

SALES TAX BILL

EXPLANATORY NOTE

THIS Bill consolidates and amends the Sales Tax Act 1932-33 and its amendments.

The main changes made by the Bill are in *Part IV* where the law regarding the sale value of goods for the purposes of sales tax has been revised and clarified.

The source of each clause of the Bill is shown at the foot of each clause in the form of a reference to the corresponding enactments repealed. At the end of this note there is a comparative table showing where the repealed enactments have been dealt with in the Bill, and indicating those that have been omitted.

Where in the following notes a clause or subclause is not mentioned, it merely re-enacts the existing law without any material change in the meaning, although it may have been redrafted.

Clause 1 relates to the Short Title and commencement of the Bill, which is to come into force on 1 July 1974.

Clause 2 is the interpretation clause. Most of the definitions re-enact the existing law without any material change, but the following definitions have been amended or are new:

“Collector”, “Comptroller”, “District”, “Tariff items”, and “Warehouse” are defined by reference to their equivalents in section 2 of the Customs Act 1966:

“Manufacturing retailer” has been redrafted to exclude a retailer who does not manufacture any taxable goods:

“Prescribed” has been extended to include prescribed by the Comptroller, in addition to prescribed by regulations:

“Proper officer” is new and is based on the definition of the same term in the Customs Act 1966:

“Records” has basically the same meaning as the definition of the expression “documents” in the present Act:

“Sale” has been redrafted to make it clear that it includes the letting of goods on hire:

“Wholesaler” has been redrafted to exclude a wholesaler who does not sell any taxable goods.

PART II

LICENSING OF WHOLESALERS AND OF MANUFACTURING RETAILERS

Clause 5 deals with the licensing of wholesalers and manufacturing retailers and basically re-enacts the existing law.

In *subclause (2)* application for a licence is to be made to the Collector for the district in which the principal place of business of the applicant is situated, or is proposed to be situated, and not, as at present, to the Collector for any district in which the applicant carries on, or proposes to carry on, business.

In *subclause (3)* the requirement that the fee (if any) for the issue of a licence shall not exceed \$2 has been omitted.

In *subclause (4)* the maximum penalty of \$200 for every day that a licence holder carries on business at a place not specified in his licence has been replaced by a maximum penalty of \$200 for failure to notify the Collector of his intention so to carry on his business. A similar penalty for failure to notify the Collector of his intention to cease to carry on business at any place is also included.

Clause 6 is new. *Subclause (1)* provides that where the Comptroller is satisfied that the amount of sales tax that would be payable by a wholesaler if the wholesaler were not licensed would not be substantially less than the amount of sales tax payable if he were licensed, the Comptroller may refuse to license the wholesaler or revoke any existing licence.

Subclauses (2) to (6) provide for the procedure for such refusal or revocation and also for the wholesaler to appeal to the Minister against such refusal or revocation. The decision of the Minister in the matter shall be final.

Clause 9: Subclause (3) re-enacts with minor amendments the present provision regarding the Minister's discretion to exempt any person from the licensing provisions of the Bill because of special circumstances, and extends the discretion to cover classes of persons.

PART III

IMPOSITION OF SALES TAX

Clause 12 re-enacts the existing provisions regarding the imposition and rates of sales tax with the following amendments—

- (a) Goods imported by a licensed wholesaler are excluded from the imposition of sales tax at the time of importation only if they are intended to be sold after their importation.
- (b) Where there is any breach of the Customs Acts before the entry of goods for home consumption sales tax is payable immediately on those goods.
- (c) The imposition of sales tax on taxable goods produced by a manufacturing retailer is postponed from the date of manufacture of the goods to the date of their subsequent sale.

Clause 13 brings together existing provisions concerning the imposition of sales tax on taxable goods disposed of otherwise than by sale.

Clause 14 is new. It imposes sales tax on such goods imported by the Crown as the Governor-General so determines. It is based on the similar provisions of section 166 (1) of the Customs Act 1966.

Clause 15 re-enacts the existing provisions regarding the exemption of goods from sales tax by Order in Council except that *subclause (2)* provides for conditional as well as absolute exemption, and *subclause (4)* provides that, if any dispute arises whether any goods are exempt from sales tax, the matter shall be referred to the Minister, whose decision shall be final.

Clause 16 is new. It provides for the incidence of sales tax in cases where the liability of goods to sales tax, or the rates of sales tax, have changed. It is based on the similar provisions of section 157 of the Customs Act 1966.

Clause 17 re-enacts the existing law regarding the effect of the imposition of sales tax, or any change in the rates of sales tax, on agreements for the sale of goods, except that *subclause (2)* now provides that the amount of sales tax or additional sales tax to be taken into account shall be the amount payable before deducting any discount for prompt payment, and not after such deduction as at present.

PART IV VALUATION OF GOODS

Clause 19 is new and defines the meaning of the term "fair market value" in respect of any goods. The term is used in the present legislation but is not defined.

Subclause (1) provides that the fair market value of any goods at any date shall be the price the goods would generally fetch in New Zealand in the open market at that date on sales freely offered and made between buyers and sellers independent of each other. The proviso to this subclause covers the case where there is no open market in New Zealand for any goods at that date, and provides that the fair market value shall be determined by the Collector as the price which the goods would most probably fetch if there were an open market for those goods at that date.

Subclause (2) specifies the criteria to be taken into account in determining the price the goods would generally fetch in the open market.

Clause 21 re-enacts the existing law regarding the sale value of goods imported into New Zealand otherwise than by a wholesaler for subsequent sale by him. *Subclause (2)* continues the provision for a special basis of valuation for goods included in certain Tariff items at present specified in the Act or by the Minister by notice in the *Gazette*, but now provides that the Tariff items shall be specified by the Minister by notice in the *Gazette* only. The provision that the Minister may amend or revoke any such notice is continued.

Clause 23 re-enacts the present provision that the sale value of goods manufactured and thereafter sold by a manufacturing retailer shall be the fair market value as if sold to a retailer. The proviso however is new, and provides that where such goods are sold otherwise than by retail, the sale value shall be the price for which the goods are sold.

Clause 24 makes it clear that the sale value of any goods which are deemed to have been sold pursuant to *clause 13* shall be the fair market value of those goods.

Clause 25 is a new provision regarding the sale value of goods where the Collector is of the opinion that for certain specified reasons it is inequitable or impracticable to determine that the sale value should be the fair market value of those goods. It is based on the similar provisions of section 146 of the Customs Act 1966.

Clause 26 is new. It empowers the Collector to determine the sale value of goods disposed of in circumstances which have the effect of reducing the price of those goods below the fair market value. Such determination shall be based on the fair market value of those goods.

PART V

PAYMENT AND COLLECTION OF SALES TAX

Clause 29 re-enacts the existing law regarding the delivery of returns by wholesalers and manufacturing retailers. A further provision has been inserted in *subclause (2)* authorising the Collector to permit the return to be made at intervals of more than 1 month where the taxpayer would otherwise usually make a return in respect of which no sales tax is payable.

Clause 31 deals with the assessment and payment of sales tax on goods imported. *Subclause (1)* re-enacts the existing law, but *subclause (2)* is new and provides that the Collector may assess sales tax on any goods which he has reason to suspect to have been imported in breach of any of the Customs Acts.

Clause 33 re-enacts the present provisions that any taxpayer may appeal to the Minister against any assessment of sales tax but now provides that the Minister may not delegate the power to determine the appeal to any person employed in the service of the Customs. The provision that costs may be awarded to or against either party to the appeal is omitted.

Clause 34 is a new provision dealing with sales tax on goods temporarily imported into New Zealand. It is based on the similar provisions of section 181 of the Customs Act 1966.

Clauses 36 and 37 re-enact the present law regarding discount on prompt payment and additional tax payable on late payment, and make it clear that where the amount of sales tax originally paid is amended, any discount or additional tax shall be adjusted accordingly. The period after the end of which additional tax on late payment is payable has been reduced by 1 month, and the Minister has the power to refund, in addition to his existing power to remit, any additional tax on late payment.

Clause 41 is partly new. It re-enacts the Minister's present powers to waive payment of sales tax in cases of serious hardship and empowers the Minister to refund such tax in similar cases.

PART VI

AGENTS, LIQUIDATORS, AND DECEASED TAXPAYERS

Clauses 42 to 48 re-enact the present law regarding agents, liquidators, receivers, and deceased taxpayers. The only substantial amendments are—

- (a) The provisos to *subclause (1)* of *clause 45* and *subclause (1)* of *clause 46* enable the liquidator and receiver respectively to convert sufficient assets of the taxpayer into cash to enable unpaid sales tax to be paid.
- (b) *Subclause (2)* of *clause 45* and *subclause (2)* of *clause 46* make it clear that the liquidator and receiver respectively are liable for payment out of the assets of the taxpayer of any unpaid sales tax.



(c) *Subclause (4) of clause 45* provides that the rights of preferential creditors under section 308 of the Companies Act 1955 are not restricted by the application of *clause 45*, and that, where necessary, the Collector may refund sales tax paid by the liquidator. This amendment accords with present practice.

PART VII

CREDITS, REFUNDS, AND DRAWBACKS

Clause 49 re-enacts in principle the present law regarding credit for sales tax paid. The wording of *subclause (1)* has been amended to cover all cases where a wholesaler or manufacturing retailer has paid sales tax on goods purchased for resale or use in manufacture of goods for sale.

Subclause (2) is new and provides for the refund of sales tax paid by the owner of materials supplied by him to a contractor for use in the manufacture of taxable goods for him.

Clause 52 re-enacts the present provisions regarding the refund of sales tax on materials used by any person in the manufacture of non-taxable goods, and extends it to cover materials used in the repair of such goods.

Clause 54 re-enacts the present law regarding the refund of sales tax paid in error, and also adds, by a proviso to *subclause (2)*, a new provision, based on section 172 (2) of the Customs Act 1966, that if the goods in respect of which such tax is to be refunded have been sold, the Collector may require evidence that the seller has refunded to the buyer an amount equal to the refund.

Clause 56 continues the present concession regarding the refund of sales tax on new motor cycles purchased for agricultural purposes but imposes the further condition that the purchaser is to notify the Collector if the motor cycle is not used exclusively for agricultural purposes and pay a sum equal to the amount refunded or such lesser amount as the Collector may require.

PART VIII

SECURITIES

Clause 58 re-enacts the provision regarding securities for the payment of sales tax and *subclause (4)* adds a provision similar to section 229 (4) of the Customs Act 1966 that securities given by a minor shall have the same force and effect as if the minor were of full age.

PART IX

POWERS OF OFFICERS

Clause 61 in general re-enacts the law regarding the production of records by any person and makes it clear that "person" includes any officer of a Government department.

Clause 63 retains the present provisions regarding sales tax warrants but adds by *subclause (3)* that any officer who proposes to use the warrant must first obtain the permission of the Collector, who must be satisfied that reasonable cause exists for the use of the warrant. In *subclause (8)* the penalty for obstructing an officer in the exercise of a warrant is increased from a maximum fine of \$400 to 3 months imprisonment or a fine not exceeding \$400, or both. These changes bring this provision into accord with the similar provision in section 217 of the Customs Act 1966.

PART X

OFFENCES

Clause 64 re-enacts the existing provisions regarding the offence of defrauding the revenue but increases the penalty to \$400 or 3 times the sale value of the goods, whichever is the greater, instead of \$200 or 3 times the sale value of the goods, whichever is the greater.

Clause 65: The present provisions regarding the making of erroneous returns have been retained but the maximum penalty of \$200 has been increased to \$200 or 3 times the amount of the deficient sales tax (as defined in *subclause (2) (a)*), whichever is the greater. This brings the penalty into line with the similar provisions in section 21 of the Customs Act 1966.

Clause 73: This clause redrafts the procedure for summary proceedings so that it is the same as the corresponding provisions of section 260 of the Customs Act 1966, except that the time within which an information must be laid has been increased from 5 years to 10 years after the date of the offence.

Clause 75: Under existing law 3 months imprisonment instead of a fine may be imposed where an offence has been committed against the Sales Tax Act 1932-33 within 2 years of any other offence against any of the Customs Acts. This clause re-enacts this provision but, in accord with the similar provision in section 263 of the Customs Act 1966, the imprisonment may be imposed in addition to the appropriate fine.

PART XI

MISCELLANEOUS PROVISIONS

Clause 78 is new. It imposes an obligation on the holder of a licence to keep such records as the Comptroller considers necessary for the administration and enforcement of this Bill. It is similar to the requirements of section 239 of the Land and Income Tax Act 1954.

Clause 79 re-enacts the present law regarding the giving of notices to the taxpayer by the Comptroller or any Collector. At present this is dealt with in the Sales Tax Regulations 1933.

Clause 80 sets out in greater detail the matters which can be prescribed by regulations and which are included in the present Sales Tax Regulations. The maximum penalty for a breach of the regulations has been increased from \$100 to \$200.

Clause 81 is a new provision similar to section 308 of the Customs Act 1966, confirming the validity of any discretions included in any Order in Council or regulation made under this Bill.

Clause 82 makes consequential amendments to the Motor Spirits Duty Act 1961 and the Customs Act 1966.

Clause 83 repeals the enactments set out in the Fourth Schedule and revokes the Orders in Council set out in *subclause (2)*.

The *First* Schedule sets out the rates of sales tax.

The *Second* Schedule sets out the form of the warrant of distress for sales tax due by a deceased taxpayer.

The *Third* Schedule sets out the form of the sales tax warrant.

The *Fourth* Schedule contains the repeals.

TABLE OF CORRESPONDING SECTIONS OF ENACTMENTS
REPEALED

THE SALES TAX ACT 1932-33 (1957 REPRINT, VOL. 13, p. 643)

Section of Act	Clause of Bill
1	Short Title and commencement
2 (1)	2
2 (2)	..
3	3, 4
4	..
5	5
6 (1)	11
6 (2)	..
7 (1), (3)	7
7 (2)	5
8	8
9	9
10	..
11 (1)	12
11 (2)	49
11 (3)	52
11 (4)	..
11 (5)	51
12	15
13 (1) (a)	22
13 (1) (b)	23
13 (1) (c)	21
13 (2)	20
13 (3)	..
14 (1), (2), (4), (5)	29
14 (3)	..
15	30
16	31
17	32
18 (1)-(5)	33
18 (6), (7)	..
19	27
20	28
21 (1) (a)	36
21 (1) (b)	37
21 (2)	36, 37
22	39
23	40
24	42
25	43
26	44
27	45
28	47
29	48
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31	54
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33	57

TABLE OF CORRESPONDING SECTIONS OR ENACTMENTS
REPEALED—*continued*

THE SALES TAX ACT 1932-33 (1957 REPRINT, VOL. 13, p. 643)—*continued*

Section of Act	Clause of Bill
33A	56
34	62
35 (1), (2)	60
35 (3)-(5)	61
36	63
37	58
38	59
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40	70
41	74
42	64
43	65
44	66
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49	71
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53	75
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55 (1) (a), (b)
55 (1) (c), (2)	73
56 (1)	76
56 (2)-(5)	Repealed 1966
58
59 (1)-(3), (5), (6)	77
59 (4)
60
61 (1), (3)
61 (2)	Repealed 1953
62 (1)
62 (2)-(7)	17
63	13
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68	18
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70	35
71 (1), (3)	80
71 (2)	2
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Third Schedule	Third Schedule

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THE SALES TAX AMENDMENT ACT 1933 (1957 REPRINT, VOL. 13, p. 683)

Section of Act	Clause of Bill
1	Short Title
2 (1), (2)	12
2 (3)	..
3 (1)	2, 13
3 (2)	24
3 (3)	..
4 (1)	2
4 (2)	13
4 (3)	..
5 (1), (2), (4)	49
5 (3), (7)	..
5 (5), (6)	50
6	46
7	29
8	27

THE CUSTOMS ACTS AMENDMENT ACT 1934 (1957 REPRINT, VOL. 13, p. 683)

Section of Act	Clause of Bill
37	38
38	21
39 (1)	41
39 (2)	..

THE FINANCE ACT 1940 (1957 REPRINT, VOL. 13, p. 684)

Section of Act	Clause of Bill
22, 23	..

THE CUSTOMS ACTS AMENDMENT ACT 1942 (1957 REPRINT, VOL. 13, p. 684)

Section of Act	Clause of Bill
10 (1), (2) (a)	12 (1)
10 (2) (b), 10 (3)	..
11, 12	Repealed 1951
13, 14	..
15	36

THE FINANCE ACT (No. 2) 1942 (1957 REPRINT, VOL. 13, p. 687)

Section of Act	Clause of Bill
5 (1)-(4), (6)	..
5 (5)	24

THE CUSTOMS ACTS AMENDMENT ACT 1946 (1957 REPRINT, VOL. 13, p. 688)

Section of Act	Clause of Bill
6, 7	..
8, 9	13
10	49

TABLE OF CORRESPONDING SECTIONS OR ENACTMENTS
REPEALED—*continued*

THE CUSTOMS ACTS AMENDMENT ACT 1947 (1957 REPRINT, VOL. 13, p. 688)

Section of Act	Clause of Bill
12, 13, 14

THE CUSTOMS ACTS AMENDMENT ACT 1951 (1957 REPRINT, VOL. 13, p. 691)

Section of Act	Clause of Bill
14

THE CUSTOMS ACTS AMENDMENT ACT 1953 (1957 REPRINT, VOL. 13, p. 691)

Section of Act	Clause of Bill
6

THE FINANCE ACT 1954 (1957 REPRINT, VOL. 13, p. 692)

Section of Act	Clause of Bill
18

THE FINANCE ACT (No. 2) 1955 (1957 REPRINT, VOL. 13, p. 692)

Section of Act	Clause of Bill
3

THE CUSTOMS ACTS AMENDMENT ACT 1958, No. 33

Section of Act	Clause of Bill
12, 13	..... Repealed 1960
14	..... ..

THE CUSTOMS ACTS AMENDMENT ACT 1960, No. 27

Section of Act	Clause of Bill
14	..... Repealed 1960
15 (1)	..... 36
15 (2), 16	..... ..

THE CUSTOMS ACTS AMENDMENT ACT 1963, No. 37

Section of Act	Clause of Bill
17, 18	..... ..
19	..... 21
20	..... 58

THE CUSTOMS ACT 1966, No. 19

Section of Act	Clause of Bill
So much of the Sixth Schedule as relates to the Customs Acts Amendment Act 1934

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REPEALED—*continued*

THE CUSTOMS ACTS AMENDMENT ACT 1967, No. 2

Section of Act	Clause of Bill
10 (1)	12
10 (2)-(4) .....	..
11	36
12 .....	..
13	22

THE SALES TAX AMENDMENT ACT 1968, No. 41

Section of Act	Clause of Bill
1	Short Title
2	49

THE CUSTOMS ACTS AMENDMENT ACT 1968, No. 142

Section of Act	Clause of Bill
5 (1)	12
5 (2), (3) .....	..
6	36
7 .....	..

THE CUSTOMS ACTS AMENDMENT ACT 1970, No. 28

Section of Act	Clause of Bill
12	56

THE CUSTOMS AMENDMENT ACT 1971, No. 42

Section of Act	Clause of Bill
So much of the Second Schedule as relates to the Customs Acts Amendment Act 1934



Hon. Mr Connelly

SALES TAX

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 36. Discount on prompt payment
 37. Additional tax on default in payment
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A BILL INTITULED

An Act to consolidate and amend certain enactments of the General Assembly relating to sales tax

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 5

1. Short Title and commencement—(1) This Act may be cited as the Sales Tax Act 1973.

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

5 **2. Interpretation**—In this Act, unless the context otherwise requires,—

- “Collector” has the same meaning as in section 2 of the Customs Act 1966:
- 10 “Comptroller” has the same meaning as in section 2 of the Customs Act 1966:
- “Contractor” means a person who does work for valuable consideration on or in respect of any goods at the request of any other person (otherwise than as an employee of that other person) in circumstances 15 where that other person supplies, but retains ownership of, some or all of the materials used in producing the goods:
- “Declaration” means a declaration made in accordance with the provisions of this Act in that behalf:
- 20 “District” means a district within the meaning of the Customs Act 1966:
- “Goods” means all kinds of movable personal property:
- “Licence” means a licence under this Act; and “licensed” and “to license” have corresponding meanings:
- 25 “Manufacture” includes production, and also includes partial manufacture and work done by a contractor:
- “Manufacturer” means a person who engages in the manufacture of goods; and “to manufacture” has a corresponding meaning:
- 30 “Manufacturing retailer” means a retailer who manufactures taxable goods for sale; and includes—
 - (a) Any person who manufactures any taxable goods intended to be used by that person in the erection or construction of any building or other structure; and
 - 35 (b) A contractor who produces taxable goods:
- “Minister” means the Minister of Customs:
- 40 “Officer” means an officer of Customs acting under the Customs Act 1966, and includes any other person appointed to be an officer for the purposes of this Act; and also includes any person acting under a warrant of distress issued pursuant to section 48 of this Act:

- “Proper officer”, in relation to any matter, means any officer acting or employed in that matter by the order of or with the concurrence (whether precedent or subsequent) of the Minister or the Comptroller or in pursuance of any other lawful authority: 5
- “Prescribed” means prescribed by regulations under this Act or by the Comptroller:
- “Records” means all papers, books, registers, discs, films, tapes, sound tracks, or other devices or things in or on which information is recorded or stored: 10
- “Retailer” means a person (not being a licensed wholesaler) who engages in the trade or business of selling goods:
- “Sale” includes barter; and also includes the disposal of goods with a right of purchase or on conditions which provide that the seller retains an interest in the goods, the letting out of goods on hire, and the delivery of goods under any condition as to future payment; and “to sell” and “seller” have corresponding meanings: 15 20
- “Sales tax” means any tax imposed by this Act:
- “Tariff items” has the same meaning as in section 2 of the Customs Act 1966:
- “Taxable goods” means goods of a class or kind not for the time being exempted from sales tax: 25
- “Taxpayer” means a person liable to pay sales tax:
- “Warehouse” has the same meaning as in section 2 of the Customs Act 1966:
- “Wholesaler” means a person (not being a manufacturing retailer) who, whether exclusively or not, engages in the sale of goods by wholesale or, whether exclusively or not, sells taxable goods to a retailer; and includes— 30
- (a) A manufacturer of taxable goods who is not a manufacturing retailer; and
- (b) A contractor (not being a manufacturing retailer) who produces taxable goods: 35
- Cf. 1932–33, No. 33, s. 2 (1); 1933, No. 42, ss. 3 (1), 4 (1)

PART I

ADMINISTRATION

40

3. Act to be administered by Customs Department—This Act shall be administered by the Customs Department.

Cf. 1932–33, No. 33, s. 3

4. **Extension of powers and authorities**—The powers and authorities of the Minister, the Comptroller, and every Collector under the Customs Act 1966 shall, with all necessary modifications, apply in the same manner to the collection of sales tax under this Act as they apply to the collection of duty under that Act.

Cf. 1932–33, No. 33, s. 3

PART II

10 LICENSING OF WHOLESALERS AND OF MANUFACTURING RETAILERS

5. Wholesalers' and manufacturing retailers' licences—

(1) Except as provided in sections 6 and 9 of this Act, every person who carries on business as a wholesaler and every person who carries on business as a manufacturing retailer is required to be licensed under this Act. Except with the consent of the Comptroller and subject to such conditions as he thinks fit, no person shall be licensed as a wholesaler and as a manufacturing retailer at the same time.

(2) Every application for a licence under this Act shall be made in the prescribed form to the Collector for the district in which the principal place of business of the applicant is situated or is proposed to be situated and shall state the place or places at which the applicant carries on or proposes to carry on business.

(3) The Collector, if satisfied that the conditions of this Act have been complied with, shall, on payment of the prescribed fee (if any), issue to the applicant a licence in the prescribed form. Such a licence shall authorise the holder to act as a wholesaler or, as the case may be, as a manufacturing retailer at any place or places in New Zealand specified in the licence, and shall specify the Collector to whom returns under section 29 of this Act shall be delivered.

(4) Not less than 14 days before a licence holder commences business at any place not mentioned in his licence, or ceases to carry on business at any place mentioned in his licence, he shall give notice in writing of his intention to commence or cease business to the Collector for the district specified in his licence, and any licence holder who fails so to give notice commits an offence and shall be liable to a fine not exceeding \$100.

(5) Subject to the provisions of Part VIII of this Act relating to the suspension of licences, every such licence shall remain in force unless and until it is revoked as provided in this Act.

Cf. 1932-33, No. 33, s. 5, 7 (2)

5

6. Refusal or revocation of licence in certain cases—

(1) Except in any case to which section 9 of this Act applies, where the Comptroller is satisfied in respect of any wholesaler that the amount of sales tax which, if the wholesaler were not licensed, would be payable under this Act in respect of all goods imported or purchased by such wholesaler would not be substantially less than the amount of sales tax that would be properly payable by the wholesaler if he were licensed under this Act, the Comptroller may direct the Collector to refuse to license the wholesaler or, if the wholesaler is already licensed, to revoke his licence.

(2) Where the Collector proposes to revoke any wholesaler's licence pursuant to a direction of the Comptroller under this section, the Collector shall give the wholesaler not less than 28 days notice of such revocation.

(3) From any refusal or notice of revocation of a wholesaler's licence under this section the wholesaler may, if he thinks fit, appeal to the Minister.

(4) Notice of appeal under this section stating shortly the grounds of appeal shall be given in writing to the Collector within 14 days after the notice of refusal or of revocation has been given to the wholesaler, or within such further time as may be allowed by the Minister.

(5) On any such appeal the Minister shall, after giving a reasonable opportunity to the appellant to be heard, determine whether the licence should be issued or, as the case may be, revoked, and his decision shall be final.

7. Revocation of licence on cessation of business—Where any person holding a licence as a wholesaler or as a manufacturing retailer ceases to carry on business as such, or, being an individual, dies, or, being a corporation, is dissolved, the Collector shall revoke the licence, unless the Comptroller otherwise directs in any particular case.

Cf. 1932-33, No. 33, s. 7 (1), (3)

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8. **Notice as to grant, etc., of licences to be gazetted**—As soon as possible after a licence is granted, amended, suspended, or revoked in accordance with this Act, a notification to that effect shall be published by the Comptroller in the *Gazette*.

5 Cf. 1932-33, No. 33, s. 8

9. **Exemption from licensing**—(1) If, in the opinion of the Minister, it is in any case impracticable or unnecessary that a person should be licensed under this Act, because the value of taxable goods sold in any one year does not exceed
10 \$1,000, or because the person is both a wholesaler and a retailer, or because of any other special circumstances or conditions whatsoever, the Minister may, in his discretion and subject to such conditions as he may impose and for such period of time as he may allow, direct that the person need
15 not be licensed and shall, for the purposes of this Act, be deemed to be a retailer other than a manufacturing retailer.

(2) Any direction given by the Minister pursuant to subsection (1) of this section may be given in respect of all
20 classes of goods sold by the person to whom such exemption is granted or of any class or classes of goods sold by him.

(3) Where under this section a direction may be given in respect of any person, the Minister may give a like direction in respect of any class of such persons.

Cf. 1932-33, No. 33, s. 9

25 10. **Liabilities not affected by ceasing to act as wholesaler or manufacturing retailer**—The obligations and liabilities under this Act of any person in respect of anything done or omitted to be done by him while he is a wholesaler or a manufacturing retailer shall not be affected by the fact that
30 he ceases to act as such, or by the fact that, being licensed as a wholesaler or as a manufacturing retailer, he surrenders his licence or otherwise ceases to be licensed.

Cf. 1932-33, No. 33, s. 65

35 11. **Selling or manufacturing goods while unlicensed**—Except as provided in section 9 of this Act, every wholesaler who, not being licensed as a wholesaler, sells any taxable goods to any other person, and every retailer who, not being licensed as a manufacturing retailer, sells any taxable goods manufactured by him, commits an offence, and shall be liable

for each such offence to a fine not exceeding \$200 or the amount of the sale value of the goods, whichever sum is the greater.

Cf. 1932-33, No. 33, s. 6 (1)

PART III

5

IMPOSITION OF SALES TAX

12. Sales tax on goods imported, sold, or manufactured—

(1) Subject to this Act, sales tax at the appropriate rate specified in the First Schedule to this Act shall be levied, collected, and paid on the sale value of all goods (except goods of the classes or kinds for the time being exempted from the operation of this Act)— 10

(a) Imported into New Zealand and—

(i) Entered therein for home consumption under the Customs Act 1966, otherwise than by a licensed wholesaler for subsequent sale by him; or 15

(ii) Before their entry for home consumption, dealt with in breach of any provision of any of the Customs Acts:

(b) Sold by a wholesaler otherwise than to a licensed wholesaler for subsequent sale by him: 20

(c) Manufactured and thereafter sold by a manufacturing retailer otherwise than to a licensed wholesaler for subsequent sale by him.

(2) Except in such special cases as may be approved by the Comptroller, every wholesaler and every manufacturing retailer who sells any taxable goods to a retailer shall state in every invoice delivered or sent by him to the purchaser in respect of the transaction the price for which the goods are sold and the amount of sales tax payable thereon. 25 30

(3) The amount of the sales tax so payable shall, if stated in any such invoice as aforesaid, be recoverable by the seller from the purchaser in addition to the price and any other amount due by the purchaser in respect of the goods.

(4) 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 by the wholesaler in respect of the goods shall be recoverable by him in addition to the price and any other amount due by the Crown in respect of the goods. 35 40

(5) In any case to which subsection (4) of this section 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
 5 in respect of the goods may include, as part of the contract price, any amount paid or payable by the seller in respect of sales tax.

Cf. 1932-33, No. 33, ss. 11 (1), 63; 1933, No. 42, s. 2
 10 (1), (2); 1942, No. 5, s. 10 (1), (2) (a); 1967, No. 2, s. 10 (1); 1968, No. 142, s. 5 (1); 1970, No. 28, s. 12

13. Goods deemed to have been sold—For the purposes of this Act goods shall be deemed to have been sold—

- (a) By a contractor on the delivery of any taxable goods on which work has been done by him:
- 15 (b) By a licensed wholesaler or a licensed manufacturing retailer—
- (i) On the use by him in any way, otherwise than as material in the manufacture of goods for sale, of any taxable goods on which sales tax has
 20 not been paid; or
- (ii) On the use by him of any taxable goods, manufactured by him and on which sales tax has not been paid, in the erection or construction for any other person of any building or other structure:
- 25 (c) By a licensed wholesaler or a licensed manufacturing retailer on the disposal to any person (otherwise than by way of sale) of any taxable goods on which sales tax has not been paid:
- 30 (d) By a licensed wholesaler or a licensed manufacturing retailer on the cessation of his business as such in respect of any taxable goods held in stock and on which sales tax has not been paid.

Cf. 1933, No. 42, ss. 3 (1), 4 (2); 1946, No. 21, ss. 8, 9

14. Goods the property of the Crown—If the Governor-
 35 General so determines, sales tax in accordance with this Act may be levied, collected, and paid on any goods or class of goods being the property of the Crown in respect of the Government of New Zealand and imported into New Zealand and entered for home consumption.

15. Exemptions from sales tax—(1) The Governor-General may from time to time, by Order in Council, exempt from sales tax any specified class or kind of goods, and may in like manner revoke any such exemption.

(2) Any exemption created pursuant to this section may be absolute or conditional. 5

(3) Every Order in Council under this section shall come into force on the day after the date of its notification in the *Gazette* or on such earlier or later date as may be specified therein in that behalf. 10

(4) If any dispute arises as to whether any goods are exempt from sales tax or not, such dispute shall be determined by the Minister in such manner as he thinks just, and his decision shall be final.

Cf. 1932-33, No. 33, s. 12 15

16. Incidence of altered tax—In the case of any alteration in the law relating to the liability of any goods to sales tax or to the rate of sales tax to which any goods are liable, such liability or rate shall, except where otherwise expressly provided, be determined— 20

(a) In the case of goods imported into New Zealand and entered therein for home consumption otherwise than by a licensed wholesaler for subsequent sale by him—

(i) If the goods are entered for home consumption from a warehouse, by the law in force at the time they are so entered; or 25

(ii) If the goods are entered for home consumption otherwise than from a warehouse, by the law in force at the time of their importation or the law in force at the time at which the goods are thereafter entered for home consumption, whichever is the more favourable to the taxpayer: 30

(b) In the case of goods subject to sales tax on their sale, not being goods to which paragraph (c) or paragraph (d) of this section applies, by the law in force at the time of delivery under the sale: 35

(c) In the case of goods on which work is done by a contractor, by the law in force at the time of their delivery by the contractor: 40

(d) In the case of goods which are deemed to have been sold pursuant to paragraph (b) of section 13 of this Act, by the law in force at the time the goods were first appropriated for use by the taxpayer.

5 **17. Effect of imposition or alteration of sales tax on**
agreements of sale and on building contracts—(1) If any
alteration in the law is made where, by reason of any goods
being made liable to or exempted from sales tax, or the rate
of sales tax on any goods being increased or reduced, the
10 liability of the seller of any goods for sales tax is accordingly
affected (whether as a taxpayer or, in the case of goods
purchased by the seller, as part of the price paid therefor by
the seller), every agreement made in New Zealand or else-
where for the sale of such goods shall, unless provision to the
15 contrary is made by the agreement, be deemed to be modified
in accordance with the following provisions, namely:

(a) If the alteration renders the seller liable to pay sales tax
or additional sales tax on the goods, the seller may
add to the agreed price the amount of that sales tax
or additional sales tax:

20 (b) If the alteration reduces the amount of sales tax pay-
able by the seller on the goods, the purchaser may
deduct from the agreed price the difference between
the amount of sales tax that the seller would have
paid had the alteration not been made and the
25 amount of sales tax actually payable by him:

(c) If the alteration frees the seller from liability to pay
sales tax on the goods, the purchaser may deduct
from the agreed price the sales tax that the seller
30 would have paid had the alteration not been made.

(2) For the purposes of this section the amount of sales
tax or additional sales tax that is or would have been pay-
able by a seller shall be deemed to be the amount thereof,
before deducting any discount (whether actually allowed
35 or not) that could lawfully be or have been allowed on
prompt payment thereof.

(3) Where any such alteration of the law takes place so as
to operate retrospectively from any date this section shall also
apply retrospectively in the same manner as from the same
40 date, and subsection (1) of section 94A of the Judicature Act
1908 (as inserted by section 2 of the Judicature Amendment
Act 1958) shall apply to any money paid by a purchaser to a
seller in excess of the amount payable under this section,
notwithstanding subsection (2) of the said section 94A.

(4) This section shall extend and apply to every contract whereby any person undertakes the erection or construction of any building or other structure, or the performance of any other work involving the use of materials, to the same extent and in the same manner as if such contract were an agreement for the sale by such person (hereinafter in this section referred to as the builder) to the person for whom such work is to be performed of the materials (other than materials remaining the property of the builder) to be used in the performance of such work.

(5) Where the agreed price payable under any contract to which subsection (4) of this section relates is increased or reduced by virtue of this section, the builder shall deliver to the person liable to pay such price a statement in writing showing the amount of such increase or reduction, and showing fully and in detail the items affected by the alteration of the law.

Cf. 1932-33, No. 33, s. 62 (2)-(7)

18. Actions pending alterations of sales tax—(1) When any resolution in favour of an alteration of the law relating to sales tax has in any session been passed by Parliament or any Committee thereof no person shall be competent to commence, at any time before the end of the session, any proceedings of any description whatever against the Crown or the Minister, or any officer or any member of the Police, or any other person, on any cause of action or on any ground that would not have been sufficient if the said resolution had possessed the force of law according to its tenor as an amendment of this Act.

(2) For the purpose of any period of limitation established by any Act, any cause of action that is subject to subsection (1) of this section shall be deemed to have first arisen on the last day of the said session of Parliament and no sooner.

(3) For the purpose of determining whether any act done by the Minister or any officer or any member of the Police was done in the execution of his office under this Act, his office shall be deemed to include the duty of acting at all times during the said session of Parliament in accordance with any such resolution as aforesaid as if it had the force of law according to its tenor.

Cf. 1932-33, No. 33, s. 68

PART IV

VALUATION OF GOODS

19. **Fair market value**—(1) For the purposes of this Act, the fair market value of any goods at any date shall be the price which those goods would generally fetch at that date in the open market in New Zealand on sales freely offered and made on ordinary trade terms between buyers and sellers independent of each other:

Provided that, where in respect of any goods at any date, there is no open market in New Zealand on which sales of those goods are freely offered and made on ordinary trade terms between buyers and sellers independent of each other, the fair market value of those goods shall be the price which, in the opinion of the Collector, the goods would most probably fetch if there were such an open market at that date.

(2) For the purposes of this section—

(a) A sale in the open market between buyer and seller independent of each other presupposes—

(i) That the price is the sole consideration; and
 (ii) That the price is not influenced by any commercial, financial, or other ties, whether by contract or otherwise, between the seller, or any person associated in business with the seller, and the buyer, or any person associated in business with the buyer (other than the relationship created by the sale of the goods in question); and

(iii) That no part of the proceeds of any subsequent resale, use, or disposal of the goods will accrue, either directly or indirectly, to the seller, or to any person associated in business with the seller:

(b) Two persons shall be deemed to be associated in business with each other if, whether directly or indirectly, either of them has any interest in the business or property of the other, or both have a common interest in any business or property, or some third person has an interest in the business or property of both of them.

20. **Discount in relation to price and fair market value**—

For the purposes of this Part of this Act—

(a) The price for which any goods are sold, or the fair market value of any goods, shall be determined as if they were sold on credit on ordinary trade terms; and

- (b) No deduction shall be made from the price or from the fair market value because of any discount, rebate, or allowance granted or offered in consideration of payment of the purchase money at or before the time of sale or within any specified time thereafter. 5

Cf. 1932-33, No. 35, s. 13 (2)

21. Sale value of goods imported into New Zealand—

(1) For the purposes of this Act, the sale value of goods imported into New Zealand and entered therein for home consumption, otherwise than by a licensed wholesaler for subsequent sale by him, shall be the sum of the following amounts, namely: 10

- (a) The value of the goods for the purposes of Customs duty under the Customs Act 1966: 15
- (b) The amount of Customs duty (if any) payable on those goods:
- (c) Twenty-five percent of the sum of the amounts referred to in paragraphs (a) and (b) of this subsection.

(2) Notwithstanding anything in subsection (1) of this section, the sale value of imported goods included in such Tariff items as the Minister may, by notice in the *Gazette*, from time to time specify in that behalf shall be the sum of the amounts referred to in paragraphs (a) and (b) of that subsection, together with 25 percent of the amount referred to in the said paragraph (a): 25

Provided that—

- (a) Any such notice given by the Minister may be in like manner varied or revoked:
- (b) The Minister may, by like notice, exclude from the operation of this subsection specified goods, or any specified class or kind of goods, included in any of the said Tariff items. 30

(3) Notwithstanding anything in subsection (1) of this section, where Customs duty is payable on any portion of the value of any motor vehicle imported subject to the provisions of the Customs Tariff relating to passengers' effects, the sale value of the vehicle for the purposes of this section shall be the sum of the following amounts, namely: 35

- (a) The value in respect of which Customs duty is levied on the vehicle: 40

- (b) The amount of Customs duty payable on the vehicle:
- (c) Twenty-five percent of the sum of the amounts referred to in paragraphs (a) and (b) of this subsection.

5 Cf. 1932-33, No. 33, s. 13 (1) (c); 1934, No. 14, s. 38; 1963, No. 37, s. 19

22. Sale value of goods sold by wholesaler—For the purposes of this Act, the sale value of goods sold by a wholesaler, not being a contractor, shall be the price for which the goods are actually sold:

10 Provided that where the goods are sold to a person other than a retailer at a price higher than that charged to retailers, the sale value shall be the fair market value of the goods.

Cf. 1932-33, No. 33, s. 13 (1) (a); 1967, No. 2, s. 13

23. Sale value of goods manufactured and sold by a manufacturing retailer—For the purposes of this Act, the sale value of goods manufactured and thereafter sold by a manufacturing retailer, not being a contractor, shall be the fair market value of the goods as if sold to a retailer:

15
20 Provided that, in the case of goods sold otherwise than by retail, the sale value shall be the price for which the goods are actually sold.

Cf. 1932-33, No. 33, s. 13 (1) (b)

24. Sale value of goods deemed to have been sold—The sale value of any goods that are deemed to have been sold pursuant to section 13 of this Act shall be the fair market value of the goods.

Cf. 1933, No. 42, s. 3 (2); 1942, No. 14, s. 5 (5)

25. Determination of sale value—If, in the opinion of the Collector, it is inequitable or impracticable to determine that the sale value of any goods should be their fair market value—

- 30 (a) Because they are not sold in quantities similar to those usually sold; or
- (b) Because there is no reliable means of establishing their fair market value because of the liability of the goods to royalty, copyright, or other charges, whether payable by the seller or by any other person; or
- 35 (c) Because they are usually or exclusively sold or disposed of by or to agents; or

(d) Because they are sold in any other unusual or peculiar manner, or under conditions or restrictions, either by way of limitation of purchases from or sales to any person or association of persons; or

(e) For any other reason—

5

the sale value shall be deemed to be the cost of the goods, including royalties, copyright, or other charges, increased by such amount as the Collector thinks reasonable in respect of profit on those costs.

26. Special provision as to valuation—Notwithstanding anything in this Part of this Act, where any taxable goods are disposed of in circumstances which in the opinion of the Collector have the effect of reducing the price of those goods below the fair market value, the sale value shall be deemed to be the fair market value.

15

PART V

PAYMENT AND COLLECTION OF SALES TAX

27. Sales tax a Crown debt—(1) The sales tax payable on any goods shall constitute a debt owing to the Crown by the importer, wholesaler, or manufacturing retailer, as the case may be.

20

(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 in respect of any goods by an importer pursuant to subparagraph (i) of paragraph (a) of subsection (1) of section 12 of this Act, the sales tax shall be payable at the time the goods are entered for home consumption under the Customs Act 1966:

30

(b) In the case of sales tax payable in respect of any goods by an importer pursuant to subparagraph (ii) of paragraph (a) of subsection (1) of section 12 of this Act, the sales tax shall be payable as soon as an offence in respect of the goods has been committed under any of the Customs Acts:

35

(c) In the case of sales tax payable by a wholesaler or manufacturing retailer pursuant to paragraph (b) or paragraph (c) of subsection (1) of section 12 of this Act, the amount of the sales tax shall be included in the return required to be lodged pursuant to section 29 of this Act and shall be payable on delivery of that return to the Collector, or, if such return is not delivered to the Collector within the time specified by the said section 29, the sales tax shall be payable on the expiration of the time so specified.

(3) Such debt shall be recoverable by action at the suit of the Collector on behalf of the Crown.

(4) The right to recover sales tax as a Crown debt shall not be affected by the fact that a bond or other security has been given for the payment of sales tax, or that no proper assessment of sales tax has been made in due course under this Act, or that a deficient assessment of sales tax has been made.

Cf. 1932-33, No. 33, s. 19; 1933, No. 42, s. 8

28. Goods subject to the control of the Customs not to be delivered until tax paid as demanded—(1) In the case of imported goods or other goods subject to the control of the Customs, no person shall be entitled to obtain delivery of such goods from the control of the Customs until the sum demanded by any proper officer by way of sales tax on those goods has been paid in full.

(2) No action or other proceeding shall be instituted against the Crown or the Minister or any officer in respect of the detention of any such goods during any period before the payment of the full sum so demanded.

Cf. 1932-33, No. 33, s. 20

29. Monthly returns by wholesalers and manufacturing retailers—(1) Every wholesaler and every manufacturing retailer shall, within 28 days after the end of each month, deliver to the Collector for the district specified in his licence a return in the prescribed form setting forth the aggregate amount of the sale value of all taxable goods sold by him during that month, the amount of sales tax payable on those goods, and such other particulars as the form may require.

(2) For the purposes of this Act, the Collector may in his discretion, by writing under his hand, permit—

(a) Any wholesaler or manufacturing retailer to deliver a return in respect of any accounting period of less than 1 calendar month; or

(b) Any wholesaler or manufacturing retailer who would otherwise, in the opinion of the Collector, usually deliver returns in respect of which no tax was payable, to deliver a return in respect of any accounting period longer than 1 calendar month but not exceeding 1 calendar year,—

and in the application of this section to any such case, the term "month" shall mean such permitted accounting period, and the last day of that accounting period shall be deemed to be the end of the month.

(3) Every wholesaler or manufacturing retailer who fails to deliver to the Collector any return required under this section within the time limited by this section shall be liable to a fine not exceeding \$200 or the amount of the sale value of the taxable goods that should have been shown in the return, whichever sum is the greater.

Cf. 1932-33, No. 33, s. 14 (1), (2), (4), (5); 1933, No. 42, s. 7

30. Assessment of tax on goods sold—(1) The returns required by section 29 of this Act may be accepted by the Collector as sufficient proof of the matters therein contained, and sales tax may be assessed by the Collector accordingly.

(2) If the Collector has reason to believe or suspect that the amount of sales tax shown in any return as aforesaid as payable on any goods is less than the amount payable under this Act, he may assess the sales tax at such greater amount as he thinks proper.

(3) If the Collector has reason to believe or suspect that sales tax is payable on any goods under paragraph (b) or paragraph (c) of subsection (1) of section 12 of this Act by any person who has not made a return in respect thereof, he may assess the sales tax at such amount as he thinks proper.

Cf. 1932-33, No. 33, s. 15

31. Assessment and payment of tax on goods imported—

(1) The sales tax payable on any goods under subparagraph (i) of paragraph (a) of subsection (1) of section 12 of this Act shall be assessed by the Collector and, except as provided 5 in section 34 of this Act, shall be paid to him at the time of the entry of the goods for home consumption under the Customs Act 1966.

(2) If the Collector has reason to believe or suspect that sales tax is payable on any goods under subparagraph (ii) 10 of paragraph (a) of subsection (1) of section 12 of this Act, he may assess the sales tax at such amount as he thinks proper.

Cf. 1932-33, No. 33, s. 16

32. Assessment presumed to be correct—Every assessment made by the Collector under this Part of this Act shall be 15 taken to be correct, and sales tax shall be payable accordingly unless, on appeal to the Minister under section 33 of this Act, or in proceedings taken under this Act for the recovery of the sales tax, a different amount is proved to be the sales tax payable on the goods, or it is proved that no sales tax is 20 payable.

Cf. 1932-33, No. 33, s. 17

33. Appeal from assessment to Minister—(1) From any assessment made by the Collector under this Part of this Act the taxpayer may appeal to the Minister.

25 (2) Every appellant shall give to the Collector a written notice of appeal stating shortly the grounds of appeal, within 28 days after a demand for sales tax is made by the Collector in accordance with his assessment, or within such further time as the Minister may allow.

30 (3) On any such appeal the Minister shall, by himself or his lawful delegate, after giving a reasonable opportunity to the appellant to be heard, determine the amount of sales tax (if any) payable, and on all questions of fact his decision shall be final, except in the case of fraud.

35 (4) The Minister may delegate his power of hearing and determining any such appeal to any specified person or to the holder for the time being of any specified office or appointment, but no such delegation shall be made to any person employed in the service of the Customs.

(5) Every such delegation shall be revocable at will by the Minister, but until revoked shall continue in force according to its tenor, notwithstanding the fact that the Minister by whom it was made has ceased to hold office, and shall continue to have effect as if made by the successor in office of the Minister. 5

(6) On the hearing of any such appeal, the appellant shall be limited to the grounds stated in his notice of appeal, and the burden of proving that the assessment is incorrect shall be on the appellant. 10

Cf. 1923-33, No. 33, s. 18 (1)-(5)

34. Taxable goods temporarily imported—(1) Where the Collector is satisfied that any goods have been temporarily imported, the sales tax payable on the goods may be secured by way of deposit of money or, in such cases or classes of cases as may be approved by the Comptroller, by such other security as is provided for in this Act; and on receipt of such security the Collector may deliver the goods from the control of the Customs. 15

(2) Subject to subsection (3) of this section and to such conditions (if any) as may be prescribed, the deposit so made shall be returned to the person by whom it was made, or, as the case may require, the security shall be released, if— 20

(a) The goods, being goods imported to be used temporarily in New Zealand for industrial or commercial purposes, are exported within 12 months from the date of their landing (in this section referred to as the specified period) or within such longer period as the Comptroller may determine in any particular case; or 25

(b) The goods, not being goods to which paragraph (a) of this subsection applies, are exported— 30

(i) Within the specified period; or

(ii) Within such longer period as the Comptroller may determine in any case where he is satisfied that the importer is prevented by *force majeure* from exporting them within the specified period; or 35

(c) The Comptroller is satisfied that the goods have been accidentally destroyed at any time within the period specified by or determined under this subsection. 40

(3) Where in any case to which subsection (2) of this section applies—

- 5 (a) Goods imported to be used temporarily in New Zealand for industrial or commercial purposes are exported within the period specified by or determined under this section; or
- (b) Any other goods, being goods on which in the opinion of the Minister sales tax should be paid, are so exported; or
- 10 (c) The Comptroller is satisfied that any such goods have been accidentally destroyed at any time within the period specified by or determined under this section—

15 sales tax shall be payable in respect of the goods on the amount by which their sale value, as assessed by the Collector at the time of their exportation or destruction, is less than their sale value, as ascertained in accordance with this Act, at the time of their importation.

20 (4) For the purposes of subsection (3) of this section, the sale value of the goods at the time of their exportation or destruction shall be an amount equal to the sale value of the goods, as calculated pursuant to subsection (1) of section 21 of this Act, if they had been imported into New Zealand and entered therein for home consumption, otherwise than by a
25 licensed wholesaler for subsequent sale by him, at the time of their exportation or, as the case may be, immediately prior to their destruction.

30 (5) Where the Collector is satisfied that any goods have been shipped for export, or where any goods have been packed, for export, into a bulk cargo container in a Customs containerbase and the container has been secured to the satisfaction of the Collector, he may for the purposes of this section, if he thinks fit, treat them as having been exported.

35 (6) If at the expiry of the period specified by or determined under this section any security has not been dealt with in accordance with subsection (2) of this section—

- (a) Any sales tax so secured by way of deposit of money shall be dealt with as Customs revenue; and
- 40 (b) Any sales tax otherwise so secured shall be paid to the Collector by the importer within fourteen days after the expiry of that period, and on such payment the security shall be released.

35. Minimum sales tax collectable—Regulations under this Act may prescribe the minimum amount of sales tax that need be collected on any goods; and any sales tax which, if assessed under this Act, would be less than the minimum so prescribed may, if the Collector thinks fit, be remitted. 5

Cf. 1932-33, No. 33, s. 70.

36. Discount on prompt payment—(1) Notwithstanding anything in this Act, where any sales tax which is payable in respect of any goods pursuant to subparagraph (i) of paragraph (a) of subsection (1) of section 12 of this Act 10 is paid on or before the entry of the goods for home consumption, or where any sales tax which is payable in respect of any goods pursuant to paragraph (b) or paragraph (c) of the said subsection is paid not later than 28 days after the end of the month in which the goods were sold, the 15 taxpayer shall be entitled—

- (a) Where the sales tax is payable in respect of the goods at the rate of 20 percent of the sale value thereof, to a discount of $1\frac{1}{4}$ percent of the sales tax so paid:
- (b) Where the sales tax is payable in respect of the goods 20 at the rate of 30 percent of the sale value thereof, to a discount of $\frac{5}{8}$ of 1 percent of the sales tax so paid:
- (c) Where the sales tax is payable in respect of the goods 25 at the rate of 40 percent of the sale value thereof, to a discount of $\frac{3}{4}$ of 1 percent of the sales tax so paid.

(2) Notwithstanding subsection (1) of this section, the Minister may, for reasons which, in his discretion, he thinks sufficient, allow the discount specified in the said subsection 30 in respect of any sales tax paid after the expiration of the time within which the taxpayer was entitled to the discount.

(3) Where for any reason the amount of any sales tax in respect of which a discount has been allowed is reduced, 35 the discount allowed under subsection (1) of this section shall, where necessary, be adjusted accordingly.

Cf. 1932-33, No. 33, s. 21 (1) (a), (2); 1940, No. 6, s. 23; 1942, No. 5, s. 15; 1960, No. 27, s. 15 (1); 1967, No. 2, s. 11; 1968, No. 142, s. 6 40

37. **Additional tax on default in payment**—(1) Where any sales tax remains unpaid at the expiration of 1 month after the time within which the taxpayer is entitled to a discount in respect of the payment of such sales tax under section 36 of this Act, 10 percent of the amount of the sales tax unpaid shall be added thereto by way of additional sales tax and shall be payable accordingly.

(2) Notwithstanding subsection (1) of this section, the Minister may, for reasons which, in his discretion, he thinks sufficient, remit or refund the whole or any part of any additional sales tax imposed by that subsection.

(3) Where for any reason the amount of any sales tax in respect of which additional sales tax has been imposed under subsection (1) of this section is amended, the additional sales tax shall, where necessary, be adjusted accordingly.

Cf. 1932-33, No. 33, s. 21 (1) (b), (2)

38. **Sales tax on goods liable to excise duty and sold at "in bond" prices**—Where any goods manufactured in New Zealand, of a class or kind liable to excise duty and also to sales tax, are sold, otherwise than to a licensed wholesaler for resale by him, at a price that does not include the excise duty, sales tax (in addition to any sales tax otherwise payable on such goods) shall be payable thereon, at the time of the entry of such goods for home consumption, by the person entering those goods. For the purposes of any sales tax payable under this section the sale value on which the tax is assessed shall be deemed to be the amount of the excise duty paid or payable on the goods.

Cf. 1934, No. 14, s. 37

39. **Taxpayer leaving New Zealand**—If the Collector has reason to believe that a taxpayer is about to leave New Zealand before any sales tax owing by him becomes payable in accordance with the foregoing provisions of this Act, the sales tax shall, if the Collector thinks fit, be payable on such earlier date as the Collector determines and gives notice to the taxpayer accordingly.

Cf. 1932-33, No. 33, s. 22

40. Power to collect tax from person owing money to taxpayer—(1) Where any sum is due and payable by a taxpayer for sales tax under this Act, the Comptroller may, by notice in writing (a copy of which shall be forwarded to the taxpayer at his last place of address known to the Comptroller), require— 5

(a) Any person by whom any money is due or accruing or may become due to the taxpayer; or

(b) Any person who holds or may subsequently hold money for or on account of the taxpayer; or 10

(c) Any person who holds or may subsequently hold money on account of some other person for payment to the taxpayer; or

(d) Any person having authority from some other person to pay money to the taxpayer— 15

to pay to him forthwith, or within such time as the Comptroller allows, such money (not being salary or wages due or accruing due to the taxpayer) or so much thereof as is sufficient to pay the sum due and payable by the taxpayer as aforesaid. 20

(2) Every person who fails or refuses to comply with a notice under this section shall be liable to a fine not exceeding \$200.

(3) All payments made pursuant to a notice under this section shall be deemed to be made on behalf of the taxpayer and with the authority of the taxpayer and of all other persons concerned. 25

Cf. 1932-33, No. 33, s. 23 (1)-(3)

41. Minister may waive payment of sales tax in certain cases—Where the Minister is satisfied that the payment of any sales tax by a taxpayer would entail or has entailed serious hardship, the Minister may, in whole or in part, 30

(a) Release the taxpayer from his liability to pay that sales tax; or

(b) Refund that sales tax. 35

Cf. 1934, No. 14, s. 39 (1)

PART VI

AGENTS, LIQUIDATORS, AND DECEASED TAXPAYERS

Agents

42. **Liability of principal for acts of agent**—(1) Every
5 declaration made or other act done by an agent in the course
of his agency in relation to the sale, manufacture, or importa-
tion of goods, or otherwise in relation to this Act, shall be
deemed to have been made or done by his principal also,
and the principal shall be liable accordingly to all sales tax
10 or penalties imposed by this Act.

(2) For the purposes of this section the knowledge and
intent of the agent shall be imputed to the principal in
addition to his own.

(3) For the purposes of this section the agent of an agent
15 shall be deemed to be also the agent of the principal.

Cf. 1932-33, No. 33, s. 24

43. **Liability of agents**—When any person acts or assumes
to act as the agent of any other person in relation to the
sale, manufacture, or importation of goods, or otherwise in
20 relation to this Act, he shall be liable to the same sales tax or
penalties as if he were the principal for whom he so acts or
assumes to act.

Cf. 1932-33, No. 33, s. 25

44. **Liability of agent winding up business of absentee
25 principal**—(1) Where an agent for a principal absent from
New Zealand has been required by the principal to wind up
the business of his principal he shall, before taking any steps
to wind up the business, notify the Collector for the district
specified in the principal's licence of his intention to do so,
30 and shall set aside such sum out of the assets of the principal
as appears to the Collector to be sufficient to provide for any
sales tax that is or will become payable in respect of the
business of the principal.

(2) Every agent who fails to give notice to the Collector
35 or fails to provide for payment of sales tax as required by
this section commits an offence against this Act.

Cf. 1932-33, No. 33, s. 26

Liquidators and Receivers

45. Liquidator of company to give notice of winding up, and to provide for payment of tax—(1) Where an effective resolution is passed or an order is made for the winding up of a company which is a wholesaler or a manufacturing retailer, the liquidator of the company shall, within 14 days thereafter, give notice thereof— 5

(a) In the case of a licensed company, to the Collector for the district specified in the licence; and

(b) In the case of any other company, to the Collector for the district in which the registered office of the company is situated, or in which the business of the company is being carried on,— 10

and shall, before disposing of any of the assets of the company, set aside such sum out of the assets as appears to the Collector to be sufficient to provide for any sales tax that is or will become payable in respect of the company: 15

Provided that the liquidator may convert any of the assets of the company to cash where this is necessary for the sole purpose of enabling him to set aside that sum. 20

(2) The liquidator of any such company shall be liable for the payment out of the assets of the company of any sales tax that is or becomes payable in respect of the company, and if he fails to comply with any of the provisions of subsection (1) of this section, shall also be personally liable 25 for the payment of such sales tax.

(3) Where 2 or more persons are appointed liquidators or are required by law to carry out the winding up of any such company the obligations and liabilities attaching to a liquidator 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. 30

(4) Nothing in this section shall restrict section 308 of the Companies Act 1955, and the Collector may, where necessary, refund to the liquidator any sales tax paid by him out of the assets of the company in accordance with subsection (2) of this section. 35

Cf. 1932-33, No. 33, s. 27

46. Appointment of receiver to be notified to Collector, and receiver to provide for payment of tax—(1) Where a receiver is appointed of the property of a wholesaler or of a manufacturing retailer (such wholesaler or retailer hereinafter 40

in this section referred to as the taxpayer), the receiver shall, within 14 days after his appointment, give notice thereof—

- (a) In the case of a licensed taxpayer, to the Collector for the district specified in the licence; and
 5 (b) In the case of any other taxpayer, to the Collector for any district in which the business of the taxpayer is being carried on,—

and shall, before disposing of any of the assets of the taxpayer, set aside out of the assets such sum as appears to the
 10 Collector to be sufficient to provide for any sales tax that is payable by the taxpayer and any sales tax that will become payable in respect of goods that have been sold by the taxpayer before the appointment of the receiver:

Provided that the receiver may convert any of the assets
 15 of the taxpayer to cash where this is necessary for the sole purpose of enabling him to set aside that sum.

(2) The person appointed a receiver as aforesaid shall be liable for the payment out of the assets of the taxpayer of any sales tax that is or thereafter becomes payable as aforesaid,
 20 and, if he fails to comply with any of the provisions of subsection (1) of this section, shall also be personally liable for the payment of such sales tax.

(3) Where 2 or more persons are appointed receivers of the property of any taxpayer as aforesaid, the obligations
 25 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.

Cf. 1933, No. 42, s. 6

30

Deceased Taxpayers

47. Payment of tax by executors or administrators—

(1) Where, at the time of a taxpayer's death, he has not paid the whole of the sales tax theretofore owing by him, the
 35 Collector shall have the same powers and remedies for the assessment and recovery of sales tax from the executors or administrators of the taxpayer as he would have had against the taxpayer if he were alive.

(2) The amount of sales tax owing by the taxpayer as aforesaid shall until payment be a charge on all the taxpayer's
 40 estate in the hands of the executors or administrators.

(3) The executors or administrators shall furnish such of the returns required by this Act as have not been made by the taxpayer, and such other returns and information as the Collector may require.

Cf. 1932-33, No. 33, s. 28

5

48. Recovery of sales tax where there are no executors or administrators—(1) Where administration of the estate of any deceased taxpayer has not been granted within 6 months of his death, the Collector may assess the sales tax owing by the deceased at the date of his death at such sum as he thinks proper. 10

(2) The Collector shall give notice of the assessment by advertisement published at least twice in such newspaper or newspapers as he thinks fit.

(3) Any person claiming an interest in the estate of any deceased taxpayer may, within 42 days after the first publication of the notice of the assessment, post to or lodge with the Collector an appeal in writing against the assessment, stating fully and in detail the grounds on which he relies, and the provisions of this Act relating to appeals to the Minister and refunds of sales tax shall, with all necessary modifications, apply in relation to the appeal as if that person were the taxpayer. 15 20

(4) Subject to any amendment of the assessment by the Minister or by a Court, the assessment so made shall be conclusive evidence of the indebtedness of the deceased taxpayer to the Crown. 25

(5) At any time after the making of an assessment under this section, the Comptroller may issue a warrant of distress in the form in the Second Schedule to this Act under the seal of the Customs authorising and requiring any member of the police or any other person named therein to levy the amount of sales tax owing by the deceased, and also the expenses of the execution, by distress and sale of the goods and chattels of the deceased. 30 35

(6) Upon the issue of the warrant the person so authorised shall have the power to levy such amount and expenses accordingly.

(7) Notwithstanding anything in any other provision of this section, if at any time administration of the estate of the deceased is granted to any person, that person may, within 42 days after the date of the grant, lodge an appeal against the assessment, stating fully and in detail the grounds on 40

which he relies, and the provisions of this Act relating to appeals to the Minister and refunds of sales tax shall, with all necessary modifications, apply in relation to the appeal as if that person were the taxpayer.

- 5 (8) In this section the term "administration" has the same meaning as in the Administration Act 1969.

Cf. 1932-33, No. 33, s. 29

PART VII

CREDITS, REFUNDS, AND DRAWBACKS

10

Credits

49. **Credit for sales tax paid on goods or materials purchased**—(1) A licensed wholesaler or a licensed manufacturing retailer, as the case may be, shall, in the return furnished by him in accordance with section 29 of this Act, be entitled
 15 to deduct from the sales tax payable by him for the month to which the return relates the amount of any sales tax paid by him on goods purchased for resale or for use by him as materials in the manufacture of goods for sale.

- (2) Where the Collector is satisfied that the owner of any
 20 taxable goods manufactured by a contractor has paid any sales tax on any materials supplied by him to the contractor for use in such manufacture, the Collector may refund to the owner the amount of such sales tax.

- (3) The amount that may be deducted under subsection (1)
 25 of this section or, as the case may be, refunded under subsection (2) of this section shall be the actual amount of sales tax originally paid or to be paid by a wholesaler, manufacturing retailer, importer, or owner in respect of such goods or materials, together with the amount of any discount lawfully
 30 deductible from such sales tax on payment thereof, but excluding any additional sales tax added thereto by reason of late payment under section 37 of this Act.

- (4) If in the case of any return referred to in this section the amount of the deduction made in accordance with this section
 35 exceeds the amount of the sales tax that would have been payable in accordance with the return if the deduction had not been made, the amount of the excess may, at the option of the Collector, either be paid to the taxpayer or be retained by the Collector and applied towards payment of any sales tax that
 40 is for the time being payable or may at any time become payable by the taxpayer.

Cf. 1932-33, No. 33, s. 11 (2); 1933, No. 42, s. 5 (1), (2), (4); 1946, No. 21, s. 10; 1968, No. 41, s. 2

50. Evidence as to payment of sales tax deducted—(1) For the purposes of section 49 of this Act it shall be sufficient evidence 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, and the amount thereof. 5

(2) 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 this 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. 10

Cf. 1933, No. 42, s. 5 (5), (6)

51. Dispute as to materials used in manufacture—If in relation to this Act any dispute arises as to the materials used in the manufacture or repair of any goods, it shall be determined by the Minister in such manner as he thinks just, and his decision shall be final. 15

Cf. 1932-33, No. 33, s. 11 (5) 20

Refunds

52. Refund on taxable materials used in the manufacture or repair of non-taxable goods—In such cases and under such conditions as may be prescribed, the Collector may refund the sales tax paid on any materials used by any person in the manufacture or repair of non-taxable goods. 25

Cf. 1932-33, No. 33, s. 11 (3)

53. Recovery of tax paid in error—(1) At any time within 1 year after the payment of any sum by way of sales tax the person by whom payment was so made may institute proceedings against the Crown for a refund of such sales tax, or of any part thereof, on the ground that the sales tax was not lawfully chargeable or was charged in excess, and whether the error alleged is one of fact or of law. 30

(2) Nothing in this section shall be so construed as to entitle any person to take proceedings for a refund of sales tax on any ground on which the determination of the Minister is made final by this Act. 35

Cf. 1932-33, No. 33, s. 30

54. Refund of tax paid in error—(1) If the Comptroller is satisfied that any sales tax has been paid in error, whether of law or fact, he may refund it—

- 5 (a) At any time within 3 years after it has been paid; or
 (b) At any later time, on an application made within such 3 years.

(2) If in any case, after any agreement is made, whether in New Zealand or elsewhere, for the sale of goods, the Comptroller has authority to make a refund in respect of such goods,
 10 he may, before making the refund, require the production of evidence to his satisfaction that the applicant has remitted to the buyer of the goods the amount of the refund.

Cf. 1932–33, No. 33, s. 31

55. Recovery of tax refunded in error—All money
 15 refunded in error, whether of fact or of law, by the Comptroller or any Collector shall be recoverable by action at the suit of the Crown at any time within 3 years after the payment thereof, or without limit of time if the refund has been obtained by fraud.

20 Cf. 1932–33, No. 33, s. 32

56. Refund of tax on farm motor cycles—(1) Where a new motor cycle, being a motor cycle within the meaning of the Transport Act 1962, is purchased by any person who—

- 25 (a) Satisfies the Collector that the motor cycle has been licensed under the Transport Act 1962 as a motor vehicle of Class A or Class B within the meaning of section 188 of that Act; and
 30 (b) Makes a declaration under this Act that the motor cycle is new and will be used exclusively on a farm for agricultural purposes and on a road for other purposes for which a farm motor cycle of the said Class A or Class B may be used pursuant to regulations for the time being in force under the Transport Act 1962; and
 35 (c) Gives a written undertaking, in such form as the Collector may require, that, if at any time within 2 years after the date of purchase of the motor cycle—
 40 (i) It is sold or otherwise disposed of; or
 (ii) It becomes licensed otherwise than as a motor vehicle of the said Class A or Class B; or

(iii) It is no longer used exclusively on a farm for agricultural purposes and on a road for other purposes for which a farm motor cycle of the said Class A or Class B may be used—

he will forthwith notify the Collector and pay a sum 5
equal to the sales tax paid on it or such lesser sum as the Collector may require—

the Collector may, subject to such conditions as the Minister may impose (either generally or in any particular case), refund to that person the amount of any sales tax paid on 10
that motor cycle.

(2) Any refund made under subsection (1) of this section may be made—

- (a) At any time within 1 year after the date on which 15
the motor cycle is so purchased; or
- (b) At any later time, on an application made within the said year.

Cf. 1932-33, No. 33, s. 33A; 1970, No. 28, s. 12

Drawbacks

57. Drawbacks when goods exported—Drawbacks of sales 20
tax paid on goods exported from New Zealand may, subject to regulations under this Act, be allowed under the like conditions and restrictions as are applicable to drawbacks of duty under the Customs Act 1966.

Cf. 1932-33, No. 33, s. 33 25

PART VIII

SECURITIES

58. Securities for payment of tax and compliance with Act—(1) A Collector shall have the right to require and 30
take securities for payment of sales tax and generally for compliance with this Act and for the protection of the revenue payable under this Act, and, pending the giving of the required security, he may refuse to issue any licence or may suspend any licence, or may refuse to do any other 35
act in the execution of his office in relation to any matter in respect of which the security is required. During the period of any such suspension the holder of the licence shall be deemed to be unlicensed.

(2) Any security under this Act may, as required by the Collector, be by bond (with or without sureties) or guaran- 40
tee to Her Majesty the Queen, or by a deposit of cash, or by all or any of those methods, to the satisfaction of the Collector.

(3) Any such security may be given either in relation to any particular transaction, or generally with respect to any class of transactions, or to all transactions, and for such period and amount as the Collector thinks fit, and under
5 such conditions as to forfeiture, penalty, or otherwise as the Minister may direct.

(4) Any bond or security entered into or given under this Act by a person under the age of 20 years (otherwise than as a surety or guarantor) shall have the same force,
10 effect, and validity as if that person had been of full age.

(5) Any security required or given under this Act may, with the consent of the Collector, be taken with respect to matters arising under the Customs Act 1966 in addition to matters arising under this Act.

15 Cf. 1932-33, No. 33, s. 37; 1963, No. 37, s. 20

59. New securities may be required—If at any time the Collector is dissatisfied with the sufficiency of any security, he may require a new security in its place, or in addition thereto; and, if the new security is not given, he may suspend
20 any licence or may refuse to issue any licence or to do any other act in the execution of his office in relation to any matter in respect of which the new security is required. During the period of any such suspension the holder of the licence shall be deemed to be unlicensed.

25 Cf. 1932-33, No. 33, s. 38

PART IX

POWERS OF OFFICERS

60. Power to question persons and require production of records—(1) The Collector may question any person
30 as to the particulars shown in any return delivered to him by a taxpayer in accordance with this Act, and may, if he thinks fit, require from the taxpayer proof by declaration or by the production of records (in addition to any declaration or records otherwise required by this Act) of
35 the correctness of the return.

(2) If any taxpayer refuses or fails without reasonable cause to make any such declaration or to produce such records he shall be liable to a fine not exceeding \$100 or the amount of the sale value of the goods in respect of which
40 the return is made, whichever sum is the greater.

Cf. 1932-33, No. 33, s. 35 (1), (2)

61. Requisition to produce records—(1) Where any question has arisen under this Act, the Collector may, by order under his hand and the seal of the Customs, require any person (including any officer employed in or in connection with any Government department)— 5

(a) To furnish in writing any information and produce for inspection any records to the Collector or any specified officer, being information or records which the Collector considers necessary or relevant to the administration or enforcement of this Act; or 10

(b) To allow the Collector or any specified officer to make copies of or extracts from those records; or

(c) To appear before the Collector or other specified officer and to answer all questions put to him concerning those records. 15

(2) An order under this section may be directed to any corporation, public authority, or local authority, or to any member, officer, or servant of any corporation, public authority, or local authority.

(3) Any person who fails or refuses to comply with any order made under this section or, on being so questioned, fails or refuses to answer any question put to him, or to answer any such question in writing if so required by the Collector, or answers any such question incorrectly, commits an offence and shall be liable to a fine not exceeding \$400. 20 25

Cf. 1932-33, No. 33, s. 35 (3)-(5)

62. Power to impound records—The Collector may impound or retain any records presented in connection with any return or required to be produced under this Act; but the person otherwise entitled to the records shall, where practicable, be entitled in its place to a copy certified as correct by the Collector under the seal of the Customs, and the copy so certified shall be received in all Courts as evidence in place of the original. 30

Cf. 1932-33, No. 33, s. 34 35

63. Sales tax warrants—(1) The Comptroller may grant a sales tax warrant in the form in the Third Schedule to this Act and under the seal of the Customs to any officer, and such warrant, unless sooner revoked by the Comptroller, shall remain in force so long as the person to whom it has been so granted remains an officer, whether in the same capacity or not. 40

(2) Subject to subsection (3) of this section, any officer having with him a sales tax warrant granted to him under this Act may at any time in the day or night and on any day of the week enter into, by force if need be, and search any house,
5 building, premises, or place in which he has reasonable cause to suspect that there are any goods on which any sales tax has become due and payable and is unpaid, or any goods in respect of which any offence has been committed against this Act, or any records relating to any such goods, or any
10 records containing information that may lead to the recovery of any money under this Act, and may on any such entry break open and search any boxes, receptacles, packages, or places in which any such goods or records may be or may be supposed to be.

15 (3) On each occasion on which any officer proposes to use his warrant for the purposes of this section he shall first obtain the permission of the Collector, who shall not grant permission unless he is satisfied that such reasonable cause as aforesaid exists.

20 (4) Any officer so acting under a sales tax warrant may take with him and have the assistance of any member of the Police and such other assistants as he thinks necessary.

(5) Any officer so acting under a sales tax warrant shall show his warrant on demand to the occupier of the house,
25 building, premises, or place which he so enters or proposes to enter.

(6) No officer or other person lawfully so entering in pursuance of any such sales tax warrant shall be deemed to be a trespasser by relation by reason of any act done by him
30 after entry.

(7) When any entry has been so made, any officer may take copies of or extracts from any such records; and in all Courts and in all proceedings such copies or extracts, if certified by an officer under the seal of the Customs, shall
35 be received as evidence instead of the originals.

(8) Every person who obstructs an officer, a member of the Police, or other authorised person in the exercise of any right of search or other right under this section or under a sales tax warrant commits an offence and shall be liable to a
40 fine not exceeding \$400 or to imprisonment for a term not exceeding 3 months, or to both.

Cf. 1932-33, No. 33, s. 36

PART X

OFFENCES

64. Defrauding the revenue—Every person who contravenes any provision of this Act, or does any other act, with intent to defraud the revenue— 5

- (a) By evading or enabling any other person to evade payment of the sales tax or any part of the sales tax on any goods; or
- (b) By obtaining or enabling any other person to obtain any money by way of drawback or refund of sales tax on any goods; or 10
- (c) In any other manner whatsoever in relation to any goods—

or who conspires with any other person (whether that other person is in New Zealand or not) so to defraud the revenue in relation to any goods, commits an offence and shall be liable to a fine not exceeding \$400 or 3 times the sale value of those goods whichever sum is the greater. 15

Cf. 1932–33, No. 33, s. 42

65. Erroneous returns—(1) Every person who for the purposes of this Act makes any return which is erroneous or defective in any particular commits an offence and shall be liable to a fine not exceeding \$200 or 3 times the amount of any deficient sales tax, whichever sum is the greater. 20

- (2) For the purposes of this section— 25
- (a) The term “deficient sales tax” means the full sales tax payable on the goods which are included or ought to have been included in the return, less the amount of sales tax (if any) payable on the goods if computed in accordance with the return actually made: 30
- (b) Every declaration or written statement delivered to the Collector in connection with any return made under this Act shall be deemed to form part of the return.

66. Erroneous drawbacks or refunds—Every person who obtains any drawback, refund, or remission of sales tax by means of any erroneous or defective declaration or written statement, or by producing to any officer any declaration or any records which are not genuine or which are in any respect erroneous or defective, commits an offence and shall 35 40

be liable to a fine not exceeding \$200 or 3 times the amount of that drawback, refund, or remission, whichever sum is the greater.

Cf. 1932-33, No. 33, s. 44

- 5 **67. Erroneous declarations**—Every person who makes any declaration under this Act which is erroneous in any particular commits an offence and shall be liable to a fine not exceeding \$200.

Cf. 1932-33, No. 33, s. 45

- 10 **68. Wilfully false declarations**—Every person who knowingly makes any false declaration under this Act commits an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding 2 years.

Cf. 1932-33, No. 33, s. 46

- 15 **69. Offences with respect to invoices**—Every person commits an offence against this Act who in respect of the sale of any goods, delivers or sends to any other person any invoice or statement which shows any amount as paid or payable by way of sales tax (whether charged to the purchaser or not)—

- 20 (a) Where no sales tax has been paid or is payable in respect of those goods; or
 (b) Where the amount shown is in excess of the amount of sales tax (before the deduction of any discount lawfully deductible from that sales tax on payment thereof) that has been so paid or is so payable.

25

Cf. 1932-33, No. 33, s. 64

70. Attempts—Any attempt to commit an offence against this Act shall be an offence punishable in like manner as if the offence so attempted had been actually committed.

- 30 Cf. 1932-33, No. 33, s. 40

- 71. Liability of officers of body corporate**—If a body corporate commits an offence against this Act, every director, manager, secretary, or other similar officer of the body corporate, and every person purporting to act in any such capacity, shall also be guilty of that offence if the act or omission constituting the offence occurred with his knowledge and consent.

35

Cf. 1932-33, No. 33, s. 49

72. Offences punishable on summary conviction—Except where this Act otherwise provides, every offence against this Act, or against any regulations made under this Act, shall be punishable on summary conviction.

73. Procedure—(1) Notwithstanding anything in the Summary Proceedings Act 1957, any information for an offence against this Act may be laid at any time within 10 years after the date of the offence. 5

(2) Every information for an offence against this Act shall be laid by a Collector. 10

Cf. 1932–33, No. 33, s. 55 (1) (c), (2)

74. General penalty—Every person who commits an offence against this Act for which no other penalty is provided shall be liable to a fine not exceeding \$200.

Cf. 1932–33, No. 33, s. 41 15

75. Imprisonment for second offence—Any person who is convicted summarily of an offence against this Act that is punishable by a fine and who has within 2 years before the conviction been convicted of the like offence or of any other offence against this Act or any other of the Customs Acts, may, if the convicting Court thinks fit, be sentenced to imprisonment for a period not exceeding 3 months, instead of, or in addition to, being sentenced to pay a fine. 20

Cf. 1932–33, No. 33, s. 53

76. Arrest of offenders—Any member of the Police or any officer who has reasonable cause to suspect that any person has committed any offence against this Act with intent to defraud the revenue, and is about to leave New Zealand, may arrest that person without warrant. 25

Cf. 1932–33, No. 33, s. 56 30

PART XI

MISCELLANEOUS PROVISIONS

77. Burden of proof—(1) In any proceedings under this Act instituted by or on behalf of or against the Crown (other than a prosecution for an indictable offence) every allegation made on behalf of the Crown in any statement of claim, statement of defence, plea, or information, shall be presumed to be true unless the contrary is proved. 35

(2) The aforesaid presumption shall not be excluded by the fact that evidence is produced on behalf of the Crown in support of any such allegation.

5 (3) For the purposes of this section a summary prosecution for an offence against this Act shall be deemed to be a proceeding instituted on behalf of the Crown.

(4) For the purposes of this section every proceeding instituted by or against the Crown in which any question arises as to the rights, powers, obligations, or liabilities of the Crown
10 or any other person under this Act shall be deemed to be a proceeding under this Act.

(5) The provisions of this section shall extend and apply to proceedings in which the existence of an intent to defraud the revenue is in issue.

15 Cf. 1932-33, No. 33, s. 59 (1)-(3), (5), (6)

78. Keeping of business records—(1) Subject to subsection

(2) of this section, every wholesaler and every manufacturing retailer shall keep sufficient records to enable his liability for sales tax to be readily ascertained by the Collector, and shall
20 retain all such records so kept after the commencement of this Act and all records relating to his business as a wholesaler or as a manufacturing retailer in existence at that date for a period of at least 7 years after the completion of the transactions, acts, or operations to which they relate.

25 (2) This section shall not require the retention of any records—

(a) In respect of which the Collector has given notice that retention is not required:

30 (b) Of a company that has been wound up and finally dissolved.

79. Giving of notices—(1) Any notice required by this Act to be given by the Comptroller or by any Collector to any person may be—

(a) Given to him personally; or

35 (b) Sent to him by post addressed to him at his usual or last known place of abode or business; or

(c) Given personally to any other person authorised to act on behalf of that person; or

40 (d) Sent to that other person addressed to him at his usual or last known place of abode or business.

(2) Any notice sent by post to any person shall be deemed to have been received by him when in the normal course of post it would be delivered.

80. Regulations—The Governor-General may from time to time by Order in Council make regulations for all or any of the following purposes:

- (a) Prescribing forms for any of the purposes of this Act: 5
- (b) Prescribing matters in respect of which fees and charges are to be payable under this Act or under the regulations, the amounts of the fees and charges, and the persons liable to pay them: 5
- (c) Providing for the making of returns and declarations for any of the purposes of this Act or of the regulations: 10
- (d) Prescribing the conditions under which sales tax may be refunded on any materials used by any person in the manufacture or repair of non-taxable goods: 15
- (e) Prescribing the conditions and restrictions under which the provisions applicable to drawbacks of duty under the Customs Act 1966 apply to drawbacks of sales tax paid on goods exported from New Zealand: 15
- (f) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration: 20
- (g) Prescribing offences against any such regulations and prescribing fines not exceeding \$200 in respect of any such offence.

Cf. 1932–33, No. 33, s. 71 (1), (3) 25

81. General provisions as to Orders in Council and regulations—Without limiting the Acts Interpretation Act 1924, no Order in Council or regulation under this Act shall be invalid because it leaves any matter to the discretion of the Minister or of any other person, or because it authorises the Minister or any other person to give any consent or to issue any licence, permit, or other instrument on or subject to conditions to be imposed or approved by the Minister. 30

82. Consequential amendments—(1) The Motor Spirits Duty Act 1961 is hereby consequentially amended— 35

- (a) By omitting from subsection (1) of section 1 the words “the Sales Tax Act 1932–33”, and substituting the words “the Sales Tax Act 1973”:

(b) By omitting from subsection (2) of section 3 the words "Parts IV to X of the principal Act and of section 6 of the Sales Tax Amendment Act 1933", and substituting the words "Parts VI to XI of the principal Act".

(2) The Customs Act 1966 is hereby consequentially amended by repealing paragraph (e) of subsection (1) of section 3, and substituting the following paragraph:

"(e) The Sales Tax Act 1973:".

10 **83. Repeals, revocations, and savings**—(1) The enactments specified in the Fourth Schedule to this Act are hereby repealed.

(2) The following Orders in Council are hereby revoked:

(a) The Sales Tax Order 1942:

15 (b) The Sales Tax Order 1942, No. 2:

(c) The Sales Tax Districts Order 1968.

(3) Without limiting the provisions of the Acts Interpretation Act 1924, where under the authority of any enactment hereby repealed, or under the authority of any regulation made
20 under any such enactment, any appointment or any act of authority or any other thing whatsoever has been made or done by the Governor-General or the Minister or the Comptroller or any other person, and that appointment, act of authority, or thing is subsisting or in force at the commence-
25 ment of this Act and could have been made or done under any substantially corresponding provision of this Act (in this subsection referred to as the corresponding provision) by any person other than the one specified in the said enactment or regulation, or in any manner other than that so specified, it
30 shall continue and have effect as if it had been made or done under the corresponding provision by the person or in the manner specified in the corresponding provision, and as if the corresponding provision had been in force when it was made or done.

SCHEDULESSection 12 (1)**FIRST SCHEDULE****RATES OF SALES TAX****PART A**

GOODS WHICH, IF NOT EXEMPT FROM SALES TAX, ARE SUBJECT TO SALES TAX AT THE RATE OF 40 PERCENT OF THEIR SALE VALUE

Motor vehicles, including trailers therefor; motor cycles and power cycles.

PART B

GOODS WHICH, IF NOT EXEMPT FROM SALES TAX, ARE SUBJECT TO SALES TAX AT THE RATE OF 30 PERCENT OF THEIR SALE VALUE

Apparatus and equipment of a kind used in photographic or cinematographic laboratories; film measuring apparatus and footage counters; shearing and cutting machines (including guillotines) peculiar to use in photography.

Cameras; photographic flashlight apparatus; camera stands, tripods, and other parts and accessories for use with cameras or photographic flashlight apparatus.

Film in rolls, sensitised, unexposed; but excluding sensitised surfaces specially suited for use in X-ray photography.

Refracting telescopes (binocular), prismatic or not.

Smokers' mechanical lighters.

Stereoscopes.

Watches and parts of watches.

PART C

GOODS WHICH, IF NOT EXEMPT FROM SALES TAX, ARE SUBJECT TO SALES TAX AT THE RATE OF 20 PERCENT OF THEIR SALE VALUE

All other goods, being goods not subject to any other rate of sales tax.

SECOND SCHEDULE

Section 48 (5)

NEW ZEALAND

The Sales Tax Act 1973

WARRANT OF DISTRESS FOR SALES TAX DUE BY DECEASED TAXPAYER
To

WHEREAS , of , died on the day of 19 , and administration of his estate has not been granted: And whereas there is due and payable by the said deceased for sales tax the sum of dollars and cents:

This is therefore to command you forthwith to levy the said sum of \$, and the expenses of this execution, by distress and sale of the goods and chattels of the said deceased: And you are hereby commanded to pay what you shall so levy forthwith to the Collector of Customs , and to make return of what you shall do by virtue of this warrant immediately upon the execution thereof.

Given under my hand and the seal of the Customs this day of 19 .

(Customs Seal)

Comptroller of Customs.

THIRD SCHEDULE

Section 63 (1)

SALES TAX WARRANT

To

PURSUANT to the Sales Tax Act 1973, you are hereby authorised to enter by day or night, and whether peaceably or by force if need be, any house, building, premises, or place in which you have reasonable cause to suspect that there are any goods on which any sales tax has become due and payable and is unpaid, or any goods in respect of which an offence has been committed against the Sales Tax Act 1973, or any records relating to such goods, or any records containing information that may lead to the recovery of any money under the Sales Tax Act 1973, and to search any house, building, premises, or place so entered, and there to break open and search any boxes, receptacles, packages, or places in which any such goods or records may be or may be supposed to be; and on any such entry to seize and carry away any goods which are subject or which there is reasonable cause to suspect to be subject to a charge for sales tax; and in so acting you are hereby authorised to take with you and have the assistance of any member of the Police and such other assistants as you deem necessary. For all which this shall be your sufficient warrant.

Given under my hand and the seal of the Customs this day of 19 .

(Customs Seal)

Comptroller of Customs.

Section 83 (1)

FOURTH SCHEDULE

ENACTMENTS REPEALED

- 1932-33, No. 33—The Sales Tax Act 1932-33. (1957 Reprint, Vol. 13, p. 643.)
- 1933, No. 42—The Sales Tax Amendment Act 1933. (1957 Reprint, Vol. 13, p. 683.)
- 1934, No. 14—The Customs Acts Amendment Act 1934: Part VI. (1957 Reprint, Vol. 13, p. 683.)
- 1940, No. 6—The Finance Act 1940: Part III. (1957 Reprint, Vol. 13, p. 684.)
- 1942, No. 5—The Customs Acts Amendment Act 1942. (1957 Reprint, Vol. 13, p. 684.)
- 1942, No. 14—The Finance Act (No. 2) 1942, No. 14: Section 5. (1957 Reprint, Vol. 13, p. 687.)
- 1946, No. 21—The Customs Acts Amendment Act 1946. (1947 Reprint, Vol. 13, p. 688.)
- 1947, No. 29—The Customs Acts Amendment Act 1947: Part IV and the Sixth Schedule. (1957 Reprint, Vol. 13, p. 688.)
- 1950, No. 93—The Finance Act 1950: Section 19 and the First Schedule. (1957 Reprint, Vol. 13, p. 690.)
- 1951, No. 71—The Customs Acts Amendment Act 1951. (1957 Reprint, Vol. 13, p. 691.)
- 1953, No. 57—The Customs Acts Amendment Act 1953. (1957 Reprint, Vol. 13, p. 691.)
- 1954, No. 90—The Customs Acts Amendment Act 1954: Section 18 and the Second Schedule (1957 Reprint, Vol. 13, p. 692.)
- 1955, No. 103—The Finance Act (No. 2) 1955: Section 3, the First Schedule, and the Second Schedule. (1957 Reprint, Vol. 13, p. 692.)
- 1958, No. 33—The Customs Acts Amendment Act 1958: Part IV, the Third Schedule, and the Fourth Schedule.
- 1960, No. 27—The Customs Acts Amendment Act 1960: Part III, the Ninth Schedule, and the Tenth Schedule.
- 1963, No. 37—The Customs Acts Amendment Act 1963.
- 1966, No. 19—The Customs Act 1966: So much of the Sixth Schedule as relates to the Customs Acts Amendment Act 1934.
- 1967, No. 2—The Customs Acts Amendment Act 1967, No. 2: Part III, the Third Schedule, the Fourth Schedule, and the Fifth Schedule.
- 1968, No. 41—The Sales Tax Amendment Act 1968, No. 41.
- 1968, No. 142—The Customs Acts Amendment Act 1968, No. 142.
- 1970, No. 28—The Customs Acts Amendment Act 1970, No. 28: Part II.
- 1971, No. 42—The Customs Amendment Act 1971: So much of the Second Schedule as relates to the Customs Acts Amendment Act 1934.