



LAWS OF SARAWAK

REPRINT

Chapter 25

STATE SALES TAX ORDINANCE, 1998

Incorporating all amendments up to 31st December, 2006

PREPARED AND PUBLISHED BY
THE COMMISSIONER OF LAW REVISION, SARAWAK
UNDER THE AUTHORITY OF THE REVISION OF LAWS ORDINANCE, 1992
2007

STATE SALES TAX ORDINANCE, 1998

Date Passed by Dewan Undangan Negeri	5th May, 1998
Date of Assent	15th May, 1998
Date of Publication in <i>Gazette</i>	28th May, 1998

Sarawak Lawnet

LAWS OF SARAWAK
Chapter 25
STATE SALES TAX ORDINANCE, 1998

ARRANGEMENT OF SECTIONS

PART I
PRELIMINARY

Section

1. Short title and commencement
2. Interpretation

PART II
ADMINISTRATION

3. Appointment of Comptroller, Deputy Comptroller and Assistant Comptrollers
4. Delegation of powers by Comptroller
5. Power of Minister to give directions
6. Official secrecy

PART III
IMPOSITION OF STATE SALES TAX

7. State sales tax
8. Liability for State sales tax
9. Taxable person
10. Registration
11. Time of sale
12. Further provisions relating to time of sale

PART IV

RATES OF STATE SALES TAX AND SALE VALUE

Section

13. Power of Majlis Mesyuarat Kerajaan Negeri to fix rates of State sales tax, *etc.*
14. Computation of State sales tax
15. Determination of sale value

PART V

ACCOUNTING AND ASSESSMENTS

16. Duty to keep records
17. Accounting for and payment of State sales tax
18. Computer service
19. Production of tax invoices by computer
20. Giving of receipts
21. Power of Comptroller to assess State sales tax due
22. Comptroller may disregard certain transactions and dispositions
23. Assessment of tax surcharge
24. Furnishing of returns
25. Assessment
26. Security for payment of State sales tax
27. State sales tax recoverable as a civil debt
28. Penalty for late payment
29. Joint and several liability of persons

PART VI

INSPECTION, SEARCH, SEIZURE, ARREST
AND PROSECUTION

30. Persons bound to give information
31. Comptroller may take samples
32. Access to places or premises

Section

33. Magistrate may issue search warrant
34. When search may be made without warrant
35. Seizure of taxable goods the subject of an offence
36. Release of vehicle, vessel or aircraft under bond
37. Powers of arrest
38. Offences by corporate bodies
39. Who may prosecute

PART VII

PROVISIONS AS TO TRIALS AND PROCEEDINGS

40. Magistrate's court to have full jurisdiction
41. Proportional examination or testing of goods seized to be accepted by court
42. Evidence of analysis may be given in writing
43. Manner of seizure not to be inquired into on trial before court or on appeal to High Court
44. Protection of informers from discovery
45. Goods liable to seizure liable to forfeiture
46. Court to order disposal of goods seized
47. Goods seized in respect of which there is no prosecution deemed to be forfeited if not claimed within three months
48. Comptroller may order return of goods seized
49. Compounding of offences
50. Burden of proof
51. Conviction under any other written law
52. No costs or damages arising from seizure to be recoverable unless seizure without reasonable cause

PART VIII

MISCELLANEOUS

53. Service of notices
54. Taxable person to furnish audit certificate

Section

55. Rewards
56. Forms to be used
57. Disputes and appeals
58. Liquidator of company to give notice of winding-up, and set aside State sales tax
59. Appointment of receiver to be notified to the Comptroller
60. Exemption
61. Remission
62. Regulations

Sarawak LawNet

LAWS OF SARAWAK

Chapter 25

STATE SALES TAX ORDINANCE, 1998

An Ordinance for the imposition, assessment and collection of State sales taxes and all matters incidental thereto.

[1st September, 1998]
*(Swk. L.N. 75/98)**

Enacted by the Legislature of Sarawak—

PART I
PRELIMINARY

Short title and commencement

1. This Ordinance may be cited as the State Sales Tax Ordinance, 1998, and shall come into force on such date as the Minister may, by notification in the *Gazette**, appoint.

Interpretation

2. In this Ordinance—

“authorized officer” means any person acting under the authority or direction of the Comptroller;

“business” includes any trade, commerce, profession, manufacture, production or cultivation, or any concern in the nature of trade, commerce, profession, manufacture, production or cultivation;

“calendar month” means a month reckoned according to the Gregorian calendar;

“company” means a company as defined in the Companies Act 1965 [*Act 125*], and includes a body corporate established by or under federal or State law and any body which the Minister may by order declare to be a company;

“Comptroller” means the Comptroller of State Sales Tax who shall be the person for the time being holding the office of Accountant-General in the Government or any person appointed by the Majlis Mesyuarat Kerajaan Negeri to be the Comptroller under section 3(1), and includes a Deputy Comptroller;

“computer” shall have the same meaning as assigned to that expression in the Evidence Act 1950 [*Act 56*];

“document” shall have the same meaning as assigned to that expression in the Evidence Act 1950 [*Act 56*], and includes a lottery ticket;

“goods” means all kinds of movable property, and includes any chose in action and any lottery ticket or document which entitles the holder thereof to any prize, winnings or consideration for money or money’s worth on the happening of any event or contingency connected with any public lottery;

“Government” means the Government of the State of Sarawak;

“invoice” includes any bill, delivery order, voucher and any other document similar to any invoice;

“lottery” and “lottery ticket” shall have the same meanings assigned to those expressions in the Common Gaming Houses Act 1953 [*Act 289*];

“Minister” means the Minister in the Government having responsibility for financial affairs of the State;

“prescribed accounting period” means the period referred to in section 24(2) in respect of submission of returns and assessment of State sales tax imposed and payable during that period;

“sale” means the sale and disposal of taxable goods and the supply of taxable services, and, in relation to goods, includes—

(a) the disposal of taxable goods with the right of purchase or on terms providing that the seller retains interest in such taxable goods;

(b) the delivery of taxable goods under any condition as to future payment;

(c) the export of taxable goods for sale or delivery to any person outside the State except for the personal use of the person exporting the same;

(d) the distribution, selling or supply of any taxable goods imported or conveyed into the State for re-sale, retail or re-distribution; and

(e) transactions, in whatever form, involving betting, sweepstakes, lotteries or gaming,

and “to sell” has a corresponding meaning;

“State” means the State of Sarawak;

“State financial authority” shall have the same meaning assigned to that expression in the Financial Procedure Act 1957 [**Act 61**];

“State sales tax” means a tax payable under this Ordinance on the sale of taxable goods and supply of taxable services within the State;

“supply”, in relation to taxable services, means sale, and includes all forms of taxable services rendered or provided, but not anything done otherwise than for a consideration;

“taxable goods” means goods of any kind or description which is subject to State sales tax imposed by this Ordinance or not exempted from such State sales tax, and “taxable services” shall have a corresponding meaning;

“taxable person” means any person who is involved in or undertakes the sale of taxable goods or the supply of taxable services.

PART II ADMINISTRATION

Appointment of Comptroller, Deputy Comptroller and Assistant Comptrollers

3.—(1) The Majlis Mesyuarat Kerajaan Negeri may, by notification in the *Gazette*, appoint any person to be the Comptroller of State Sales Tax who shall be responsible generally for the carrying out of the provisions of this Ordinance and for the collection of the State sales tax.

(2) For the due administration of this Ordinance, and for the purposes of assisting the Comptroller in the discharge of his functions and duties, the Majlis Mesyuarat Kerajaan Negeri may, by notification in the *Gazette*, appoint a Deputy Comptroller and such number of Assistant Comptrollers as may be necessary.

Delegation of powers by Comptroller

4. The Comptroller may, subject to such conditions and restrictions as he thinks fit, delegate to the Deputy Comptroller and the Assistant Comptrollers appointed under section 3(2) any of the powers, functions and responsibilities vested in him by this Ordinance.

Power of Minister to give directions

5. The Minister may, from time to time, give to the Comptroller directions not inconsistent with the provisions of this Ordinance, and the Comptroller shall give effect to all such directions.

Official secrecy

6.—(1) Every person having any official duty or being employed in the administration of this Ordinance shall regard and deal with all documents, information, returns and assessments relating to the business, the value of sale of any goods and services, or the

income of any taxable person as secret and confidential, and may be required by the Minister to make and subscribe a declaration to that effect in the form determined by the Minister before the Comptroller or a Magistrate.

(2) Subject to subsections (4) and (5), every person having possession or control over any documents, information, returns or assessments in relation to the business, the sale of any taxable goods or taxable services or the income of any taxable person, who at any time otherwise than for the purpose of this Ordinance or with the express authority of the Minister—

(a) communicates or attempts to communicate such information or anything contained in such documents, returns or copies to any person; or

(b) suffers or permits any person to have access to any such information or to anything contained in such documents, returns or copies,

shall be guilty of an offence.

(3) No person appointed under, or who is employed in carrying out, the provisions of this Ordinance or who is referred to in subsection (4) or (5) shall be required to produce in any court any return, document or assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Ordinance except as may be necessary for the purpose of carrying into effect the provisions of this Ordinance or in the course of a prosecution for any offence committed under this Ordinance.

(4) The Comptroller shall permit the Minister, the Auditor General or any officer duly authorized in that behalf by the State financial authority to have such access to any record or document as may be necessary for the performance of his official duties.

(5) The Comptroller may transmit or communicate any documents, information, returns or assessments referred to in subsection (2) to a public officer if such transmission or communication is required or authorized under any written law.

PART III
IMPOSITION OF STATE SALES TAX

State sales tax

7.—(1) A tax to be known as State sales tax shall be charged and collected in accordance with the provisions of this Ordinance on the sale of taxable goods and supply of taxable services in the State in the course or furtherance of any business, irrespective of whether or not such taxable goods were made, produced or manufactured in the State.

(2) The revenue derived from the imposition of this State sales tax shall be revenue assigned to the State by virtue of Part V of the Tenth Schedule to the Federal Constitution and such revenue shall be paid and credited to the State Consolidated Fund.

Liability for State sales tax

8. State sales tax on any sale of taxable goods or taxable services is a liability of the person making the sale and (subject to provisions on accounting and payment) becomes due at the time of sale.

Taxable person

9. Any person who is liable for the State sales tax shall, for the purposes of this Ordinance, be a taxable person.

Registration

10.—(1) Any person who sells any taxable goods or taxable services and is a taxable person by virtue of section 9 must register himself with the Comptroller in accordance with any regulations made under section 62.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence: Penalty, a fine of twenty thousand ringgit and, in the case of a continuing offence, a further fine of two thousand ringgit for each day during which the offence continues.

Time of sale

11.—(1) Subject to section 12, a sale of taxable goods shall be treated as taking place—

(a) if the taxable goods are to be removed, at the time of the sale;

(b) if the taxable goods are not to be removed, at the time when they are made available to the person to whom they are supplied;

(c) if the taxable goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a sale will take place, at the time when it becomes certain that the sale has taken place or twelve months after the removal, whichever is the earlier;

(d) in respect of taxable goods produced or manufactured in the State for export, the sale thereof shall be deemed to take place in the State, at the time when—

(i) the contract for the sale of such taxable goods is concluded or signed between the parties thereto irrespective of whether the contract is entered into in the State or not; or

(ii) the delivery of the taxable goods or performance of the contract takes place; or

(iii) such taxable goods are conveyed or shipped out of the State,

whichever is the earlier, unless regulations made under section 12(7) prescribe a different time for the sale of any particular type or class of such taxable goods.

(2) Subject to section 12, a sale or supply of taxable services shall be treated as taking place at the time when the services are performed or rendered.

Further provisions relating to time of sale

12.—(1) If, before the time applicable under section 11(1) or (2), the person making the sale issues a tax invoice in respect of it or if, before the time applicable under section 11(1)(a) or (b) or section 11(2), he receives a payment in respect of it, the sale shall, to the extent covered by the invoice or payment, be treated as taking place at the time the invoice is issued or the payment is received, as the case may be, whichever is the earlier.

(2) If, within fourteen days after the time applicable under section 11(1) or (2), the person making the sale issues a tax invoice in respect of it, then, unless he has notified the Comptroller in writing that he elects not to avail himself of this subsection, the sale shall (to the extent that it is not treated as taking place at the time mentioned in subsection (1)) be treated as taking place at the time the invoice is issued.

(3) The Comptroller may, at the request of a taxable person, direct that subsection (2) shall apply in relation to sales made by him (or such sales made by him as may be specified in the direction) as if for the period of fourteen days there were substituted such longer period as may be specified in this direction.

(4) Where a taxable person provides a document to himself which—

(a) purports to be a tax invoice in respect of a sale to himself or a company belonging to or controlled by him, by another taxable person; and

(b) is in accordance with regulations made under section 17 and the Comptroller has approved that it be treated as the tax invoice required by the regulations to be provided by the seller,

subsections (2) and (3) shall have effect in relation to that sale as if—

(i) the provisions of the document to himself by the first-mentioned taxable person were issued by the seller or supplier of a tax invoice in respect of the sale; and

(ii) any notice of election given or request made by the first-mentioned taxable person for the purposes of those provisions had been given or made by the seller.

(5) The Comptroller may, at the request of a taxable person, by direction in writing, alter the time at which sales made by him (or such sales made by him as may be specified in the direction) are to be treated as taking place, either—

(a) by directing that those sales are to be treated as taking place—

(i) at times or on dates determined by or by reference to the occurrence of some event described in the direction; or

(ii) at times or on dates determined by or by reference to the time when some event so described would in the ordinary course of events occur,

the resulting times or dates being in every case earlier than would otherwise apply; or

(b) by directing that, notwithstanding subsections (2) and (3), those sales shall (to the extent that they are not treated as taking place at the time mentioned in subsection (1)) be treated as taking place—

(i) at the beginning of the relevant working period (as defined in his case in and for the purposes of the direction); or

(ii) at the end of the relevant working period (as so defined).

(6) Where there is a sale of taxable goods by virtue only of a transfer or disposal of assets, the sale is treated as taking place when the taxable goods are transferred or disposed of.

(7) The Majlis Mesyuarat Kerajaan Negeri may, by regulations, make provision with respect to the time at which (notwithstanding subsections (1) to (3), (6) and (7) and section 11) a sale is to be treated as taking place in cases where—

(a) it is a sale of taxable goods or taxable services for a consideration the whole or part of which is determined or payable periodically, or from time to time, or at the end of any period;

(b) it is a sale of taxable goods for a consideration the whole or part of which is determined at the time when the taxable goods are appropriated for any purpose;

(c) the taxable goods are imported or conveyed into the State for the purposes of sale, supply, retail or re-distribution to persons, within the State,

and for any such case the regulations may provide for taxable goods or taxable services to be treated as separately and successively sold or supplied at prescribed times or intervals.

(8) In this section, “tax invoice” means such an invoice as is required under section 16(1)(c) or (d), or would be so required if the person to whom the sale is made were a taxable person.

PART IV

RATES OF STATE SALES TAX AND SALE VALUE

Power of Majlis Mesyuarat Kerajaan Negeri to fix rates of State sales tax, etc.

13.—(1) The Majlis Mesyuarat Kerajaan Negeri may, from time to time, by order in the *Gazette*, specify the taxable goods or taxable services and the rates of State sales tax to be levied under this Ordinance on each item or class of such taxable goods or taxable services.

(2) Any order made under subsection (1) shall, at the next meeting of the Dewan Undangan Negeri following the making thereof, be laid on the table of the Dewan Undangan Negeri and shall remain in force unless the Dewan Undangan Negeri by resolution revokes the same.

(3) The Majlis Mesyuarat Kerajaan Negeri may, at any time, revoke the order made under subsection (1), and may, by order in the *Gazette*, amend or vary the same.

(4) Any order to amend or vary the order made under subsection (1) shall be tabled in the Dewan Undangan Negeri in the manner provided in subsection (2).

Computation of State sales tax

14. Subject to this Ordinance, the State sales tax shall be levied on the sale value of taxable goods or taxable services at the rate in force at the time when the State sales tax is due.

Determination of sale value

15. For the purposes of this Ordinance, the sale value of taxable goods shall be—

(a) in the case of taxable goods sold by a taxable person to a person independent of him, the price for which the taxable goods are actually sold;

(b) in the case of taxable goods sold otherwise by a taxable person, the price at which such taxable goods would have been sold if they have been sold in the course or furtherance of business to a person independent of the taxable person;

(c) in the case of a document, the price of that document as stipulated thereon;

(d) in the case of taxable goods sold to a person outside the State, or to be exported, the price of the taxable goods as stated in the contract or invoice for the sale thereof or as determined in accordance with regulations made under section 62; and

(e) in the case of taxable goods imported or conveyed into the State, the price of the taxable goods distributed or sold or supplied to any person in the State for retail, re-sale or re-distribution or the price determined in accordance with regulations made under section 62.

PART V
ACCOUNTING AND ASSESSMENTS

Duty to keep records

16.—(1) Every taxable person shall keep the following records:

- (a) his business and accounting records;
- (b) his accounts as required by regulations made under section 17;
- (c) copies of all tax invoices and receipts issued by him;
- (d) tax invoices received by him;
- (e) documentation relating to importations and exportations by him;
- (f) all credit notes, debit notes or other documents which evidence an increase or decrease in consideration that are received, and copies of all such documents issued by him; and
- (g) such other records as may be prescribed.

(2) Any records kept in pursuance of this section are to be preserved for a period of not less than seven years.

(3) The duty under this section to preserve records may be discharged by the preservation of the information contained therein by such means as the Comptroller may approve; and where that information is so preserved a copy of any document forming part of the records shall, subject to subsections (4) and (5), be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

(4) The Comptroller may, as a condition of approving under subsection (3) any means of preserving information contained in any records, impose such reasonable requirements as appear to him necessary for securing that the information will be as readily available to him as if the records themselves had been preserved.

(5) A statement contained in a document produced by a computer shall not by virtue of subsection (3) be admissible in evidence in civil or criminal proceedings except in accordance with sections 90A and 90B of the Evidence Act 1950 [*Act 56*].

Accounting for and payment of State sales tax

17.—(1) The Majlis Mesyuarat Kerajaan Negeri may make regulations to require the keeping of accounts and the making of returns in such form and manner as may be specified in the regulations and may require taxable persons selling taxable goods or taxable services to other taxable persons to provide them with invoices (referred to in this section as “tax invoices”) containing statements of such particulars as may be so specified including but not limited to particulars of the sale, the State sales tax chargeable on it and the persons by and to whom the taxable goods or taxable services are supplied.

(2) Regulations made under this section may, where they require a tax invoice to be provided in connection with any description of sale, require it to be provided within a prescribed time after the sale is treated as taking place, and may allow for that time to be extended in accordance with general or special directions given by the Comptroller.

(3) Regulations made under this section may make special provisions for such sale by wholesalers or retailers of any taxable goods or of any description of taxable goods or of taxable services or any description of taxable services as may be determined by or under the regulations and, in particular—

(a) for permitting the value which is to be taken as the value of the sales in any prescribed accounting period or part thereof to be determined, subject to any limitations or restrictions, by such method or one of such methods as may have been described in any notice in writing issued by the Comptroller in

pursuance of the regulations and not withdrawn by a further notice in writing or as may be agreed with the Comptroller;

(b) for determining the proportion of the value of the sales which is to be attributed to any description of sales; and

(c) for adjusting that value and proportion for periods comprising two or more prescribed accounting periods or parts thereof.

(4) Regulations made under this section may make provision

(a) for the keeping of accounts in electronic form in a computer, for the making and submission of returns in accordance with section 24(1) by electronic transmission and for the verification of such returns and the making of declarations by such electronic means;

(b) for treating State sales tax chargeable in one prescribed accounting period as chargeable in another such period;

(c) with respect to the making of entries in accounts for the purpose of making adjustments, whether for the correction of errors or otherwise;

(d) for the correction of errors including errors in electronic transmission and messages;

(e) for requiring that State sales tax on the sale of taxable goods or taxable services to a person other than a taxable person be included in the price or other consideration for the supply quoted, advertised or published unless exempted under such regulations and subject to such conditions as the Comptroller may impose; and

(f) for requiring taxable persons to display or indicate such information relating to the price of taxable goods or taxable services, or the State sales tax chargeable and in such manner as may be provided in such regulations.

(5) Regulations made under this section may make different provisions for different circumstances and may provide for different dates as the commencement of prescribed accounting periods applicable to different persons.

Computer service

18.—(1) The Comptroller may establish a computer service and make provision for any return, declaration, direction, notice, receipt or other document required or authorized by this Ordinance or any regulations made thereunder to be served or submitted by electronic transmission (referred to in this section as an “electronic notice”) to the computer account of the Comptroller or a person who has been assigned an identifying code or password by the Comptroller (referred to in this section as a “registered user”).

(2) A registered user may, in accordance with the regulations made under subsection (7), make and serve an electronic notice by electronic transmission to the computer account of the Comptroller without the delivery of any document.

(3) The Comptroller or any person authorized by him may, in accordance with the regulations made under subsection (7), make and serve an electronic notice by electronic transmission to the computer account of a registered user without the delivery of any document.

(4) Where an electronic notice is served by electronic transmission to the computer account of the Comptroller using the identifying code or password of a registered user—

(a) without the authority of the registered user; and

(b) before notification to the Comptroller by the registered user in the prescribed manner of cancellation of the code or password,

that notice shall, for the purposes of this Ordinance or any regulations made thereunder, be presumed to be made by the registered user unless he is able to adduce evidence or proof to the contrary.

(5) In any proceedings under this Ordinance or any regulations made thereunder, a document certified by the Comptroller and purporting to be a computer print-out of all or any information transmitted by electronic means in accordance with this section shall be sufficient evidence of the information electronically transmitted.

(6) The Comptroller may, for the purpose of facilitating any electronic transmission under this section, approve the use in any such electronic transmission of symbols, abbreviations or other notations to represent any particulars or information required under this Ordinance or any regulations made thereunder.

(7) The Majlis Mesyuarat Kerajaan Negeri may make regulations—

(a) prescribing the terms and conditions or where appropriate, the fees for subscription to the computer service, including the manner in which identifying codes or passwords are to be assigned;

(b) prescribing the returns, declarations, notices, directions, receipts or other documents that may be electronically transmitted under the computer service;

(c) for the correction of errors in or amendments to electronic notices;

(d) prescribing the procedure for use of the computer service; and

(e) generally for the better provision of the computer service.

Production of tax invoices by computer

19.—(1) For the purposes of any provision contained in or having effect under this Ordinance which relates to tax invoices, a person shall be treated as issuing, or as providing another person with, a tax invoice if the requisite particulars are recorded in a computer and transmitted by electronic means and without the delivery of any document.

(2) Any provision in this Ordinance or any regulations made thereunder relating to tax invoices shall be treated as complied with by the production by means of a computer of any material other than a document in writing, by delivering any such material so produced or by making any such transmission as is mentioned in subsection (1) where the person producing or delivering the material or making the transmission and, in the case of delivered material or a transmission, the person receiving it—

(a) has obtained the Comptroller's approval in writing to produce or deliver such material or make such transmissions or, as the case may be, receive such material or transmissions; and

(b) complies with such requirements as may be specified in regulations or as the Comptroller may from time to time impose in his case.

Giving of receipts

20.—(1) Every taxable person shall issue a serially printed receipt for all consideration in money received in respect of every sale (except for a sale in respect of which a tax invoice has been issued) and shall retain a duplicate of each receipt except that where a computer or other machine is used for recording sales, receipts may be dispensed with if the Comptroller is satisfied that such computer or machine substantially records accurately all moneys received in respect of such sale.

(2) The Comptroller or any authorized officer may direct any taxable person to issue and retain the receipts and their duplicates referred to in subsection (1) in the form and manner approved by the Comptroller or an authorized officer, as the case may be.

(3) The Comptroller may waive all or any of the provisions of subsection (1) in respect of any taxable person.

(4) Any person who contravenes or fails to comply with this section or any direction issued pursuant to this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit, and, in the case of a continuing offence, to a

further fine of two hundred and fifty ringgit for each day during which the offence continues.

Power of Comptroller to assess State sales tax due

21.—(1) Where a person has failed to make any returns required under this Ordinance or to keep any documents and afford the facilities necessary to verify such returns or where it appears to the Comptroller that such returns are incomplete or incorrect, the Comptroller may to the best of his judgment assess the amount of State sales tax due from that person and notify him of it.

(2) Where the person failing to make a return, or making a return which appears to the Comptroller to be incomplete or incorrect, was required to make the return as a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity in relation to another person, subsection (1) shall apply as if the reference to State sales tax due from him included a reference to a State sales tax due from that other person.

(3) An assessment under subsection (1) of an amount of State sales tax due for any prescribed accounting period shall not be made after the later of the following:

(a) two years after the end of the prescribed accounting period; or

(b) one year after evidence of facts, sufficient in the opinion of the Comptroller to justify the making of the assessment, comes to his knowledge,

but may, where further such evidence comes to his knowledge after the making of such assessment, make another assessment in addition to that assessment.

(4) Where a taxable person has acquired or imported any taxable goods in the course or furtherance of any business carried on by him, the Comptroller may require him from time to time to account for the taxable goods; and if he fails to prove that the taxable goods have been or are available to be supplied by him or have been exported from the State otherwise than by way of sale or have been lost or destroyed, the Comptroller may assess to the best of his

judgment and notify the taxable person of the amount of State sales tax that would have been chargeable in respect of the sale of the taxable goods if they had been sold by him.

(5) In any case where—

(a) as a result of a person's failure to make a return for a prescribed accounting period, the Comptroller has made an assessment under subsection (1) for that period;

(b) the State sales tax assessed has been paid but no proper return has been made for the period to which the assessment relates; and

(c) as a result of a failure to make a return for a later prescribed accounting period, being a failure by the person referred to in paragraph (a) or a person acting in a representative capacity in relation to him, as mentioned in subsection (4), the Comptroller finds it necessary to make another assessment under subsection (1),

then, if the Comptroller thinks fit, having regard to the failure referred to in paragraph (a), he may specify in the assessment referred to in paragraph (c) an amount of State sales tax greater than that which he would otherwise have considered to be appropriate.

(6) Where it appears to the Comptroller that the amount which ought to have been assessed in an assessment under this section exceeds the amount which was so assessed, the Comptroller may—

(a) under the same provision as that assessment was made; and

(b) within the period during which that assessment could have been made,

make a supplementary assessment of the amount of the excess and shall notify the person accordingly.

(7) Where an amount has been assessed and notified to any person under subsection (1), (2), (4) or (6), it shall, subject to the provisions of this Ordinance as to review and appeals, be deemed to be an amount of State sales tax due from him and may be recovered

accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

(8) The Comptroller may at any time make all such alterations in or additions to an assessment made under this section as he thinks necessary to ensure the correctness thereof and notify the person accordingly.

(9) For the purposes of this section, notification to a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting as aforesaid shall be treated as notification to the person in relation to whom he so acts.

Comptroller may disregard certain transactions and dispositions

22.—(1) Where the Comptroller is satisfied that the purpose or effect of any arrangement is directly or indirectly—

(a) to alter the incidence or postpone the time due of any State sales tax which is payable by or which would otherwise have been payable by any person;

(b) to relieve any person from any liability to pay State sales tax or to make a return under this Ordinance; or

(c) to reduce or avoid any liability imposed or which would otherwise have been imposed on any person by this Ordinance,

the Comptroller may, without prejudice to such validity as it may have in any other respect or for any other purpose, disregard or vary the arrangement and make such adjustments as he considers appropriate so as to counteract any tax advantage obtained or obtainable by that person from or under that arrangement.

(2) Without prejudice to the generality of subsection (1), the Comptroller may, for the purposes of this section, deem—

(a) any person (not being, apart from this section, a taxable person) who is a party to or has participated in any way in any arrangement, to be a taxable person;

(b) any sale of taxable goods or taxable services, that is affected by or is part of any arrangement, to be both made to and made by any taxable person or a person deemed to be a taxable person under paragraph (a);

(c) any sale of taxable goods or taxable services to take place in any prescribed accounting period that, but for any arrangement affected by this section, would have been the prescribed accounting period in which the sale was made;

(d) any sale of taxable goods or taxable services to have been made, or consideration for such sale to be given, at open market value.

(3) In this section—

“arrangement” means any agreement, contract, plan, understanding, scheme, trust, grant, covenant, disposition, transaction, and includes all steps by which it is carried into effect;

“tax advantage” includes—

(a) any reduction in the liability of any person to pay State sales tax;

(b) any increase in the entitlement of a person to a credit or refund of State sales tax;

(c) any reduction in the total consideration payable by any person in respect of any sale of taxable goods or taxable services; or

(d) any postponement of the time when State sales tax is due or payable.

(4) This section shall not apply to any arrangement carried out for *bona fide* commercial reasons and had not as one of its main purposes the avoidance or reduction of State sales tax or the obtaining of any tax advantage.

Assessment of tax surcharge

23.—(1) Where the Comptroller is satisfied that any person has wilfully with intent to evade or to assist any other person to evade State sales tax—

(a) omitted from a return made under this Ordinance any State sales tax which should be included;

(b) made any false statement or entry in any return made under this Ordinance;

(c) given any false answer, whether verbally or in writing, to any question or request for information asked or made in accordance with the provisions of this Ordinance;

(d) prepared or maintained or authorized the preparation or maintenance of any false books of account or other records or falsified or authorized the falsification of any books of account or records; or

(e) made use of any fraud, art or contrivance whatsoever or authorized the use of any such fraud, art or contrivance,

the Comptroller may to the best of his judgment assess by way of penalty for that offence a surcharge (referred to in this section as the “tax surcharge”) not exceeding ten times the amount of State sales tax which has or would have been undercharged in consequence of the offence or which would have been undercharged if the offence had not been detected, and may notify the person accordingly.

(2) Where an amount has been assessed and notified to any person under subsection (1), it shall, subject to the provisions of this Ordinance as to review and appeals, be deemed to be an amount of State sales tax due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

(3) For the purposes of this section, notification to a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting as aforesaid shall be treated as notification to the person in relation to whom he so acts.

(4) The assessment or recovery of tax surcharge in respect of any offence shall not be in any manner barred or affected by the fact that the person referred to in subsection (1) has been convicted under this Ordinance of the same or any other offence, but no proceedings shall be taken in respect of any offence against a person who has paid the tax surcharge assessed against him for that same offence.

Furnishing of returns

24.—(1) Subject to any regulations made hereunder, every taxable person shall within twenty-eight days of the prescribed accounting period deliver to the Comptroller a return in the prescribed form setting forth the aggregate amount of the sale value of all taxable goods or taxable services sold by him during that period, the amount of State sales tax payable on these taxable goods or taxable services, and such other particulars as may be prescribed or as may be required by the Comptroller; and the return shall be verified by declaration in the prescribed form.

(2) Unless otherwise provided by regulations made hereunder, the prescribed accounting period shall be three calendar months.

Assessment

25.—(1) Any return furnished pursuant to section 24 shall be acceptable by the Comptroller as sufficient proof of the matters therein contained, and State sales tax may be assessed by the Comptroller accordingly.

(2) When the State sales tax is assessed, to be due for payment by the taxable person, a notice of assessment shall be sent to him by or on behalf of the Comptroller and the amount assessed shall be remitted or paid to the Comptroller within thirty days from the date of notice of assessment.

Security for payment of State sales tax

26.—(1) The Comptroller may, if he has reasonable grounds to believe that a taxable person is attempting to evade payment of any State sales tax, tax surcharge or penalty for which he is liable, order, at

any time, either before or after the making of assessment under section 25, the taxable person to furnish security, acceptable to the Comptroller for the payment of such State sales tax, surcharge or penalty.

(2) Where the taxable person against whom the order is made fails or neglects to comply with the same within the time stipulated therein, the Comptroller may apply to a Judge of the High Court, by way of Originating Summons for an order to attach the properties, movable or immovable of the taxable person.

(3) The Judge making the order for attachment may give directions for the sale or disposal by public auction or otherwise of the properties attached.

State sales tax recoverable as a civil debt

27.—(1) Without prejudice to any other legal remedy, any State sales tax due and payable or any tax surcharge or penalty accruing under this Ordinance may be recovered by the Government as a civil debt.

(2) In any proceedings before a court to recover State sales tax or tax surcharge or penalty, if any, under subsection (1), the production of a certificate signed by the Comptroller stating the amount due and payable by the taxable person shall be sufficient evidence of the amount owing by him as State sales tax or tax surcharge or penalty to the Government and sufficient authority for the court to enter judgment for that amount.

Penalty for late payment

28. Where any amount of State sales tax remains unpaid after the last day for payment thereof stipulated in section 25(2), a penalty equal to ten per centum of such unpaid sum shall thereupon be payable, and if the unpaid amount and penalty imposed thereon remains unpaid after one hundred and twenty days, a further penalty equivalent to fifty per centum of such unpaid amount and penalty, shall be imposed, and interest on the unpaid amount and penalty shall be charged at the rate of eight per centum per annum until date of full settlement thereof.

Joint and several liability of persons

29. Where a State sales tax liability has been incurred by—
- (a) a company; or
 - (b) a firm; or
 - (c) an association of persons,

then notwithstanding anything to the contrary in this Ordinance or in any other written law, the directors of such company including persons who were directors of such company during the period which such liability arises, or the partners of such firm, including any persons who are partners of such firm during such period, or the members of such association of persons, including members of such association during such period, as the case may be, shall together with the company, firm or association of persons, liable to pay the State sales tax, be jointly and severally liable for the State sales tax payable or owing to the Government.

PART VI

**INSPECTION, SEARCH, SEIZURE, ARREST
AND PROSECUTION**

Persons bound to give information

30.—(1) Every person having information about any matter into which it is the duty of the Comptroller or an authorized officer to inquire shall, upon being required by him to do so, give such information.

(2) Every person required by an authorized officer to produce a document or other thing which is within the power of such person to produce, and which is a document or thing required under this Ordinance or a document or thing used in any transaction or other matter relating to State sales tax or a document or thing into which it is the duty of an authorized officer to inquire under this Ordinance, shall produce such document or thing.

Comptroller may take samples

31.—(1) The Comptroller or any person specially authorized by him in writing may, at any time, if his duties so require, take samples of any goods to ascertain whether they are goods of a description liable to State sales tax, or to ascertain the State sales tax payable on such goods, or for such other purposes as he may deem necessary, and such samples may be disposed of in such manner as he may direct.

(2) No payment shall be made for any sample taken under subsection (1), but the Comptroller or the authorized person, as the case may be, shall give a receipt of any such sample.

(3) Samples taken pursuant to this section may be returned to the rightful owner thereof if so directed by the Comptroller or ordered by the court.

Access to places or premises

32.—(1) The Comptroller or an authorized officer shall for the purposes of this Ordinance at all times have access to any place or premises where a taxable person carries on his business or where the officer reasonably believes any taxable goods or documents relating thereto is kept or stored by him.

(2) Where the Comptroller or an authorized officer enters upon any place or premises in accordance with the provisions of this section, then—

(a) he may require the taxable person to produce any book, document or thing, which a taxable person is required to keep under the provisions of this Ordinance, or which relates to any taxable goods, as the case may be;

(b) he may examine any book, document or thing and take copies of any book or document;

(c) he may seize and detain any book, document or thing, if in his opinion it may afford evidence of the commission of any offence under this Ordinance;

(d) he may require any manufacturer or importer or any person employed by such person or importer to answer questions relating to any book, document or thing, or to any entry in any book or document, or to any taxable goods;

(e) he may require any container, envelope, or other receptacle, in any such premises to be opened;

(f) he may at the risk and expense of the manufacturer or importer, open and examine any package, or any goods or materials, in any such premises;

(g) he may take and retain without payment such samples of any goods or materials as he may think necessary for the performance of his duties.

(3) Where the Comptroller or an authorized officer acting under the provisions of this section is unable to obtain free access to any premises where a taxable person carries on his business or to any receptacle contained therein, he may, at any time, enter such premises, and open such receptacle, in such manner, if necessary by force, as he may think necessary.

(4) Where, on the entry upon any premises under the provisions of this section, any taxable goods are found in relation to which any offence under the provisions of this Ordinance has been committed, then such taxable goods shall be liable to forfeiture.

Magistrate may issue search warrant

33.—(1) Whenever it appears to any Magistrate, upon written information upon oath and after any inquiry which he may think necessary, that there is reasonable cause to believe that in any dwelling-house, shop or other building or place, or on board any vessel or any aircraft, there are concealed or deposited any taxable goods, books, documents or thing which may afford evidence of an offence against this Ordinance, such Magistrate may issue a warrant empowering any authorized officer named therein, at any time, and with or without assistance—

(a) to enter such dwelling-house, shop or other building, place, vessel or aircraft and there to search for and seize any such taxable goods, books, documents or things;

(b) to arrest any person or persons being in such dwelling-house, shop or other building, place, vessel or aircraft in whose possession such taxable goods are found or who may reasonably be suspected as having concealed or deposited such taxable goods.

(2) The officer authorized in accordance with subsection (1) may if it is necessary so to do—

(a) break open any outer or inner door of such dwelling-house, shop or other building, place, vessel or aircraft and enter every part thereof, if necessary forcibly;

(b) remove by force any obstruction to such entry to search or to seize as he is empowered to effect;

(c) detain every person found in such dwelling-house, shop or other building, place, vessel or aircraft until the search has been completed.

When search may be made without warrant

34. Whenever it appears to the Comptroller or an authorized officer or a police officer not below the rank of Inspector that there is reasonable cause to believe that in any dwelling-house, shop or other building, place, vessel or aircraft there are concealed or deposited any taxable goods, books, documents or things which may afford evidence of an offence against this Ordinance, and if he has reasonable grounds for believing that by reasons of the delay in obtaining a search warrant such taxable goods, books, documents or things are likely to be removed, he may exercise in, upon and in respect of such dwelling-house, shop or other building, place, vessel or aircraft, all the powers mentioned in section 33 in the same manner as if he were empowered so to do by a warrant issued under that section.

Seizure of taxable goods the subject of an offence

35.—(1) All taxable goods, books, documents or things in respect of which an authorized officer or a police officer not below the rank of Inspector has reasonable cause to suspect that there has been committed any offence against this Ordinance or any violation of any of the provisions of this Ordinance or of any condition subject to which any licence or permit has been granted under this Ordinance,

and any receptacle, package, vehicle, vessel not exceeding two hundred tons net registered tonnage, or aircraft in which such taxable goods may be found or which has been used in connection with such offence or violation, and any books or documents which may reasonably be believed to have a bearing on the case, may be seized by the authorized officer or police officer.

(2) Whenever any taxable goods, receptacle, package, vehicles, vessels or aircraft are seized under this Ordinance, the authorized officer or police officer shall forthwith give notice in writing of such seizure and the grounds thereof to the owner of such taxable goods, vehicles, vessels or aircraft, if known, either by delivering such notice to him personally or by post at his place of abode, if known:

Provided that such notice shall not be required to be given where such seizure is made on the person or in the presence of the offender or the owner or his agent or, in the case of a vessel or an aircraft, in the presence of the master or pilot thereof, as the case may be.

(3) The provisions of this section relating to the seizure of—

(a) any taxable goods shall apply to all the contents of any package or receptacle in which the same are found, and to any article used to conceal same;

(b) any vessel or aircraft shall apply also to the tackle, equipment and furnishings of such vessel or aircraft;

(c) any vehicle shall apply also to all equipment thereof.

(4) Any taxable goods of a perishable nature, or any animals seized under this section, may forthwith be sold and the proceeds of the sale held to abide the result of any prosecution or claim.

Release of vehicle, vessel or aircraft under bond

36. When any vehicle, vessel or aircraft has been seized under this Ordinance, the Comptroller may, at his discretion, temporarily return such vehicle, vessel or aircraft to its owner upon security being furnished to the satisfaction of the Comptroller that the vehicle, vessel or aircraft shall be surrendered to him upon demand.

Powers of arrest

37.—(1) The Comptroller or any authorized officer or a police officer may, without a warrant, arrest any person who is reasonably suspected of having committed an offence against this Ordinance, if such person refuses to give his name and address or gives a name and address which the Comptroller or the authorized officer or police officer believes to be false, or if the Comptroller or such authorized officer or police officer has reasonable grounds for believing that, unless such person is arrested, he may escape, or that an unreasonable amount of delay, trouble or expense in making him answerable to justice will ensue.

(2) Every officer making an arrest under this section shall without unnecessary delay, take or send the person arrested to the nearest police station, or to an officer empowered to compound the offence under this Ordinance.

Offences by corporate bodies

38.—(1) Where an offence against this Ordinance or any regulations made thereunder has been committed by a company, firm, society or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the company, firm, society or other body of persons or was purporting to act in such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where any person would be liable under this Ordinance to any punishment, penalty or forfeiture for any act, omission, neglect or default, he shall be liable to the same punishment, penalty or forfeiture for every such act, omission, neglect or default of any servant or agent, or of the servant of such agent provided that such act, omission, neglect or default was committed by such servant in the course of his employment or by such agent when acting on behalf of such person or by the servant of such agent when acting in the course of his

employment in such circumstances that had such act, omission, neglect or default been committed by the agent his principal would have been liable under this section.

Who may prosecute

39. Prosecution in respect of offences committed under this Ordinance or any regulations made thereunder may be conducted by the Public Prosecutor or any person authorized by him under section 377(b) of the Criminal Procedure Code [Act 593].

PART VII

PROVISIONS AS TO TRIALS AND PROCEEDINGS

Magistrate's court to have full jurisdiction

40. Notwithstanding the provisions of any written law to the contrary, a court of a Magistrate in the State shall have jurisdiction to try any offence under this Ordinance and to impose punishment under this Ordinance for any such offence.

Proportional examination or testing of goods seized to be accepted by court

41. When any goods suspected of being taxable goods or otherwise liable to seizure have been seized, it shall be sufficient to open, examine, and, if necessary, test the contents of ten per centum only of each description of package or receptacle in which such goods are contained, and the court shall presume, until the contrary is proved, that the goods contained in the unopened packages or receptacles are of the same nature, quantity and quality as those found in the similar packages or receptacles which have been opened.

Evidence of analysis may be given in writing

42.—(1) In any prosecution under this Ordinance, a certificate of analysis under the hand of an analyst shall, on production thereof by the prosecutor, be sufficient evidence of the facts stated therein unless the defendant requires that the analyst be called as a witness, in which case he shall give notice thereof to the prosecutor not less than ten days before the day on which the summons is returnable; and in like manner a certificate of analysis under the hand of an analyst shall, on production thereof by the defendant, be sufficient evidence of the facts stated therein, unless the prosecutor requires that the analyst be called as a witness.

(2) A copy of the certificate referred to in subsection (1) shall be sent to the defendant or the prosecutor, as the case may be, at least ten days before the day fixed for the hearing of the summons, and if it is not so sent the court may adjourn the hearing on such terms as it may think proper.

(3) In this section, “analyst” means—

- (a) a Chemist in the Department of Chemistry;
- (b) a Chemist in the Department of Agriculture;
- (c) a person employed as a Chemist, or a Geologist in the Geological Survey Department; and
- (d) any other person or class of persons who is or are declared by the Comptroller, by notification in the *Gazette*, to be an analyst or analysts for the purposes of this section.

(4) If an analyst is called by the defendant as provided by subsection (1), he shall be called at the expense of the defendant unless the court otherwise directs.

Manner of seizure not to be inquired into on trial before court or on appeal to High Court

43. On any trial before any court and in any proceedings on appeal in the High Court or any other appellate court, relating to the seizure of goods subject to forfeiture under this Ordinance, the court shall proceed to such trial or hear such appeal on the merits of the case only, without inquiring into the manner or form of making any seizure, except insofar as the manner and form of seizure may be evidence of such merits.

Protection of informers from discovery

44.—(1) Except as hereinafter provided, no witness in any civil or criminal proceedings under this Ordinance shall be obliged or permitted to disclose the name or address of an informer, or the substance of the information received from him, or state any matter which might lead to his discovery.

(2) Subject to subsection (3), if any books, documents or papers, which are produced in evidence or liable to inspection in any civil or criminal proceedings under this Ordinance, contain any entry in which any informer is named or described or which might lead to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated, but only to the extent necessary to protect the informer from discovery.

(3) If on trial for any offence under this Ordinance, the court, after full inquiry into the case, believes that the informer wilfully made in his complaint a material statement which he knew to be false or did not believe to be true, or if in any other proceedings the court is of the opinion that justice cannot fully be done between the parties thereto without the discovery of the informer, it shall be lawful for the court to require the production of the original complaint, if in writing, and permit inquiry and require full disclosure concerning the informer.

Goods liable to seizure liable to forfeiture

45.—(1) All goods liable to seizure under the provisions of this Ordinance shall be liable to forfeiture.

(2) For the purpose of this section and of sections 46, 47, 48, 49, 50 and 52, the word “goods” shall be deemed to include receptacles, conveyances, vessels and aircraft.

(3) All things forfeited shall be delivered to the Comptroller and shall be disposed of in accordance with his directions.

Court to order disposal of goods seized

46.—(1) An order for the forfeiture or for the release of anything liable to forfeiture under the provisions of this Ordinance shall be made by the court before which a prosecution with regard thereto has been held.

(2) An order for the forfeiture of goods shall be made if it is proved to the satisfaction of the court that an offence against this Ordinance has been committed and that the goods were the subject matter of, or were used in the commission of, the offence, notwithstanding that no person may have been convicted of such offence.

Goods seized in respect of which there is no prosecution deemed to be forfeited if not claimed within three months

47.—(1) Where no prosecution is initiated with regard to any goods seized under this Ordinance, such goods shall be deemed to be forfeited at the expiration of three calendar months from the date of seizure unless a claim thereto is made before that date in the manner hereinafter set forth.

(2) Any person asserting that he is the owner of such goods and that they are not liable to forfeiture may personally, or by his agent authorized in writing in that behalf, give written notice to an Assistant Comptroller that he claims the same.

(3) On receipt of such notice the Assistant Comptroller shall refer the claim to the Comptroller who may direct that such goods be released or may direct the Assistant Comptroller, by information in the prescribed form, to refer the matter to a Magistrate for his decision.

(4) The Magistrate shall issue a summons requiring the person asserting that he is the owner of the goods and the person from whom they were seized to appear before him, and upon their appearance or default to appear, due service of such summons being proved, the Magistrate shall proceed to the examination of the matter and on proof that an offence against this Ordinance has been committed and that such goods were the subject matter, or were used in the commission, of such offence shall order the same to be forfeited, or may in the absence of such proof order their release.

(5) In any proceedings under subsection (4), section 50 shall apply to the person asserting that he is the owner of the goods and to the person from whom they were seized as if such owner or person had been the defendant in a prosecution under this Ordinance.

Comptroller may order return of goods seized

48.—(1) The owner or any person having a beneficial interest in any goods seized may, before the expiration of three calendar months from the date of forfeiture of such goods, or from the date on which such goods shall be deemed to be forfeited, as the case may be, make application to the Comptroller for the return of such goods.

(2) Subsequent to any application made in accordance with subsection (1), the Comptroller may order any goods seized under this Ordinance, whether forfeited or not, to be delivered to the owner or any other person entitled thereto, upon such terms and conditions as he may deem fit.

Compounding of offences

49.—(1) The Comptroller or any person specially authorized by him may compound any offence, which is prescribed to be a compoundable offence, by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding one-half of the penalty prescribed by this Ordinance or regulations made thereunder for such offence.

(2) On payment of such sum of money the person reasonably suspected of having committed an offence, if in custody, shall be discharged, and any goods or things seized may be released on such terms and conditions as may be imposed by the Comptroller and no further proceedings shall be taken against such person, goods or things.

Burden of proof

50. If in any prosecution in respect of any goods seized for non-payment of State sales tax or for any cause of forfeiture or seizure or for the recovery of any penalty or penalties under this Ordinance, any dispute arises whether State sales tax has been paid in respect of such goods, or whether anything is exempt from State sales tax, or whether any forfeiture or seizure of goods is lawful, then and in every such case the burden of proof thereof shall lie on the defendant in such prosecution.

Conviction under any other written law

51. Nothing contained in this Ordinance shall prevent the prosecution, conviction and punishment of any person according to the provisions of any other written law for the time being in force in the Federation or in any part thereof:

Provided that no person shall be punished more than once for the same offence.

No costs or damages arising from seizure to be recoverable unless seizure without reasonable cause

52. No person shall, in any proceedings before any court in respect of the seizure of any goods seized in exercise or the purported exercise of any power conferred under this Ordinance, be entitled to the costs of such proceedings or to any damages or other relief other than an order for the return of such goods or the payment of their value unless such seizure was made without reasonable cause.

PART VIII
MISCELLANEOUS

Service of notices

53.—(1) Every notice or document required by this Ordinance to be served on any person may be served personally upon such person, or may be served by sending such notice or document to him by registered post at his usual or last place of abode, and in the latter case shall be deemed to have been served on him at the time at which it would have been delivered to him in the ordinary course of post.

(2) This section shall not apply to service by electronic transmission through computer service under section 18(1).

Taxable person to furnish audit certificate

54. The Comptroller may require a taxable person to submit annually an audit certificate, signed by an accountant not in the employment of that person, in relation to the books and records required to be kept by the taxable person under the provisions of this Ordinance in respect of the production and sale of taxable goods produced or manufactured by him.

Rewards

55. The Comptroller, in consultation with the State financial authority, may order such rewards as he may deem fit to be paid to any person for services rendered in connection with the detection of any offences against this Ordinance.

Forms to be used

56.—(1) Where any form has been prescribed under this Ordinance, no person shall, for the purposes of this Ordinance, use any form which is not printed or issued by the authority of the Comptroller:

Provided that the Comptroller may, at his discretion and subject to such conditions as he may deem fit to impose, permit any person to use forms which are not so printed or issued as aforesaid, or permit the use of any form submitted through an electronic data interchange.

(2) The Comptroller may impose such fees as he deems fit for the supply of any prescribed form.

Disputes and appeals

57.—(1) Where any person disputes the decision of an authorized officer acting in the course of duty, he may appeal therefrom to the Comptroller whose decision on such dispute shall, subject to subsection (2), be final.

(2) Any person aggrieved by a decision, other than a decision referred to in subsection (3), of the Comptroller may, within thirty days of being notified of such decision, appeal to the State financial authority whose decision thereon shall be final and not be subject to review in any court.

(3) Any taxable person who is aggrieved with a decision of the Comptroller regarding assessment of State sales tax under section 21 or 25(1), tax surcharge under section 23 and penalty for late payment under section 28 may within thirty days from the date of receipt of such decision appeal to a Board of Review, appointed by the Yang di-Pertua Negeri.

(4) The composition of the Board of Review and the procedure for the lodgement and hearing of appeals before it shall be governed by regulations made under section 62. Such regulations may also provide for appeal against the decisions of the Board of Review.

Liquidator of company to give notice of winding-up, and set aside State sales tax

58.—(1) Where after the passing of this Ordinance an effective resolution is passed or an order is made for the winding-up of a company which is a taxable person, the liquidator of the company shall give notice thereof to the Comptroller within fourteen days thereafter, and shall before disposing of any of the assets of the

company set aside such sum out of the assets as appears to the Comptroller to be sufficient to provide for any State sales tax that is or will thereafter become payable in respect of the company.

(2) A liquidator of any such company who fails to give notice to the Comptroller within the time specified in subsection (1) or fails to provide for payment of the State sales tax as required by that subsection shall be personally liable for any State sales tax that is or becomes payable as aforesaid.

(3) Where two 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 or severally, subject to a right of contribution between themselves as in cases of contract.

Appointment of receiver to be notified to the Comptroller

59.—(1) Where a receiver is appointed in respect of the property of a taxable person the receiver shall give notice thereof to the Comptroller within fourteen days thereafter, and shall before disposing of any of the assets of the taxable person set aside such sum out of the assets as appears to the Comptroller to be sufficient to provide for any State sales tax that will thereafter become payable in respect of the goods that have been sold or manufactured by the taxable person before the appointment of the receiver.

(2) A person appointed as receiver who fails to give notice to the Comptroller within the time specified in subsection (1) or fails to provide for payment of the State sales tax as required by that subsection shall be personally liable for any State sales tax that is or becomes payable as aforesaid.

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

Exemption

60. The Minister may by order exempt, subject to such conditions as he may deem fit to impose, any taxable goods or class of taxable goods from the whole or any part of the State sales tax, or any person or class of persons from payment of the whole or any part of the State sales tax, which otherwise would have been payable under this Ordinance.

Remission

61. The Minister may by order remit, if he thinks it just and equitable to do so, and, subject to such conditions as he may deem fit to impose, the whole or any part of any State sales tax due and payable under this Ordinance, or the whole or any part of any penalty payable under section 28.

Regulations

62. The Majlis Mesyuarat Kerajaan Negeri may make such regulations, the making whereof is not provided by other provisions of this Ordinance, as may be expedient or necessary for the better carrying out of the provisions of this Ordinance and in particular such regulations may provide for—

- (a) the registration, including the procedure for the registration, of taxable persons;
- (b) the assessment, determination and fixing of the price of taxable goods produced or manufactured in the State and sold or exported to any person outside the State;
- (c) the assessment, determination and fixing of the price of taxable goods imported or conveyed into the State for sale, supply, retail or distribution in the State;
- (d) the form and contents of tax invoices required to be issued under the provisions of this Ordinance;
- (e) the supply or provision of taxable services in the State including the determination or assessment of the value of such taxable services;

(f) the qualifications of persons to be appointed as members of the Board of Review referred to in section 57(3);

(g) the composition of the Board of Review, and the payment of fees, remuneration, allowances and benefits to members thereof;

(h) the procedure for lodgement of appeals to the Board of Review, and the hearing thereof, as well as appeals against decision of the Board of Review;

(i) the compounding of offences;

(j) the manner and mode of keeping of records by a taxable person and by the Comptroller;

(k) the procedure for application for exemption and remission of State sales tax or penalty for late payment thereof and the conditions for the grant of such exemption or remission;

(l) the manner and procedure for the handling, examination, storage and return of samples taken under section 31; and

(m) the prescription of anything which requires to be, or which may be, prescribed under this Ordinance.

[List of Amendments]

46

CAP. 25

LAWS OF SARAWAK
Chapter 25
STATE SALES TAX ORDINANCE, 1998

LIST OF AMENDMENTS

Amending Law	Short Title	In force from
Swk. L.N. 75/98	Date of Commencement Notification	1.9.1998

