



AUSTRALIAN CAPITAL TERRITORY

## Debits Tax Act 1997

No. 20 of 1997

### TABLE OF PROVISIONS

Section

#### PART I—PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Incorporation of *Taxation (Administration) Act 1987*
5. Application
6. Excluded debits
7. Notional separation of debits
8. Debts made in currency other than Australian currency
9. Administration

#### PART II—IMPOSITION OF TAX

10. Imposition of tax

#### PART III—LIABILITY TO TAX

11. Liability to tax
12. When tax payable
13. Recovery of tax by financial institutions
14. Certificates of exemption from tax
15. Offences relating to certificates of exemption
16. Rebates

*Debits Tax No. 20, 1997*

**TABLE OF PROVISIONS—continued**

Section

PART IV—RETURNS

17. Return in respect of taxable debits

PART V—MISCELLANEOUS

18. Return in relation to exempt accounts  
19. Representative officers etc  
20. Regulations  
21. Amendments of the *Taxation (Administration) Act 1987*  
22. Interim determinations  
23. Application  
24. Transitional

SCHEDULE

DECLARATION AS TO STATUS OF ORGANISATION



AUSTRALIAN CAPITAL TERRITORY

## Debits Tax Act 1997

No. 20 of 1997

---

---

**An Act for the imposition and collection of a tax in respect of certain debits made to accounts kept with financial institutions and for related purposes**

*[Notified in ACT Gazette S136: 29 May 1997]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

### **PART I—PRELIMINARY**

#### **Short title**

1. This Act may be cited as the *Debits Tax Act 1997*.

#### **Commencement**

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.  
(2) The remaining provisions commence on 1 July 1997.

#### **Interpretation**

3. (1) In this Act, unless the contrary intention appears—  
“account” means—
  - (a) an account kept with a bank, being an account to which payments by the bank in respect of cheques drawn on the bank by the account holder, or by any 1 or more of the account holders, may be debited; or

- (b) an account kept with a non-bank financial institution, being an account to which payments by the institution in respect of payment orders drawn on the institution by the account holder, or by 1 or more of the account holders, may be debited;

“account holder” means the person in whose name, or either or any of the persons in whose names, the account is kept;

“account transaction”, in relation to an account, means—

- (a) the payment of a cheque;
- (b) the payment of a payment order; or
- (c) the doing of any other act or thing;

that will result in the making of a debit to that account;

“bank” means a person carrying on banking business that includes the keeping of accounts that may be drawn on by cheque, but does not include a non-bank financial institution;

“certificate of exemption” means a certificate under section 14;

“charitable organisation” means an association, society, institution or body carried on for a religious, educational, benevolent or charitable purpose, other than one carried on for the purpose of securing pecuniary benefit to its members;

“cheque”, in relation to an account, means an order in writing, drawn on a bank by or on behalf of the account holder, or by any 1 or more of the account holders, requiring the bank to pay on demand a sum certain in money to, or to the order of, a specified person or persons or to bearer;

“company” means a body corporate, partnership or any other unincorporated association or body of persons;

“Department”, in relation to the Territory, means an administrative unit;

“eligible debit” means a debit (other than an excluded debit or an exempt debit) made to an account;

“excluded debit” has the meaning given by section 6;

“exempt account” means an account kept in the Territory in respect of which a certificate of exemption is in force;

“exempt debit”, in relation to an account, means a debit—

- (a) that is made solely for the purpose of reversing a credit previously made to the account being a credit arising from an error or the dishonour of a cheque;

- (b) that is made for the purpose of deducting an amount under subsection 221YHZC (1A) of the *Income Tax Assessment Act 1936* of the Commonwealth;
- (c) that is made for the purpose of recovering from the account holder an amount equal to an amount of tax that the financial institution has paid or is liable to pay;
- (d) that is made for the purpose of recovering from the account holder an amount in respect of an amount of duty paid or payable under the *Financial Institutions Duty Act 1987*;
- (e) that is made to an account kept with a financial institution in the name of the Governor-General;
- (f) that is made to an account kept with a financial institution in the name of a government of a foreign country;
- (g) that is made to an account kept with a financial institution in the name of an individual who is entitled to exemption from the tax or from taxes that include the tax by virtue of any law of the Commonwealth;
- (h) that is made to an account kept with a financial institution in the name of an organisation (not being an organisation referred to in subsection (6)) that is entitled to exemption from the tax or from taxes that include the tax by virtue of any law of the Commonwealth;
- (j) that is referred to in subsection (6); or
- (k) that is included in a kind or class of debits that is prescribed for the purposes of this paragraph;

“financial institution” means—

- (a) a bank; or
- (b) a non-bank financial institution;

“goods” includes water, gas and electricity;

“incomplete”, in relation to a cheque or payment order, means wanting in a material particular necessary for the cheque or payment order to be, on its face, a complete cheque or payment order;

“non-bank financial institution” means a non-bank financial institution within the meaning of the *Cheques and Payment Orders Act 1986* of the Commonwealth that carries on a business that includes the keeping of accounts that may be drawn on by payment order;

“payment order” has the same meaning as in the *Cheques and Payment Orders Act 1986* of the Commonwealth;

“person” includes—

- (a) a body politic;
- (b) a body corporate;
- (c) a partnership; and
- (d) any other unincorporated association or body of persons;

“tax” means tax imposed by this Act;

“taxable account” means an account (other than an exempt account) kept in the Territory;

“taxable debit” means a debit (other than an exempt debit) made to an account;

“Taxation (Administration) Act” means the *Taxation (Administration) Act 1987*.

**(2)** For the purposes of this Act, a person shall be taken to have been a resident of the Territory at a particular time if—

- (a) in the case of a person other than a company—
  - (i) that person resided in the Territory at that time; or
  - (ii) except in the case where the Commissioner is satisfied that that person’s permanent place of residence at that time was outside the Territory—that person was domiciled in the Territory at that time;
- (b) in the case of a company being a body corporate—
  - (i) the company was incorporated in the Territory at that time; or
  - (ii) if the company was incorporated outside the Territory at that time, at that time the company carried on business in the Territory and either—
    - (A) had its central management and control in the Territory; or
    - (B) had its voting power controlled by shareholders who were residents of the Territory; or
- (c) in the case of a company being a partnership or other unincorporated association or body of persons—any member of the partnership or other association or body was a resident of the Territory at that time.

**(3)** Where a debit made to an account is subsequently reversed, the debit is, for the purposes of this Act, to be taken to be, and to have always been, an exempt debit.

**(4)** For the purposes of this Act, tax or additional tax under section 30 of the Taxation (Administration) Act is due and payable at the expiration of the day by which the tax or additional tax is required by this Act and Part IV of the Taxation (Administration) Act to be paid.

**(5)** Where this Act imposes a liability on a person, being a partnership or other unincorporated association or body of persons, to pay any tax (including additional tax under this Act and Part IV of the Taxation (Administration) Act) or other amount, that liability shall be taken to be imposed jointly and severally on the persons who are the members of the partnership or other association or body at the time when the liability arises.

**(6)** Subject to subsections (7) and (9), a debit is a debit for the purposes of paragraph (j) of the definition of “exempt debit” in subsection (1), if the debit is made to an account kept with a financial institution in the name of a Department of the Government of the Commonwealth or an authority of the Commonwealth.

**(7)** Subsection (6) does not include a debit made to an account kept in the name of a Department or authority—

- (a) if the sole or principal function of the Department or authority is to carry on an activity in the nature of a business (whether or not for profit); or
- (b) if the debit is made in relation to a transaction or transactions entered into by or on behalf of the Department or authority of the Commonwealth in connection with the carrying on of an activity (other than an activity that forms a minor or insignificant part of the functions of the body) in the nature of a business (whether or not for profit).

**(8)** In subsections (6) and 5 (2), a reference to an authority of the Commonwealth does not include an authority established under a Commonwealth Act if—

- (a) that Act; or
- (b) any regulations or other instrument made under that Act;

contains or contain a provision, to the effect that the authority is liable to pay the tax or taxes that include the tax.

**(9)** For the purposes of this Act, if a Department or authority referred to in subsection (6) or 5 (2) or paragraph 6 (1) (b) supplies goods, or provides services, to the public for payment, the supply of those goods or the provision of those services by the Department or authority shall, subject to subsection (10), be taken to constitute the carrying on of an activity in the nature of a business by the Department or authority.

(10) In subsection (9), a reference to the supply of goods or the provision of services does not include goods or services, as the case may be, declared by the regulations to be goods or services for the purposes of this subsection.

**Incorporation of *Taxation (Administration) Act 1987***

4. The Taxation (Administration) Act is incorporated and shall be read as one with this Act.

**Application**

5. (1) Subsection 7 (6) of the *Interpretation Act 1967* does not apply in relation to this Act.

(2) Without affecting the operation that this Act would have apart from this section, this Act also applies in respect of—

- (a) a debit made to an account kept with a financial institution in the name of a Department of the Government of the Commonwealth or an authority of the Commonwealth the sole or principal function of which is to carry on an activity in the nature of a business (whether or not for profit); or
- (b) a debit made in relation to a transaction or transactions entered into by or on behalf of a Department of the Government of the Commonwealth or an authority of the Commonwealth in connection with the carrying on of an activity (other than an activity that forms a minor or insignificant part of the functions of the body) in the nature of a business (whether or not for profit);

as if the Department or authority were a Department or authority of the Territory.

**Excluded debits**

6. (1) For the purposes of this Act, an excluded debit is a debit of a type referred to in any of the following paragraphs:

- (a) a debit made to an account kept with a financial institution in the name of an organisation that is—
  - (i) a charitable organisation;
  - (ii) a hospital that is a recognised hospital under the *Health Insurance Act 1973* of the Commonwealth; or



- (iii) a university, government college or government school, or a college or school that is carried on by an association or other body of persons otherwise than for purposes of profit or gain to the individual members of that association or other body;

being a debit made in relation to a transaction or transactions carried out by or on behalf of the organisation wholly and exclusively in furtherance of its objects;

- (b) subject to subsection (2), a debit made to an account kept with a financial institution in the name of—
  - (i) a Department of the Territory or of the Government of a State or another Territory; or
  - (ii) a Territory authority or an authority of a State or another Territory;
- (c) a debit made to an account kept with a financial institution in the name of a Territory authority, or an authority of a State or another Territory, that is prescribed for the purposes of this paragraph;
- (d) a debit made to an account kept with a financial institution (in this paragraph called the “account keeping institution”) in the name of another financial institution (in this paragraph called the “account holding institution”) where—
  - (i) either of the following conditions is satisfied:
    - (A) the business carried on by the account holding institution in the Territory consists wholly or principally of banking business;
    - (B) all debits made, or to be made, to the account are in connection with banking business carried on by the account holding institution in the Territory; and
  - (ii) the debit is not in connection with a cheque or payment order drawn on the account keeping institution by the account holding institution where the cheque or payment order was, at a time when it was incomplete, delivered by the account holding institution to a customer under an agreement under which the customer was authorised to fill up the cheque or payment order;
- (e) a debit made to an account kept with a financial institution the tax in respect of which cannot be recovered from the account holder or account holders by the financial institution with which the account is kept;
- (f) a debit that is included in a kind or class of debits that is prescribed for the purposes of this paragraph.

- (2) Paragraph (1) (b) does not apply in relation to—
- (a) a Department or authority the sole or principal function of which is to carry on an activity in the nature of a business (whether or not for profit); or
  - (b) a debit made in relation to a transaction or transactions entered into by or on behalf of the Department or authority in connection with the carrying on of an activity (other than an activity that forms a minor or insignificant part of the functions of the Department or authority) in the nature of a business (whether or not for profit).

#### **Notional separation of debits**

7. (1) Subject to subsection (2), for the purposes of this Act, a debit that, but for this section, would be a single debit made to an account in respect of 2 or more account transactions shall be treated as being separate debits in relation to each of those account transactions.

(2) Subsection (1) does not apply to a debit that is, or is within a kind or class of debits that is, prescribed for the purposes of this subsection.

#### **Debits made in currency other than Australian currency**

8. Where a debit is made in a currency other than Australian currency, a reference in this Act to the amount of the debit shall be read as a reference to the amount of the debit expressed in terms of Australian currency.

#### **Administration**

9. The Commissioner has the general administration of this Act.

### **PART II—IMPOSITION OF TAX**

#### **Imposition of tax**

10. (1) The determined amount of tax is imposed in respect of—
- (a) each taxable debit of not less than \$1 made to a taxable account;
  - (b) each eligible debit of not less than \$1 made to an exempt account;
  - (c) each eligible debit of not less than \$1 made to an account kept outside the Territory where—
    - (i) at the time when the debit is made, the person in whose name, or either or any of the persons in whose names, the account is kept is a resident of the Territory; and

(ii) it would be concluded that the account was used in connection with the transaction that resulted in the debit for the purpose, or for purposes that included the purpose, of enabling—

(A) the person in whose name, or either or any of the persons in whose names, the account is kept; or

(B) any other person;

to avoid liability for payment of the tax that would have been imposed if the debit that resulted from that transaction had been made to an account kept in the Territory.

(2) A reference in this section to a debit made to an account kept outside the Territory includes a reference to a debit made to an account (in this subsection called a “non-bank account”) kept outside the Territory with a building society, credit union or similar body (including an account kept by way of withdrawable share capital in, or money deposited with, the body) where—

(a) another account is kept with a bank in the name of the body; and

(b) the non-bank account has characteristics such that a cheque may be drawn on the bank by the body and, at a time when it is incomplete, be delivered by the body to a customer under an agreement under which—

(i) the customer is authorised to fill up the cheque; and

(ii) is authorised, for the purpose of making a payment to the bank to enable the bank to honour the cheque, to debit the non-bank account.

### **PART III—LIABILITY TO TAX**

#### **Liability to tax**

**11. (1)** A financial institution with which a taxable account is kept and the account holder or, if there are 2 or more account holders, those account holders are jointly and severally liable to pay the tax imposed by this Act on a taxable debit made to the account.

**(2)** The account holder of an account other than a taxable account is liable or, if there are 2 or more account holders, those account holders are jointly and severally liable to pay the tax imposed by this Act on an eligible debit made to the account.

**(3)** Subsection (2) does not apply in relation to a person or organisation referred to in paragraphs (e) to (j) (inclusive) of the definition of “exempt debit” in subsection 3 (1).

**When tax payable**

**12. (1)** Subject to this Act—

- (a) where tax in respect of a taxable debit made during a month (whether or not that tax is the subject of an assessment) is payable under section 11 (1), that tax shall be paid not later than 14 days after the end of that month; and
- (b) tax to which an assessment made under section 20 of the Taxation (Administration) Act relates shall be paid not later than the day specified in a notice of that assessment as the day on which the tax is due for payment, being a day not less than 14 days after—
  - (i) in a case in which notice of that assessment was required to be served on 1 person, the day on which the notice was served on the person;
  - (ii) in a case in which notice of that assessment was required to be served on 2 or more persons and notice of that assessment was served on those persons on the same day, the day on which the notice was served on the persons; or
  - (iii) in a case in which notice of that assessment was required to be served on 2 or more persons and notice of that assessment was served on those persons on different days, the earliest of those days.

**(2)** Additional tax under section 30 of the Taxation (Administration) Act is due and payable on the date specified in the notice of assessment of the additional tax as the date on which the additional tax is due and payable.

**Recovery of tax by financial institutions**

**13. (1)** Where a financial institution pays tax in respect of a taxable debit made to a taxable account kept with the financial institution, the account holder is liable or, if there are 2 or more account holders, those account holders are jointly and severally liable, to pay to the financial institution an amount equal to that tax.

**(2)** The financial institution may recover the amount referred to in subsection (1) from the account holder, or from either or any of those account holders, as a debt due to the financial institution by action in a court of competent jurisdiction.

**(3)** An account holder is not, or account holders are not, liable to pay to a financial institution under subsection (1) an amount in respect of an amount of tax that has been refunded to the financial institution in accordance with the Taxation (Administration) Act.

(4) A financial institution may debit an account with an amount that the account holder is, or the account holders are, liable to pay to the financial institution under subsection (1).

(5) Where a financial institution would, but for this section, have power to enter into an agreement or arrangement referred to in subsection (6) with the account holder or account holders, nothing in this section prevents the financial institution from entering into such an agreement or arrangement.

(6) For the purposes of subsection (5), the agreement or arrangement is one under which the financial institution is entitled to recover from the account holder or account holders, whether by debiting the account or otherwise, amounts equal to amounts of tax that the financial institution is or becomes liable to pay in respect of taxable debits that have been or are made to that account.

#### **Certificates of exemption from tax**

**14. (1)** Where an account holder in respect of an account kept in the Territory applies to the Commissioner in accordance with this section for the issue of a certificate of exemption in relation to the account, the Commissioner—

- (a) if satisfied that all debits made, or to be made, to the account are, or are likely to be, excluded debits or exempt debits—shall issue a certificate of exemption in relation to the account; or
- (b) if not so satisfied—shall refuse the application and cause notice in writing of the decision in relation to the application to be served, by post or otherwise, on the applicant.

(2) A certificate of exemption comes into force on a day indicated in the certificate for that purpose (which may be a day before the day on which the certificate is issued) and remains in force until—

- (a) the expiration of the day indicated in the certificate for that purpose; or
- (b) if no day is so indicated—service of a notice by virtue of subsection (6).

(3) Where a certificate of exemption has been issued in respect of an account and the Commissioner—

- (a) is notified by the account holder, or either or any of the account holders, that an eligible debit has been, or is to be, made to the account; or
- (b) becomes satisfied that an eligible debit has been, or is to be, made to the account;

the Commissioner has a discretionary power, by writing, to revoke the certificate.

(4) Subject to subsection (5), where—

- (a) an eligible debit has been made to an exempt account; or
- (b) the account holder of an exempt account expects that an eligible debit will be made to the exempt account within the ensuing period of 30 days;

the account holder of the exempt account, shall, within 7 days, notify the Commissioner in writing accordingly.

(5) Where—

- (a) an exempt account is held by 2 or more persons; and
- (b) an eligible debit has been made to the account or 1 or more of those persons expect that such a debit will be made to the account within the ensuing period of 30 days—

then—

- (c) each of those persons shall, within 7 days, notify the Commissioner in writing accordingly; and
- (d) if 1 of those persons so notifies the Commissioner, none of the other persons are required to so notify the Commissioner.

(6) Where the Commissioner has revoked a certificate of exemption in relation to an account, the Commissioner shall serve, by post or otherwise, notice of that revocation—

- (a) on the account holder or, if there are 2 or more account holders, on each of them; and
- (b) on the financial institution with which the account is kept;

and, notwithstanding that any day of expiry indicated in the certificate has not occurred, the certificate ceases to be in force in relation to the account when the notice is served on the financial institution.

(7) An application shall be in a form approved by the Commissioner.

(8) The applicant shall furnish such information and documents as the Commissioner requires in connection with the consideration of the application.

### **Offences relating to certificates of exemption**

15. A person shall not—

- (a) forge a certificate of exemption or utter a certificate knowing it to be forged;
- (b) without lawful authority, alter or sign a certificate of exemption;
- (c) deliver a document (not being a certificate of exemption) that purports to be a certificate of exemption; or

- (d) knowingly represent that a certificate of exemption is in respect of an account other than the account in respect of which the certificate was issued.

Penalty: 100 penalty units or imprisonment for 2 years, or both.

## **Rebates**

**16. (1)** In this section—

“pensioner” means—

- (a) a person to whom, or in respect of whom, 1 of the following pensions or allowances under the *Social Security Act 1991* of the Commonwealth is being paid:
  - (i) an age pension under Part 2.2;
  - (ii) a disability support pension under Part 2.3;
  - (iii) a wife pension under Part 2.4;
  - (iv) a carer pension under Part 2.5;
  - (v) a sole parent pension under Part 2.6;
  - (vi) a widowed person allowance under Part 2.7;
  - (vii) a widow B pension under Part 2.8;
- (b) a service pensioner within the meaning of the *Veterans' Entitlements Act 1986* of the Commonwealth;
- (c) a person to whom section 22 of the *Veterans' Entitlements Act 1986* of the Commonwealth applies who is being paid at the maximum rate referred to in subsection 22 (3) of that Act;
- (d) a person to whom a pension under Part II of the *Veterans' Entitlements Act 1986* of the Commonwealth is being paid and to whom—
  - (i) subsection 22 (4), section 23 or 24 or subsection 30 (1) of that Act applies; or
  - (ii) section 27 of that Act applies by virtue of a war-caused injury or war-caused disease of a kind specified in item 1, 2, 3, 4, 5 or 6 in the table in subsection 27 (1); or
- (e) a person who is, or is within a kind or class of persons that is, prescribed for the purposes of this paragraph.

“unemployed person” means a person who has been, for a period of not less than 12 months—

- (a) registered as unemployed with the Commonwealth Employment Service; and

- (b) receiving an allowance in respect of unemployment under the *Social Security Act 1991* of the Commonwealth;

disregarding any period not exceeding, or periods in the aggregate not exceeding, 4 weeks during which the person was not so registered or was not receiving such an allowance.

(2) Subject to this section, a pensioner or an unemployed person, who is a resident of the Territory may, within 12 months after the end of a financial year, apply to the Commissioner for a rebate in respect of debits tax paid during that year in respect of an account kept in the Territory.

(3) An application shall not be made after the period of 12 months referred to in subsection (2) without the approval of the Commissioner.

(4) Where a person is the holder, or joint holder, of more than 1 account in respect of a financial year, a rebate is payable in respect of only 1 of those accounts.

(5) Where a rebate is payable in respect of a joint account the amount of the rebate shall be calculated as if the account were held by 1 person.

(6) Subject to subsections (7) and (8), the amount of rebate payable in respect of an account held during a financial year shall correspond to the amount of debits tax paid during that year in respect of that account.

(7) Where but for this subsection the amount of rebate payable in respect of a financial year would be less than the determined amount no rebate is payable.

(8) Where but for this subsection the amount of rebate payable in respect of a financial year would exceed the determined amount the determined amount is payable.

(9) Subject to subsection (10), where a person is a pensioner or an unemployed person for part of a financial year (in this subsection called the “entitlement period”), the person may make an application under this section as if the reference in subsections (7) and (8) to a financial year were a reference to the entitlement period.

(10) Subsection (9) does not apply in respect of a person who is a pensioner or an unemployed person for part only of a financial year by reason of his or her death.

(11) An application shall be in a form approved by the Commissioner.

(12) The applicant shall furnish such information and documents as the Commissioner requires in connection with the consideration of the application.



## **PART IV—RETURNS**

### **Return in respect of taxable debits**

**17. (1)** If in any month a taxable debit is made to a taxable account kept with a financial institution, the financial institution shall lodge a return.

**(2)** A return referred to in subsection (1) shall relate to all taxable debits made during the month to taxable accounts kept with the financial institution.

**(3)** A return referred to in subsection (1) relating to a month shall be lodged no later than 14 days after the end of that month or such later date as the Commissioner allows.

**(4)** A financial institution may, with the consent of the Commissioner, lodge separate returns under subsection (1) in relation to taxable debits made to taxable accounts kept with a particular branch or branches of the financial institution.

**(5)** Where the Commissioner has reason to believe that an account holder is liable to pay tax by virtue of subsection 11 (2) in respect of an eligible debit or eligible debits made to an account, the Commissioner may, by notice in writing, require that account holder to lodge a return.

**(6)** A return referred to in subsection (5) shall relate to all eligible debits in respect of which the account holder is liable to pay tax by virtue of subsection 11 (2) during the period specified in the notice.

**(7)** A return referred to in subsection (5) shall be lodged within a time specified in the notice being a time not earlier than 21 days after the day on which the notice is given.

**(8)** A return under this section shall be in a form approved by the Commissioner and shall contain such particulars as are required by the form.

## **PART V—MISCELLANEOUS**

### **Return in relation to exempt accounts**

**18. (1)** A financial institution shall, within 2 months, or such further time as the Commissioner allows, after the end of each calendar year, lodge a return relating to all exempt accounts kept with the financial institution during the year concerned.

**(2)** A return required to be furnished by a financial institution under subsection (1) shall be—

- (a)** if the Commissioner agrees to the return being in the form of a disc, tape or other device from which information required by the Commissioner to be contained in the return is capable of being reproduced—in that form; or

- (b) in any other case—in writing in accordance with a form approved by the Commissioner and containing such particulars as are required by that form.

**Representative officers etc.**

**19. (1)** In this section—

“carry on business” means—

- (a) in the case of a bank—the carrying on of banking business; or
- (b) in the case of a non-bank financial institution—the carrying on of a business that includes the keeping of accounts that may be drawn on by payment order;

“keeping of accounts”, in relation to a non-bank financial institution, includes accounts kept by way of withdrawable share capital in, or money deposited with, the institution;

“representative officer”, in relation to a financial body, means a person appointed by the financial body under subsection (2);

“resident financial institution” means a bank, or a non-bank financial institution, that carries on business in the Territory.

**(2)** A resident financial institution may appoint a person to be a representative officer of the financial institution for the purposes of this Act.

**(3)** Unless exempted in writing by the Commissioner, a resident financial institution shall ensure that at all times it has a representative officer.

**(4)** The obligation imposed by subsection (3) applies to a financial institution 1 month after it begins to carry on business in the Territory.

**(5)** Where a financial institution appoints, or terminates the appointment of, its representative officer or 1 of its representative officers, the financial institution shall, not later than 7 days after the day of the appointment or termination, notify the Commissioner in writing—

- (a) in the case of an appointment—of the name of the officer appointed and an address at which documents may be served on that officer; and
- (b) in the case of a termination of appointment—of that fact.

**(6)** A financial institution may at any time notify the Commissioner in writing of a new address at which documents may be served on a representative officer of the financial institution in substitution for the address previously notified under this section.

(7) A return lodged by a financial institution under this Act shall—

- (a) be signed by a representative officer of the financial institution or by a senior officer of the financial institution; and
- (b) specify an address at which documents relating to the return may be served on the financial institution.

(8) Without limiting any other method of service, a document may be served on a financial institution if the document is—

- (a) delivered, or sent by post, to a representative officer of the financial institution at the address, or the latest address, as the case may be, notified to the Commissioner in relation to that officer under this section; or
- (b) in the case of a document relating to a return—delivered, or sent by post, to the financial institution at the address for service specified in the return.

(9) A financial institution that contravenes subsection (3) or (5) is, in respect of each day on which it contravenes that subsection (including the day of a conviction of an offence against this subsection or any subsequent day), guilty of an offence punishable on conviction by a fine of 1 penalty unit.

### **Regulations**

**20. (1)** The Executive may make regulations for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations may prescribe penalties not exceeding—

- (a) if the offender is a natural person—10 penalty units;
- (b) if the offender is a body corporate—50 penalty units.

### **Amendments of the *Taxation (Administration) Act 1987***

**21. (1)** Section 3 of the Taxation (Administration) Act is amended by inserting after paragraph (b) the following paragraph:

“(ba) the *Debits Tax Act 1997*.”.

(2) Section 99 of the Taxation (Administration) Act is amended by adding at the end of subsection (1) the following paragraph:

“(g) an amount for the purposes of subsection 16 (7) or (8) of the *Debits Tax Act 1997*.”.

**Interim determinations**

22. (1) Subject to this section, with effect on and after 1 July 1997, each amount specified in Column 3 of the following table opposite a range of amounts shall be taken to have been determined by the Minister under subsection 99 (1) of the Taxation (Administration) Act for the purposes of subsection 10 (1) to be the amount of tax payable in respect of a taxable debit, or an eligible debit, of an amount included in that range of amounts:

**TABLE**  
**AMOUNT OF TAX**

Item	Range of amounts of taxable debits or eligible debits	Amount of tax
1	Not less than \$1 but less than \$100	30 cents
2	Not less than \$100 but less than \$500	70 cents
3	Not less than \$500 but less than \$5,000	\$1.50
4	Not less than \$5,000 but less than \$10,000	\$3.00
5	\$10,000 or more	\$4.00

(2) Subject to this section, with effect on and after 1 July 1997—

- (a) \$15 shall be taken to have been determined by the Minister under subsection 99 (1) of the Taxation (Administration) Act for the purposes of subsection 16 (7); and
- (b) \$50 shall be taken to have been determined by the Minister under subsection 99 (1) of the Taxation (Administration) Act for the purposes of subsection 16 (8).

(3) For the purpose of facilitating revocation or variation by determination under subsection 99 (1) of the Taxation (Administration) Act of the ranges of amounts and the corresponding amounts of tax provided for in the table to subsection (1) and the amounts specified in subsection (2), the Minister may, after the notification of this Act, by notice published in the *Gazette*, make a determination—

- (a) for the purposes of subsection 10 (1) being a determination that is expressed to determine those ranges of amounts and corresponding amounts of tax; and
- (b) for the purposes of subsections 16 (7) and (8) being a determination that is expressed to determine—
  - (i) in the case of subsection 16 (7)—the amount specified in paragraph (2) (a); and
  - (ii) in the case of subsection 16 (8)—the amount specified in paragraph (2) (b).

- (4) Upon the publication in the *Gazette* of a determination—
- (a) referred to in paragraph (3) (a)—subsection (1) shall be taken to have expired; or
  - (b) referred to in paragraph (3) (b)—subsection (2) shall be taken to have expired.

(5) A determination referred to in paragraph (3) (a) or (b) is not a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

(6) A determination referred to in paragraph (3) (a) or (b) has effect according to its terms, and may be revoked or varied, as if it had been made under subsection 99 (1) of the Taxation (Administration) Act.

### **Application**

23. (1) In this section—

“carry on business” has the same meaning as in section 19.

(2) Notwithstanding subsection 19 (4), where a financial institution carried on business in the Territory immediately before the commencement of section 19, the obligation imposed by subsection 19 (3) applies to the institution 1 month after that commencement.

### **Transitional**

24. Where before the commencement of section 14—

- (a) a declaration in the form set out in the Schedule was lodged with the Commissioner on behalf of an organisation; and
- (b) the Commissioner issued a certificate in the form set out in the table to this section;

the certificate shall be taken to be a certificate of exemption issued under that section on that commencement.

### **TABLE**

#### **CERTIFICATE OF EXEMPTION**

Subject to the commencement of the section of the *Debits Tax Act 1997* providing for certificates of exemption, I certify that the following account of (*here insert name of organisation*) is an exempt account for the purposes of that Act:

(*here insert description of account*)

Until that commencement this certificate has no effect. Once in force, this certificate will remain in force until revoked in accordance with that Act.

Commissioner for ACT Revenue

/ /97

**SCHEDULE**

**DECLARATION AS TO STATUS OF ORGANISATION**

This form should be submitted only if you satisfy one of the exemption criteria. (see paras 3 and 4 overleaf)

NOTE:-[Debits tax will only be payable on accounts with a cheque book facility]

APPLICANT NAME (1) Account Holder	
ADDRESS	
CONTACT NAME	Phone Number ( )

NAME OF THE FINANCIAL INSTITUTION AT WHICH THE ACCOUNT IS HELD

--

ADDRESS OF THE BRANCH AT WHICH THE ACCOUNT IS HELD

Postcode

(2) Account number	(3) Account name	Nature of account

(1) Account holder's name (name of organisation requesting the exemption)

**SCHEDULE**—continued

- (2) Including BSB number (which can be obtained from the branch at which the account is kept)
- (3) Account name (for example, Trading Account No. 1)

**SPECIFY GROUNDS FOR EXEMPTION**

If the organisation has an exemption under the <i>Financial Institutions Duty Act 1987</i> , specify the number of the certificate:
<b>DECLARATION</b>
I _____ the account holder or a person authorised to operate the account, declare that to the best of my knowledge and belief the information set out above is true and correct in every detail.
Signature _____ Date    /    /

*[Back of form]*

**INFORMATION FOR PERSONS COMPLETING THIS DECLARATION**

- 1. A financial institution will not be liable to pay tax in respect of debits to an account for which a certificate of exemption is in force.
- 2. The Commissioner for ACT Revenue will grant a certificate of exemption if satisfied that all debits to the account will be exempt or excluded.

**SCHEDULE**—continued

3. “Exempt debit” includes reversal entries, debits tax debits, debits to accounts to correct errors on accounts with an exemption certificate and debits made to accounts in the name of:
  - (a) the Governor-General;
  - (b) a government of a foreign country;
  - (c) foreign diplomatic and consular personnel and other persons entitled to exemption from debits tax by virtue of any law of the Commonwealth;
  - (d) an international organisation entitled to exemption from debits tax by virtue of any law of the Commonwealth;
  - (e) a department or authority of the Commonwealth, provided it is not the sole or principal function of the department or authority to carry on activities in the nature of a business and is not liable to pay debits tax.
4. “Excluded debit” includes accounts in the name of:
  - (a) a charitable organisation;
  - (b) a hospital that is a recognised hospital under the *Health Insurance Act 1973* of the Commonwealth;
  - (c) a university;
  - (d) a government college;
  - (e) a government school;
  - (f) a college that is carried on by an association or other body of persons otherwise than for purposes of profit or gain to the individual members of that association or other body;
  - (g) a school that is carried on by an association or other body of persons otherwise than for purposes of profit or gain to the individual members of that association or other body;
  - (h) a department or authority of the Territory or of a State or another Territory, provided it is not the sole or principal function of the department or authority to carry on activities in the nature of a business;
  - (j) a financial institution which carries on a banking business in the Territory.



**SCHEDULE**—continued

5. “Eligible debit” means a debit other than an “excluded debit” or an “exempt debit”. Where an “eligible debit” is made to an exempt account, the account holder is liable to pay the tax imposed unless the account holder is one of the persons or organisations indicated above in para 3.

Where an “eligible debit” has been made to an exempt account, or the holder of an exempt account expects that an “eligible debit” will be made within 30 days, the account holder is required to notify the Commissioner in writing within 7 days.

6. If a certificate of exemption is not granted, the account holder will be advised in writing.

**NOTE:**

- A All applications for exemption by incorporated institutions should be accompanied by a copy of their Memorandum & Articles of Association. Unincorporated institutions should lodge a copy of their objectives/constitution.
- B If a Certificate of Exemption is granted it must be produced to the Financial Institution at which the account is kept.
- C Please advise for what purpose the account is to be used.

This completed declaration may be lodged or posted as follows:

Lodge in person—

ACT Revenue Office  
Customer Service Centre  
Ground Floor  
193-197 London Circuit  
CANBERRA CITY

Postal address—

Commissioner for ACT Revenue  
ACT Revenue Office  
PO Box 293  
CIVIC SQUARE ACT 2608

*Debits Tax No. 20, 1997*

**NOTE**

**Penalty units**

See section 33AA of the *Interpretation Act 1967*.

*[Presentation speech made in Assembly on 10 April 1997]*

© Australian Capital Territory 1997