

Right Hon. Mr. Coates.

SALES TAX AMENDMENT.

ANALYSIS.

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A BILL INTITULED

AN ACT to amend the Sales Tax Act, 1932-33.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

- 5 1. This Act may be cited as the Sales Tax Amendment Act, 1933, and shall be read together with and deemed part of the Sales Tax Act, 1932-33 (hereinafter referred to as the principal Act).
- 10 2. (1) Unless provision to the contrary is made in any contract for the sale by a wholesaler to the Crown of any taxable goods, the amount of any sales tax paid or payable under the principal Act by the wholesaler in respect of such goods shall be recoverable by him in addition to the price and any other amount due by
- 15 the Crown in respect of the goods.

Short Title.

Special provisions as to sales tax on goods sold to the Crown.

(2) In any case to which the *last preceding* subsection is not applicable the contract price of any goods sold to the Crown may be recovered and payment of such price may be made notwithstanding that the invoice or account rendered in respect of such goods may include, as part of the contract price, any amount paid or payable by the seller in respect of sales tax.

(3) This section shall be deemed to have come into force on the passing of the principal Act and shall apply with respect to taxable goods sold to the Crown on or at any time after the *ninth* day of February, nineteen hundred and *thirty-three*.

Term
"manufacture"
extended to
include
processes of
manufacture
performed by
contractor.

3. (1) Where any work is done for valuable consideration on or in respect of any taxable goods (whether or not such work involves the use either of taxable or of non-taxable material), by any person other than the owner of those goods or a worker employed by him (such person being in this section referred to as the contractor), the work so done shall be deemed to be included in the term "manufacture" as defined by section two of the principal Act, the contractor shall be deemed to be either a wholesaler or a manufacturing retailer, and (where the contractor is deemed to be a wholesaler) on the delivery of the goods by the contractor, or (where the contractor is deemed to be a manufacturing retailer) on the completion of the work, the goods shall be deemed to have been sold to or manufactured for the owner by the contractor, and (except where the owner is a licensed wholesaler) sales tax shall be payable by the contractor accordingly.

(2) The sale value of any goods to which the *last preceding* subsection applies shall for the purposes of this section be determined as follows:—

(a) In the case of goods manufactured by the contractor wholly from taxable materials, the sale value shall be deemed to be the amount charged by the contractor for the work done by him:

(b) In the case of any other goods, the sale value shall be determined as follows:—

(i) If, in accordance with the *last preceding* subsection, the contractor is deemed to be a wholesaler, the sale value shall be deemed to be the fair market value of the goods as if they had been sold by a wholesaler to a retailer in the ordinary course of business:

(ii) If, in accordance with the *last preceding* subsection, the contractor is deemed to be a manufacturing retailer, the sale value shall be determined in accordance with paragraph (b) of subsection one of section thirteen of the principal Act.

(3) This section shall be deemed to have come into force on the commencement of the principal Act.

4. (1) The term "manufacturing retailer" as defined in section two of the principal Act is hereby extended to include any person who manufactures any goods intended to be used by him in the erection or construction of any building or other structure if such goods are taxable goods of a class or kind which are sold by other manufacturing retailers in the ordinary course of their business.

Special provisions applicable to builders who manufacture their own fittings.

(2) Where any wholesaler manufactures any taxable goods of a class or kind which are sold by other wholesalers or by manufacturing retailers in the ordinary course of their business, such goods shall, if used by him in the erection or construction for any other person of any building or other structure, be deemed to have been sold by him as soon as they have been so used.

(3) This section shall be deemed to have come into force on the commencement of the principal Act.

5. (1) This section applies—

(a) To cases where taxable goods are sold to a licensed wholesaler, by any person other than a licensed wholesaler, for resale or for use in the manufacture by him of taxable goods for sale; and

(b) (Except in cases where the sale value of manufactured goods is determined by reference to the cost of their manufacture, in accordance with the provisions in that behalf of the proviso to paragraph (b) of subsection one of section thirteen of the principal Act) to cases where taxable goods are sold by any person other than a licensed wholesaler to a manufacturing retailer for use in the manufacture by him of taxable goods,—

Special provisions applicable in cases where taxable goods are sold to a wholesaler or a manufacturing retailer.

if in any such case sales tax on the goods so sold has been paid or is to be paid by the seller.

(2) In any case to which this section applies the wholesaler or manufacturing retailer, as the case may be, shall, in the return furnished by him in accordance

with section fourteen of the principal Act, be entitled to deduct from the sale value of the taxable goods sold or manufactured by him during the month to which the return relates the amount paid or to be paid by him in respect of any taxable goods purchased by him during that month in accordance with paragraph (a) or paragraph (b) of the *last preceding* subsection, and the sales tax payable by him shall accordingly be computed on the residue of the sale value after such deduction has been made. 5 10

(3) Where a wholesaler or a manufacturing retailer has made a deduction from the sale value of any taxable goods in accordance with the *last preceding* subsection, no deduction from the sales tax payable in respect of the same goods shall be made pursuant to subsection two of section eleven of the principal Act, and no deduction from their fair market value shall be made pursuant to the proviso to paragraph (b) of subsection one of section thirteen of the principal Act. 15

(4) Except in such cases (if any) as may be prescribed, the amount paid or to be paid for any taxable goods and deductible pursuant to subsection *two* hereof shall be determined as if such goods were sold on credit on usual trade terms. 20

(5) It shall be sufficient evidence for the purposes of this section that sales tax has been or is to be paid by the seller of any taxable goods if the seller, in any invoice delivered or sent by him to the wholesaler or manufacturing retailer, states that sales tax has been paid or is to be paid by the seller. 25 30

Offences.

(6) Every person who in any invoice as aforesaid makes any erroneous statement as to the payment of sales tax shall be guilty of an offence against the principal Act and shall be liable to the same penalties as if he had attempted to obtain a refund of sales tax by means of an erroneous or defective written statement. 35

(7) If any person in any invoice as aforesaid states that sales tax has been paid or is to be paid by the seller, and has theretofore made or thereafter makes application for a refund of sales tax pursuant to paragraph (c) of subsection one of section eleven of the principal Act, he shall be guilty of an offence against the principal Act and shall be liable to the same penalty as for an offence under section forty-two of that Act. 40

6. (1) Where a receiver is appointed of the property of a licensed wholesaler or of a licensed manufacturing retailer (hereinafter in this section referred to as the taxpayer), the receiver shall, within fourteen days after his appointment, give notice of the fact to the Comptroller, and shall, before disposing of any of the assets of the taxpayer, set aside out of the assets such sum as appears to the Comptroller to be sufficient to provide for any sales tax that is then payable by the taxpayer and any sales tax that will thereafter become payable in respect of goods that have been sold or manufactured by the taxpayer before the appointment of the receiver.

Appointment of receiver to be notified to Comptroller, and receiver to make provision for payment of sales tax.
Cf. 1932, No. 33, s. 27

(2) If any person appointed a receiver as aforesaid makes default in complying with any of the foregoing provisions of this section he shall be personally liable for any sales tax that is or thereafter becomes payable as aforesaid.

(3) Where two or more persons are appointed receivers of the property of any taxpayer as aforesaid, the obligations and liabilities attaching to a receiver under this section shall attach to all such persons jointly and severally, subject to a right of contribution between themselves as in cases of contract.

7. Section fourteen of the principal Act is hereby amended as follows:—

Section 14 of principal Act amended.

(a) By omitting from subsection one and also from subsection two the words "On the delivery of the return to the Collector the sales tax shall become payable"; and

(b) By adding the following subsection:—

"(5) For the purposes of this Act returns may be accepted by the Collector for any monthly accounting period not being a calendar month, and in the application of this section to any such case the term 'month' shall mean such monthly accounting period, and the last day of that accounting period shall be deemed to be the end of a month."

8. (1) Section nineteen of the principal Act is hereby amended by repealing subsection two, and substituting the following subsection:—

Fixing dates on which sales tax becomes payable.

(2) Subject to any special provisions made by this Act in that behalf, such debt shall become payable in accordance with the following provisions, namely:—

(a) In the case of sales tax payable on any goods under paragraph (c) of subsection one of

section eleven hereof, the sales tax shall be deemed to have become payable on the date on which it was paid in accordance with section sixteen hereof, or, if any such goods have been imported without payment of the sales tax properly payable thereon, the sales tax shall be deemed to have become payable as soon as an offence in respect of those goods has been committed under the Customs Acts : 5 10

“(b) In the case of sales tax payable by a wholesaler or manufacturing retailer (otherwise than as provided for in the last preceding paragraph) the sales tax for any period shall become payable on the delivery to the Collector of the return for that period within the time prescribed for the delivery of such return by section fourteen hereof, or, if the return is not delivered to the Collector within the time prescribed by that section, the sales tax for the said period shall become payable on the expiration of the time prescribed by that section for the delivery of the return for that period.” 15 20

(2) The said section nineteen of the principal Act is hereby further amended by inserting, after the words “at the suit of” in subsection three, the words “the Collector on behalf of”. 25