

1974/157



THE SALES TAX REGULATIONS 1974

DENIS BLUNDELL, Governor-General
ORDER IN COUNCIL

At the Government House at Wellington this 24th day of June 1974
Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 80 of the Sales Tax Act 1974, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Sales Tax Regulations 1974.

(2) These regulations shall come into force on the 1st day of July 1974.

2. Interpretation—(1) In these regulations—

“The Act” means the Sales Tax Act 1974:

“Prescribed form” means a form prescribed by the Comptroller; and a reference to a numbered form is a reference to a form so prescribed and numbered:

Expressions defined in the Act have the meanings so defined.

(2) If any dispute arises as to whether any person is engaged in business within the meaning of these regulations, it shall be determined by the Collector, and his decision shall be final.

PART I

FORMS

3. Use of existing forms—Where any form prescribed by any regulations revoked by these regulations differs from the corresponding form prescribed by the Comptroller, the Comptroller may permit the continuance of the revoked form until such date as he determines in any special case.

4. Compliance with directions in forms—Where a prescribed form contains, by way of a note or otherwise, a direction or indication of any requirement of the Customs as to—

- (a) The number of copies of the document to be tendered;
- (b) The nature or form of the information to be furnished;
- (c) The colour of the paper on which the form is to be printed;
- (d) Any action, either by way of signing a form of declaration or otherwise, to be taken by the person concerned in the transaction in which the document is used or by his authorised agent; or
- (e) Receipts to be signed by officers of transport services or other persons in proof that the goods described in the form have been received for carriage or for any other purpose—

the requirement so indicated shall be deemed to be prescribed, and shall be complied with by the person concerned in the transaction or by his authorised agent.

5. Collector may require additional copies of forms or additional particulars—The Collector may require copies of any prescribed form in addition to the number indicated on the form; and he may require to be shown on any form information additional to that prescribed if he deems the furnishing of the additional information to be necessary for the administration of the Sales Tax Act or for the preparation of statistical reports and returns.

6. Collector may accept document substantially in prescribed form—The Collector may accept instead of any prescribed form, other than a prescribed form of declaration, any document that is substantially in accordance with the prescribed form.

7. Size of forms—Forms prescribed under these regulations shall be of such sizes as the Comptroller from time to time may approve.

PART II

LICENCES

8. Application for licence—(1) Application for a licence to act as a wholesaler or as a manufacturing retailer shall be made in Form 1.

(2) Every such application shall be accompanied by a fee of \$2.

9. Form of Licence—Licences shall be in Form 2.

10. Wholesaler required to occupy premises—No person shall be deemed to act as a wholesaler or to engage in business as a wholesaler at any place unless he occupies premises at that place for the purposes of his business. A person visiting any place as a bona fide commercial traveller shall not by reason thereof be deemed to be an occupier of any premises at that place.

PART III

RETURNS

11. Returns to be delivered for every month or such longer period permitted by the Collector—Every person licensed as a wholesaler or as a manufacturing retailer shall deliver to the Collector a return in Form 3, Form 4, or Form 5, as the case may be, for every month or such longer period permitted by the Collector in accordance with section 29 of the Act, whether or not any goods are sold or manufactured during that month or period and whether or not any sales tax is payable by him for that month or period.

12. Returns by wholesaler—The returns required to be delivered to the Collector by a wholesaler shall be in Form 3:

Provided that where the wholesaler is the holder of a limited licence issued under subsection 4 of section 5 of the Act, the returns required to be delivered to the Collector in respect of the limited licence shall be in Form 4.

13. Goods sold to another licensed wholesaler—A licensed wholesaler who sells any taxable goods to another licensed wholesaler need not pay sales tax on such goods where the goods have been sold for use by the purchaser as materials in the manufacture of goods for sale.

14. Returns by manufacturing retailers—The returns required to be delivered to the Collector by a manufacturing retailer shall be in Form 5.

15. Returns deemed to be delivered—Returns may be delivered to the Collector at his office either personally or by post, and shall be deemed to be delivered when they are received by the Collector at his office.

PART IV

PAYMENT OF SALES TAX

16. Entries in respect of imported goods—Where, in respect of any goods that are subject to sales tax on entry for home consumption, any person makes entry under the Customs Act 1966 for—

- (a) Home consumption; or
- (b) Warehousing; or

- (c) Repacking in a warehouse; or
 - (d) Removal coastwise from a warehouse; or
 - (e) Removal from warehouse to warehouse,—
- he shall state, on the form in which the entry is made, the sale value of the goods.

17. Wholesalers who import goods subject to sales tax—A licensed wholesaler who imports any taxable goods need not pay sales tax thereon at the time of the entry for home consumption where such goods are imported for use by him as materials in the manufacture of goods for sale.

18. Security for sales tax on goods temporarily imported—The return of a deposit or the release of a security taken under section 34 of the Act on any goods temporarily imported, which are required to be exported in accordance with that section, shall be subject to the condition that written notice of not less than 6 working hours shall, if required by the Collector, be given of intention to export the goods.

PART V

CREDITS, REFUNDS, AND DRAWBACKS

19. Materials for the manufacture or repair of non-taxable goods—(1) The conditions under which refunds of sales tax may be made under section 52 of the Act on materials used by any person in the manufacture or repair of non-taxable goods are as follows:

- (a) An application in Form 6 may be made to cover any continuous period of not less than 1 month and not more than 3 months in which the manufacture or repair of the non-taxable goods was completed, and shall be lodged with the Collector not later than 3 months after the end of the period to which the application relates:
- (b) The applicant shall produce to the Collector such documents and shall furnish such information in relation to the application as the Collector may require:
- (c) Where so required by the Collector, the applicant shall enter into a deed of covenant, in such form as the Collector may require, to the effect that during a period, not exceeding 3 years, to be fixed by the Collector and specified in the deed the goods, or any part thereof, will not be used as, or reconverted into, taxable goods or goods of a class or kind which would have been taxable if new, and that on any breach of any covenant in the deed the amount of any refund shall be repaid by the applicant to the Collector:
- (d) Proper records shall be kept by the applicant, showing the sale value of all taxable goods imported or purchased by him, the sale value of all such goods used as materials in the manufacture or repair of non-taxable goods, and such other particulars as may be necessary to enable the grounds of the application and the amount of the refund to be verified:
- (e) Except with the special permission of the Comptroller, no refund shall be made on any application, unless the amount to be refunded is not less than \$2:

(f) The amount of any refund made shall not exceed the amount of the sales tax paid or to be paid thereon in accordance with section 12 of the Act, but excluding the amount of any discount provided for prompt payment under section 29 of the Act.

(2) Notwithstanding anything in subclause (1) of this regulation, the Comptroller may, in the special circumstances of any particular case, grant a refund of sales tax under the said section 52 although the conditions set forth in the said subclause (1) have not been strictly complied with.

(3) No refund shall be made in the case of taxable goods used in the repair of goods which, when new, were subject to sales tax.

20. Sales tax paid in error—(1) Applications for refunds of sales tax paid in error shall be made in Form 7 and in every case the applicant shall produce to the Collector such documents and shall furnish such information as the Collector may require.

(2) If the Collector is satisfied that any sales tax has been paid in error, whether of fact or of law, he may refund the same at any time within one year after the payment thereof without any application being made for a refund.

21. Applications for refunds of sales tax on farm motor cycles—Applications for refunds of sales tax on farm motor cycles under section 56 of the Act shall be made in Form 8.

22. Drawbacks when goods exported—(1) Subject to the provisions of this regulation and regulation 23 of these regulations, drawback of the net amount of sales tax paid on any goods, or on any materials used in the manufacture of any goods, shall be allowed on the exportation of such goods from New Zealand.

(2) The provisions of the Customs Act 1966 with respect to the entry of goods for exportation under drawback shall, with the necessary modifications, extend and apply to drawbacks of sales tax.

23. Conditions and restrictions under which drawbacks may be allowed—(1) The conditions and restrictions under which drawbacks may be allowed are as follows:

(a) Written notice of not less than 6 working-hours shall, if required by the Collector, be given of intention to ship goods for export under drawback, and the exporter shall pay to the Collector a charge at the rate prescribed in regulation 13 of the Customs Regulations 1968 for the time an officer is employed during official hours in the examination of such goods, together with any expenses incurred as certified by the Collector; and payment of drawback shall not be made until the charge and expenses have been paid:

Provided that the charge and expenses shall not be payable—

- (i) In respect of goods exported by post by any person not engaged in business:
- (ii) In respect of any examination for which a charge is payable under the Customs Regulations 1968:

- (b) Except with the approval of the Comptroller and to the extent and under the conditions permitted by him, drawback shall not be allowed on goods that have been used in New Zealand after sales tax has become payable thereon:

Provided that goods which the Collector is satisfied have been temporarily used on trial or for the purpose of inspection or demonstration only shall not be deemed to have been used within the meaning of this paragraph:

- (c) Where the approval of the Comptroller is necessary under the last preceding paragraph for the allowance of drawback on any goods, no person shall make entry for such goods under drawback until such approval is obtained:
- (d) Nothing in these regulations shall be deemed to authorise any allowance of drawback on any goods in excess of the amount of sales tax paid thereon, or on any materials used in the manufacture thereof, and not refunded:
- (e) Except in respect of goods exported by post by persons not engaged in business, the drawback claimed in respect of any one entry shall not be less than \$1:
- (f) The Collector may, at his discretion, require the exporter to state on the export entry the number and date of the entry for home consumption, or the date of the return, on which the sales tax was paid, and may also require a summary, in such form as he may demand, of the particulars appearing on the invoices connected with any entry, and may also require the production of the invoice or invoices (if any) on which the amount of the sales tax paid was shown, and of such other documents and particulars relating to the transaction as the Collector thinks fit:
- (g) Upon completion of the packing of the goods the packages shall, if so required by the Collector, be secured and sealed by an officer, and be forthwith conveyed to the place of shipment or posting, there to be shipped or posted in the presence of another officer; or if not so forthwith conveyed and shipped or posted, the packages shall be removed to some place of security approved by the Collector:
- (h) The Collector shall not be required to pay any claims for drawback until the expiration of 7 days after the departure from New Zealand of the ship upon which the drawback goods were exported, nor unless an officer has in every case satisfied himself and certified on the entry for drawback that such goods are of the description and sale value set forth in the entry, and that the law and regulations in respect thereof have been duly complied with.
- (2) The Comptroller may, on such conditions as he thinks fit, cause any drawback entry to be approved for payment, although the foregoing regulations with respect thereto have not been strictly complied with.

PART VI

MISCELLANEOUS PROVISIONS

24. Agents—The Collector may refuse to recognise any person as an agent of another person in any matter relating to the Act unless notification of the agent's authority has been delivered to the Collector in such form as he may require.

25. Declarations—All declarations required or authorised by the Act or by any regulations made thereunder shall, where not otherwise prescribed, be in Form 9.

26. Minimum sales tax collectable—The minimum amount of sales tax that need be collected in respect of any one return or in respect of any one importation shall be 25 cents:

Provided that—

- (a) Except with the permission of the Collector, separate postal packets posted by any one person and arriving in New Zealand by any one mail, whether addressed to the same or to different persons, shall be treated for the purposes of this regulation as one importation:
- (b) Where the Collector has reason to believe that advantage is being taken of this clause to avoid payment of sales tax by the systematic importation of goods on which the sales tax is less than 25 cents he may, subject to the directions of the Comptroller, require payment of sales tax on such importation.

27. Offences and penalties—Every person who, without reasonable cause, contravenes or fails to comply with any provision of these regulations commits an offence and shall be liable on summary conviction to a fine not exceeding \$200.

28. Repeals—The regulations set out in the Schedule to these regulations are hereby repealed.

SCHEDULE

Reg. 28

REGULATIONS REVOKED

Title	Published in the <i>Gazette</i> or in the Statutory Regu- lations Series	
	Year	Page or Serial Number
Sales Tax Regulations 1933	1933	519
Sales Tax Regulations 1933, Amendment No. 1	1934	429
Sales Tax Regulations 1933, Amendment No. 2	1942	1942/177
Sales Tax Regulations 1933, Amendment No. 4	1950	1950/211
Sales Tax Regulations 1933, Amendment No. 5	1951	1951/80
Sales Tax Regulations 1933, Amendment No. 6	1955	1955/149
Sales Tax Regulations 1933, Amendment No. 7	1962	1962/73
Sales Tax Regulations 1933, Amendment No. 8	1966	1966/92
Sales Tax Regulations 1933, Amendment No. 9	1968	1968/184
Sales Tax Regulations 1933, Amendment No. 10	1970	1970/214

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations consolidate the Sales Tax Regulations 1933 and its amendments, with the necessary changes to bring them into line with the provisions of the Sales Tax Act 1974. Certain obsolete administrative provisions have not been re-enacted.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 27 June 1974.
These regulations are administered in the Customs Department.