



ANALYSIS

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1987, No. 103

An Act to amend the Goods and Services Tax Act 1985

[22 June 1987]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Goods and Services Tax Amendment Act 1987, and shall be read together with and deemed part of the Goods and Services Tax Act 1985 (hereinafter referred to as the principal Act).

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by adding to the definition of the term "unconditional gift" (as inserted by section 2 (9) of the Goods and Services Tax Amendment Act 1986) the words " ; but does not include any payment made by the Crown or a public authority".

(2) This section shall be deemed to have come into force on the 3rd day of December 1985, and shall apply to supplies made on or after that day.

3. Meaning of term "supply"—(1) Section 5 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

"(2) For the purposes of this Act, where—

"(a) Goods acquired or produced by a person are sold, under a power exercisable by another person, in or towards satisfaction of a debt owed by that person whose goods are sold; and

“(b) That person whose goods are sold has not furnished, to the person exercising the power of sale, a statement in writing that the supply of those goods would not be a taxable supply, if those goods were sold by the person whose goods are sold and stating fully the reasons why that supply would not be a taxable supply,—

those goods shall be deemed to be supplied in the course of a taxable activity.”

(2) Subsection (2) of section 5 of the principal Act (as in force before the commencement of subsection (1) of this section) shall be read as if the words “acquired or produced” had been omitted, and the words “applied on or after the 1st day of October 1986” had been substituted.

(3) Section 5 (3) of the principal Act is hereby amended by omitting the words “, being goods and services in relation to which a deduction pursuant to section 20 (3) of this Act has been made,”.

(4) Subsections (2) and (3) of this section shall be deemed to have come into force on the 3rd day of December 1985 and shall apply to supplies made on or after that day.

4. Value of supply of goods and services—(1) Section 10 of the principal Act is hereby amended by inserting, after subsection (12), the following subsection:

“(12A) For the purposes of determining the consideration in money for a supply of services under subsection (12) of this section, the amount of totalisator duty payable under section 4 of the Gaming Duties Act 1971 in respect of any duty payable on bets placed in relation to any race held on or after the 1st day of August 1987, shall be deemed to be increased by a percentage equal to the percentage specified in section 8 (1) of this Act applicable to that supply of services.”

(2) Section 10 of the principal Act is hereby further amended—

(a) By inserting in subsection (12) before the words “Where a supply of services is deemed”, the words “Subject to subsection (12A) of this section,”;

(b) By omitting from subsection (12)(a) the words “paragraphs (e) (i) and (f) (i) of section 42 (1)”, and substituting the words “paragraphs (e) and (f) of section 42 (1)”;

(c) By omitting from subsection (12)(b) the words “paragraphs (d), (e) (ii), and (f) (ii) of section 42 (1)”,

and substituting the words “paragraphs (d), (e), and (f) of section 42 (1)”.

5. Special returns—Section 17 (1) of the principal Act (as amended by section 15 of the Goods and Services Tax Amendment Act 1986) is hereby amended—

- (a) By omitting the word “registered” where it first occurs:
- (b) By inserting in paragraph (a) (ii), before the words “registration number”, the words “, if registered,”:
- (c) By omitting from paragraph (c) the word “registered”:
- (d) By omitting the word “registered” where it last occurs.

6. Adjustments—(1) Section 21 (1) of the principal Act (as amended by section 18 (1) of the Goods and Services Tax Amendment Act 1986) is hereby amended—

- (a) By omitting the words “goods and services acquired or produced”, and substituting the words “goods and services applied”:
- (b) By inserting, after the words “taxable supplies are”, the word “subsequently”.

(2) This section shall be deemed to have come into force on the 3rd day of December 1985 and shall apply to supplies made on or after that day.

7. Assessment of tax—(1) Section 27 of the principal Act is hereby amended by inserting, after subsection (1), the following subsections:

“(1A) Notwithstanding anything in subsection (1) of this section, where—

- “(a) Any person makes default in furnishing any return pursuant to section 17 of this Act; or
- “(b) Any person is not satisfied with any return furnished by that person pursuant to section 17 of this Act and requests the Commissioner, in writing, to make any alteration or addition to that return; or
- “(c) Any person, whose goods were sold pursuant to section 5 (2) of this Act, is not satisfied with any return furnished pursuant to section 17 of this Act and requests the Commissioner, in writing, to make any alteration or addition to that return; or

“(d) The Commissioner is not satisfied with the return made by any person pursuant to section 17 of this Act,—the Commissioner shall make an assessment of the amount which, in the Commissioner’s judgment, is the tax payable pursuant to this Act, and the person who sold the goods

pursuant to section 5 (2) of this Act shall be liable to pay the tax so assessed, except in so far as that person, or the person whose goods were sold, establishes on objection that the assessment is excessive, or that tax is not payable.

“(1B) Notwithstanding anything in subsections (1) and (1A) of this section, where a return is furnished or is required to be furnished by any person pursuant to section 17 of this Act, and—

“(a) Either—

“(i) The person makes default in furnishing the return; or

“(ii) The Commissioner is not satisfied with the return; and

“(b) The person who furnished or was required to furnish the return holds a written statement pursuant to section 5 (2) of this Act from the person whose goods were sold, and that written statement is incorrect,—

the Commissioner shall make an assessment which, in the Commissioner’s judgment, is the tax payable pursuant to this Act, and the person whose goods were sold pursuant to section 5 (2) of this Act shall be liable to pay the tax so assessed, except in so far as that person, or the person who sold the goods pursuant to section 5 (2) of this Act, establishes on objection that the assessment is excessive, or that tax is not payable.”

(2) Section 27 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) If an assessment or amended assessment is made under this section, the Commissioner shall cause notice of the assessment or amended assessment to be given to the person liable to pay the tax; and—

“(a) Where subsection (1A) of this section applies, send a copy of that assessment or amended assessment to the person whose goods were sold; or

“(b) Where subsection (1B) of this section applies, send a copy of that assessment or amended assessment to the person who sold the goods.”

(3) Section 27 (6) of the principal Act is hereby amended by inserting, after the expression “subsection (1)(d)”, the expression “, (1A), and (1B)”.

8. Limitation of time for assessment or amendment of assessment—(1) Section 31 of the principal Act is hereby

amended by inserting, after subsection (1), the following subsection:

“(1A) Notwithstanding anything in subsection (1) of this section, where any person has furnished a return pursuant to section 17 of this Act, or has been assessed for tax pursuant to subsection (1A) or subsection (1B) of section 27 of this Act, it shall not be lawful for the Commissioner,—

“(a) Where an assessment has not been made, to make an assessment; or

“(b) Where an assessment has been made, to alter the assessment so as to increase the amount thereof,— after the expiration of 4 years from the end of the month in which the sale was made or, as the case may be, the assessment was made.”

(2) Section 31 of the principal Act is hereby further amended by repealing subsection (2), and substituting the following subsection:

“(2) Notwithstanding anything in subsection (1) or subsection (1A) of this section, in any case where, in the opinion of the Commissioner, a person has knowingly or fraudulently failed to make a full and true disclosure to the Commissioner of all the material facts necessary to determine the amount of tax payable for any taxable period, or as the case may be, tax payable pursuant to any return furnished under section 17 of this Act, it shall be lawful for the Commissioner,—

“(a) Where an assessment for that taxable period has not been made, or an assessment for a return pursuant to section 17 of this Act has not been made, to make an assessment at any time; or

“(b) Where an assessment has been made pursuant to section 27 of this Act, to alter the assessment at any time.”

9. Cancellation of registration—Section 52(1) of the principal Act is hereby amended by omitting the words “, if that person has been registered for the whole of the 2 years then ending,”.