2 billion".

The issue of a Press Release, to some extent, mitigates the effect of the retrospective application. However, in this case the legislation which gives effect to the proposals in that Press Release has not been introduced within the six-month period specified in the Senate Resolution of 8 November 1988.

This resolution deals with the introduction of legislation to give effect to proposed amendments to taxation laws. In general terms it states that, where the relevant legislation has not been introduced into Parliament or made available by way of a draft bill within 6 months of the date of the announcement, "the Senate shall, subject to any further resolution, amend the Bill to provide that the commencement date of the Bill shall be a date that is no earlier than either the date of introduction of the Bill into the Parliament or the date of publication of the draft Bill".

The Committee therefore, **seeks the Treasurer's advice** as to the effect of this resolution on the proposed commencement date of the bill. The Committee is puzzled by the suggestion that revenue of \$2 billion is potentially at risk and also **seeks the Treasurer's advice** on how this figure was determined.

Pending the Treasurer's response, the Committee draws Senators' attention to these provisions, as they may be considered to trespass unduly on personal rights and liberties, in breach of principle 1(a)(i) of the Committee's terms of reference.

Relevant extract from the response from the Assistant Treasurer

I refer to the Committee's request for advice as to the effect of the Senate Resolution of 8 November 1988 on the proposed commencement date of the Sales Tax (Industrial Safety Equipment) (Transitional Provisions) Bill 2000. I will also explain how the \$2 billion revenue that is potentially at risk was calculated.

This Bill is part of the package of modifying Bills that was introduced into the Parliament on 11 May 2000 to give effect to the Government's announcement on 5 October 1999 to modify the sales tax law so that the exemption for industrial safety equipment will only apply to equipment of a kind used 'mainly' in the course of industrial operations to protect persons engaged in those operations. The modifications ensure that credit claims lodged after 5 October 1999 in respect of dealings that occurred prior to that date are only allowed where the 'mainly' test is satisfied. Also any credit claims lodged prior to 5 October 1999 that meet the requirements of the existing exemption but do not meet the mainly used test, will be allowed where it can be shown that the benefit of the credit has been passed on to the end consumer.

As sales tax is generally levied at the final wholesale sale, persons entitled to refunds for overpaid tax will be the wholesalers and manufacturers. However, the law requires that the benefit of the refund must be passed on to the person they sold the goods to. In most cases this will be the retailer. There is no requirement under the law to pass the benefit to the final consumer unless the sale was made directly by the manufacturer or wholesaler to the final consumer. Refund claims usually benefit the retailer and not the consumer who has borne the tax in the price they paid for the goods.

Noting that section 2 of the Bill provides for a commencement date being the day the Act receives the Royal Assent, I will respond on the basis that you seek advice on the effect if the date of 5 October 1999, referred to in each of sections 5 and 6 of the Bill, were to be replaced by 11 May 2000.

The Commencement Date

The Bills were introduced into the Parliament on 11 May 2000 which was seven months after the date of announcement on 5 October 1999. There is also a requirement in the sales tax law that where the Government makes a public statement that it intends to introduce a Bill relating to a sales tax law to operate from a date before the enactment of the Bill, the Commissioner of Taxation must, within 7 days of the announcement, publish details of the proposed amendment for the information of taxpayers. This notice was published in the Financial Review and Australian newspapers on 11 October 1999. Where the proposed amendments increase the sales tax payable, the notice advises taxpayers that, under the sales tax law, there is no requirement to remit the increased tax liability to the ATO until 28 days after the amending Bill receives the Royal Assent.

The Press Release and public notice gave clear details of the proposed modifications. Also details of the proposed modifications were discussed at a meeting on 17 November 1999 of the National Sales Tax Liaison Committee (NSTLC) comprising representatives of the major sales tax professional bodies and senior ATO staff. As the majority of credit claims are made through members of sales tax professional bodies, most taxpayers would have been adequately informed of the proposed changes. Finally, details were set out in Sales Tax Ruling SST 17, issued on 12 January 2000.

The Government announcement of 5 October 1999 resulted in almost a complete cessation of further credit claims in relation to dealings with goods that may have met the 'ordinarily' test but could not meet the 'mainly' test. The expectation is that since 5 October 1999, taxpayers will have been charging sales tax on such goods and have either paid the tax or, more likely, are holding that tax for payment to the ATO 28 days after Royal Assent is given.

Therefore, changing the commencement date from 5 October 1999 to the date of introduction of the Bills would have little practical effect in relation to allowing taxpayers further time to lodge credit claims. Taxpayers who already had credit claims lodged at 5 October 1999 would be able to extend that claim period to the later date of commencement if they started to pay tax after the date of announcement.

However, the change of commencement date could create an anomaly advantaging those taxpayers who, as a result of the Court decisions, commenced or continued to treat dealings that did not meet the 'mainly' test as exempt (ignoring the Government's announcement and the public notice) as against those that did commence or continue to pay sales tax on those goods. The later commencement date would preclude tax being collected in respect of these dealings and would prevent credits from being claimed where tax has been paid on the basis of the announcement. I understand that most taxpayers have not changed the way in which goods are treated and have continued to effectively apply the 'mainly' test and pay tax on the wider range of goods.

Also, manufacturers, wholesalers and, in some cases, retailers will receive a windfall gain in those cases where taxpayers have charged sales tax on dealings after 5 October 1999 but not yet remitted it to the ATO.

Reasons For the Delay in Introduction

The Bills were not introduced earlier in the Parliamentary sittings because the heavy tax reform legislation program placed pressure on the limited drafting resources available to the ATO.

Factors in Mitigation

As your Committee notes, section 6 of the Bill mitigates the effect of the modifications. Additionally, as explained earlier, details of the proposed modifications were comprehensively canvassed in the Press Release, public notice, public ruling, and at a NSTLC meeting. The Bills reflect very closely the details canvassed.

Potential Revenue Impact

The Courts have ruled that 'ordinarily' can be satisfied by the ordinary, common or settled use of the goods, even if this only accounted for as little as 20% of its use. For example, an office chair is used mainly for seating but can also protect workers from back problems by ensuring correct posture. This means that a wide range of goods, currently taxed at the 22% rate, which Parliament did not intend to exempt as industrial safety equipment, may qualify for exemption.

The goods include sunglasses that meet AS 1067.1 (effectively all sunglasses); airconditioning systems including fans and ducting (filter smoke and bacteria); ergonomic office desks and chairs (prevent poor posture); lighting systems in buildings and desk lamps (prevent eye strain); many floor coverings (prevent leg strain and exposure to dust); vacuum cleaners, mops and brooms (remove dust); most motor vehicle spare parts including air-bags, seatbelts, brakes, laminated windscreens, headlights, collapsible steering wheels, tyres etc; water purifiers and filters; security cameras and video surveillance equipment; illuminated exit signs; trolleys, hoists, cranes, fork-lifts and other lifting devices (prevent back strain); firearms of a kind used by security personnel or police; shade structures and demountable booths used by car-park attendants; umbrellas of a kind used by golf professionals; tents used by adventure tour guides (protection from elements and insects); and bug zappers (protect hygiene of workers).

Noting that taxpayers can claim refunds for a period of three years prior to the date of their claim, an estimate of sales tax revenue involved for claims extending back three years from 30 April 1999 (the NSW Cancer Council decision at first instance was given on 12 April 1999) and ongoing to 30 June 2000 is in the order of \$2b (see attached). In the categories of air-conditioning, office furniture and motor vehicle tyres and parts alone, the estimated loss of revenue is \$1.77b. Litigation is already in progress for illuminated exit signs, scaffolding and seat belts.

In conclusion, most taxpayers have continued to apply the exemption for industrial safety equipment narrowly and pay tax on the wider range of goods. A change in the effective commencement date to 11 May 2000 would disadvantage these taxpayers and provide an unfair advantage to those taxpayers that did not act in accordance with the Government's Press Release or the public notice.

The Committee is asked to resolve not to amend the Bill to change the commencement date.

The Committee thanks the Assistant Treasurer for this detailed response, which clarifies the circumstances which have given rise to the bill, and the anticipated effect on revenue should the bill not be passed.

The Committee notes that the announcement of the proposal on 5 October 1999 was then followed by the publication of further details in newspapers on 11 October 1999, the issue of a Sales Tax Ruling on 12 January 2000, and discussion of the proposal at the National Sales Tax Liaison Committee. The Committee further notes that these announcements effectively resulted in the cessation of credit claims in relation to dealings with goods that may have met the 'ordinarily' test but could not meet the 'mainly' test.

However, the Committee also notes that the bill itself was not introduced into the Parliament until seven months after the date of the original announcement – outside the six month period set out in the Senate resolution of 8 November 1988. While, technically, the bill only commences prospectively on assent, it nevertheless applies retrospectively to dealings from 5 October 1999. The Minister advises that the delay in its introduction was "because the heavy tax reform legislation program placed pressure on the limited drafting resources available to the ATO".

The Committee understands that the 'six month rule' has rarely, if ever, been applied. The Committee draws the Senate's attention to its resolution of 8 November 1988 in the context of this bill.

Barney Cooney Chairman

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2 0 JUN 2000 Senate Standing C'Itee for the Scrutiny of Bills

MINISTER FOR FINANCE AND ADMINISTRATION

19 JUN 2000

Senator B Cooney Chairman Senate Standing Committee for the Scrutiny of Bills Parliament House Canberra ACT 2600

Dear Senator Cooney

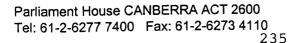
Thank you for drawing my attention to the comments of the Standing Committee for the Scrutiny of Bills concerning the *Financial Management and Accountability Amendment Bill 2000.*

The aspect giving rise to the Committee's comments is the "indefinite" nature of the appropriation created by this Bill. The Committee has said that, while the circumstances surrounding this particular appropriation seem unobjectionable, the Committee would be concerned if a similar approach were to be used in more problematic circumstances. The Committee therefore sought my advice as to whether there have been any previous occasions in which such an indefinite appropriation has been sought, and why such an approach was accepted on this occasion.

Many appropriations are indefinite as to amount, in the sense that the amount appropriated in any given year can only be determined in retrospect.

Appropriations that are very similar to the one proposed in the *Financial Management and Accountability Amendment Bill 2000* are the appropriations that have been established under clauses in Annual Appropriation Acts in respect of net appropriations. As in the appropriation under scrutiny, each of these appropriations supplements a basic appropriation to the extent of receipts of a specified character.

There are a number of appropriations, eg for social security payments, which are indefinite as to amount but the amount is tied down by specification of eligibility and rates of payment.





There are other appropriations which are open ended as to amount, but the nature of the expenditure is tightly controlled; for example the appropriation to the Commissioner of Taxation for the making of refunds.

Against this background, I suggest that it is not so much the indefinite nature of the appropriation that is the issue, but rather the extent of parliamentary control over expenditure. Presumably all the appropriations mentioned above were considered acceptable because Parliament, in setting the parameters for expenditure, established the degree of control it considered appropriate in the circumstance of each appropriation. In this regard, the Senate can be assured that parliamentary control would not be lessened by the enactment of the *Financial Management and Accountability Amendment Bill 2000*. This is because an appropriation would only arise under this enactment where there has been an expenditure under another appropriation approved by the Parliament; then only if an input tax credit (or decreasing adjustment) arises in respect of that expenditure; and then only to the extent of the input tax credit (or decreasing adjustment).

The Committee has also asked why the "indefinite" approach was adopted on this occasion. As noted in the Explanatory Memorandum, this form of appropriation is suggested by the accepted accounting treatment for GST and the requirements of section 83 of the Constitution. It also makes good sense since, under the approach adopted, the appropriation figures in the Annual Bills represent the net resources that the Government is proposing be allocated to particular purposes. The approach has the further advantage that only the amount actually required for recoverable GST is appropriated – this would not necessarily be the case if basic appropriation items in Annual Appropriations were presented grossed up for estimated GST.

I trust that the Committee will find this response satisfactory.

Yours sincerely

JOHN FAHEY



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2 0 JUN 2000 Seriale Standing C'ttee for the Scrutiny of Citee ASSISTANT TREASURER

> PARLIAMENT HOUSE CANBERRA ACT 2600

Telephone: (02) 6277 7360 Facsimile: (02) 6273 4125

Senator Barney Cooney Chairman Senate Standing Committee for the Scrutiny of Bills Parliament House CANBERRA ACT 2600

1 9 JUN 2000

Dear Senator Cooney

ALERT DIGEST NO.7 OF 2000: SALES TAX (INDUSTRIAL SAFETY EQUIPMENT) (TRANSITIONAL PROVISIONS) BILL 2000

I refer to the Committee's request for advice as to the effect of the Senate Resolution of 8 November 1988 on the proposed commencement date of the Sales Tax (Industrial Safety Equipment) (Transitional Provisions) Bill 2000. I will also explain how the \$2 billion revenue that is potentially at risk was calculated.

This Bill is part of the package of modifying Bills that was introduced into the Parliament on 11 May 2000 to give effect to the Government's announcement on 5 October 1999 to modify the sales tax law so that the exemption for industrial safety equipment will only apply to equipment of a kind used 'mainly' in the course of industrial operations to protect persons engaged in those operations. The modifications ensure that credit claims lodged after 5 October 1999 in respect of dealings that occurred prior to that date are only allowed where the 'mainly' test is satisfied. Also any credit claims lodged prior to 5 October 1999 that meet the requirements of the existing exemption but do not meet the mainly used test, will be allowed where it can be shown that the benefit of the credit has been passed on to the end consumer.

As sales tax is generally levied at the final wholesale sale, persons entitled to refunds for overpaid tax will be the wholesalers and manufacturers. However, the law requires that the benefit of the refund must be passed on to the person they sold the goods to. In most cases this will be the retailer. There is no requirement under the law to pass the benefit to the final consumer unless the sale was made directly by the manufacturer or wholesaler to the final consumer. Refund claims usually benefit the retailer and not the consumer who has borne the tax in the price they paid for the goods.

Noting that section 2 of the Bill provides for a commencement date being the day the Act receives the Royal Assent, I will respond on the basis that you seek advice on the effect if the date of 5 October 1999, referred to in each of sections 5 and 6 of the Bill, were to be replaced by 11 May 2000.

The Commencement Date

The Bills were introduced into the Parliament on 11 May 2000 which was seven months after the date of announcement on 5 October 1999. There is also a requirement in the sales tax law that where the Government makes a public statement that it intends to introduce a Bill relating to a sales tax law to operate from a date before the enactment of the Bill, the Commissioner of Taxation must, within 7 days of the announcement, publish details of the proposed amendment for the information of taxpayers. This notice was published in the Financial Review and Australian newspapers on 11 October 1999. Where the proposed amendments increase the sales tax payable, the notice advises taxpayers that, under the sales tax law, there is no requirement to remit the increased tax liability to the ATO until 28 days after the amending Bill receives the Royal Assent.

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However, the change of commencement date could create an anomaly advantaging those taxpayers who, as a result of the Court decisions, commenced or continued to treat dealings that did not meet the 'mainly' test as exempt (ignoring the Government's announcement and the public notice) as against those that did commence or continue to pay sales tax on those goods. The later commencement date would preclude tax being collected in respect of these dealings and would prevent credits from being claimed where tax has been paid on the basis of the announcement. I understand that most taxpayers have not changed the way in which goods are treated and have continued to effectively apply the 'mainly' test and pay tax on the wider range of goods.

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Factors in Mitigation

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The goods include sunglasses that meet AS 1067.1 (effectively all sunglasses); air-conditioning systems including fans and ducting (filter smoke and bacteria); ergonomic office desks and chairs (prevent poor posture); lighting systems in buildings and desk lamps (prevent eye strain); many floor coverings (prevent leg strain and exposure to dust); vacuum cleaners, mops and brooms (remove dust); most motor vehicle spare parts including air-bags, seatbelts, brakes, laminated windscreens, headlights, collapsible steering wheels, tyres etc; water purifiers and filters; security cameras and video surveillance equipment; illuminated exit signs; trolleys, hoists, cranes, fork-lifts and other lifting devices (prevent back strain); firearms of a kind used by security personnel or police; shade structures and demountable booths used by car-park attendants; umbrellas of a kind used by golf professionals; tents used by adventure tour guides (protection from elements and insects); and bug zappers (protect hygiene of workers).

Noting that taxpayers can claim refunds for a period of three years prior to the date of their claim, an estimate of sales tax revenue involved for claims extending back three years from 30 April 1999 (the NSW Cancer Council decision at first instance was given on 12 April 1999) and ongoing to 30 June 2000 is in the order of \$2b (see attached). In the categories of air-conditioning, office furniture and motor vehicle tyres and parts alone, the estimated loss of revenue is \$1.77b. Litigation is already in progress for illuminated exit signs, scaffolding and seat belts.

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The Committee is asked to resolve not to amend the Bill to change the commencement date.

ours incerely

ROD KEMP

l**une 2000** Icil decision on 14 April 1999) Estimated credit claims from 1 May 1996 to 30 April 1999 and

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|--|--------------------------------------|--------------------|--------------------|--------------------|-----------------------|--------------------|----------------------------------|--------------------|---|
| | Durables & other Goods | Goods | 1.06 | 1.063 | | Estimated cr | edit claims | from 1 M | Estimated credit claims from 1 May 1996 to 30 A |
| | Motor Vehicles | | 1.02 | 0.96 | • | stimated tax | x payable fr | om 1 Ma | estimated tax payable from 1 May 1999 to 30 Jur |
| | Machinery & Equipment | pment | 0.984 | 1.004 | - | prepared Ma | y 1999 follov | ving NSV | (prepared May 1999 following NSW Cancer Council |
| | | | | | | | | | |
| | | | | | Sales Tax Collections | | | | Estimated |
| 1.1.4. 1.1.4. | Potential Percentage | 96/36 | Actual 96/97 | 97 | 01Y 66/86 | 38/99 M | May/June 99 | 00/66 | u a |
| Code | at risk | ш у | £3 | Sm | E S | E | E P | , | |
| Tyres, tubes, retread & recap rubber, wet cell batteries, oils and greases 21 Motor vehicles from and tube manufacturers | | 111.0 | 113.8 | 127.2 | 102.4 | 129.7 | 27.3 | 130.2 | 519.8 |
| | 100% | 102.0 | 104.6 | 116.8 | 101.6 | 119.2 | 17.6 | 119.6 | 0.114 |
| Household appliances, parts & accessories 44 vacuum cleaners, carpet sweepers, floor polishers | 10% | . 11.7 | 12.0 | 13.4 | 11.1 | 14.2 | 3.2 | 15.1 | 5.7 |
| Household hardware, crockery, glassware, cutlery, brooms & mops 55 Brooms, brushes, mops, buckets, dippers & basins | 10% | 11.6 | 11.9 | 13.3 | 11.6 | 14.1 | 2.4 | 15.0 | 5.6 |
| Office Furniture 60 Domestic & office furniture, office equipment, office machines, shelving 62 Commercial furniture manufacturers & wholesalers | 10% | 26.9 47.2 | 27.6 48.4 | 30.9 54.1 | 26.7 | 32.7 57.3 | 6.0 5.7 | 34.8 60.9 | 13.0 |
| Office machines etc 64 Office machines and equipment | 10% | 85.6 | 87.8 | 98.1 | 81.5 | 96.5 | 15.0 | 92.7 | 39.0 |
| Floor coverings 90 Floor coverings 91 Carpets, linos, floor tiles 92 Floor mats & rugs | 5% 40% 5% | 4.6 61.2 3.4 | 4.7 62.8 3.5 | 5.3 70.2 4.0 | 3.5 65.5 2.6 | 5.6 74.4 4.2 | 2.1 8.8 1.6 | 5.9 79.1 4.5 | 1.1 118.7 0.8 |
| Motor vehicle parts & accessories 110 Motor vehicle parts & accessories n.e.l. | 25% | 375.3 | 385.0 | 430.1 | 372.1 | 438.7 | 66.6 | 421.1 | 434.6 |
| Sporting equipment etc. 221 Firearms & ammunition | 20% | 4.3 | 4.4 | 4.9 | 3.4 | 5.2 | 1.8 | 5.5 | 4.1 |
| Ornaments, watches etc. 236 Sunglasses, spectacles, optical supplies | 50% | 13.7 | 14.1 | 15.7 | 14.4 | 16.7 | 2.2 | 17.7 | 33.3 |
| Cameras, photographic equipment & accessories 270 Cameras, photographic equipment and accessories, projectors | 2% | 53.9 | 55.3 | 61.8 | 54.3 | 65.5 | 11.2 | 69.7 | 13.1 |
| Machines & Machinery 295 commercial air conditioning and refrigeration | 50% | 70.6 | 72.4 | 80.9 | 76.7 | 79.6 | 2.9 | 79.9 | 162.3 |
| Tents etc. 301 Tents, tarpaulins, flags etc. | 5% | 7.3 | 7.5 | 8.3 | 7.2 | 8.8 | 1.7 | 9.4 | 1.8 |
| Total Sales Tax collected for ALL trade codes | | 12,368 | 12,688 | 14,173 | | Potential T | Potential Total Revenue at Risk: | at Risk: | 1,990.5 |

Estimated revenue impact is relevant percentage of (2/12 of 95/96 + 96/97 + 97/98 + 98/99 YTD) added to the relevant percentage of (May/June 99 + 99/00)