



Australian Capital Territory

# **Debits Tax Act 1997**

**A1997-20**

**Republication No 6**

**Effective: 23 February 2005 – 30 June 2006**

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Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Debits Tax Act 1997* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 23 February 2005. It also includes any amendment, repeal or expiry affecting the republished law to 23 February 2005.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Debits Tax Act 1997

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Australian Capital Territory

## Debits Tax Act 1997

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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

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## Part 1 Preliminary

### 1 Short title

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

### 3 Interpretation for Act

(1) In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

**account** means an account, kept with a financial institution, to which payments by the institution in respect of cheques drawn on the institution by the account holder, or by any 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** means the payment of a cheque or the doing of any other thing that will result in the making of a debit to an account.

**Administration Act** means the *Taxation Administration Act 1999*.

**banking business** includes a business carried on by a financial institution in the course of which the institution keeps accounts for its customers.

**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 financial institution by or on behalf of the account holder, or by

any 1 or more of the account holders, requiring the institution 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**—see section 6.

**exempt account** means an account kept in the ACT 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; or
- (b) that is made for the purpose of deducting an amount under the *Income Tax Assessment Act 1936* (Cwlth), section 221YHZC (1A); or
- (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; or
- (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*; or
- (e) that is made to an account kept with a financial institution in the name of the Governor-General; or
- (f) that is made to an account kept with a financial institution in the name of a government of a foreign country; or

- (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 under any law of the Commonwealth; or
- (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; or
- (i) that is referred to in subsection (6); or
- (j) that is included in a kind or class of debits that is prescribed for the purposes of this paragraph.

***financial institution*** means—

- (a) an institution that is a financial institution for the *Cheques Act 1986* (Cwlth); or
- (b) a person, or member of a class of persons, prescribed for this definition.

***goods*** includes water, gas and electricity.

***incomplete***, in relation to a cheque, means wanting in a material particular necessary for the cheque to be, on its face, a complete cheque.

***person*** includes—

- (a) a body politic; and
- (b) a body corporate; and
- (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.

- (2) For this Act, a person shall be taken to have been a resident of the ACT at a particular time if—
- (a) for a person other than a company—
    - (i) that person resided in the ACT at that time; or
    - (ii) except if the commissioner is satisfied that that person's permanent place of residence at that time was outside the ACT—that person was domiciled in the ACT at that time; or
  - (b) for a company being a body corporate—
    - (i) the company was incorporated in the ACT at that time; or
    - (ii) if the company was incorporated outside the ACT at that time, at that time the company carried on business in the ACT and either—
      - (A) had its central management and control in the ACT; or
      - (B) had its voting power controlled by shareholders who were residents of the ACT; or
  - (c) for 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 ACT at that time.
- (3) If a debit made to an account is subsequently reversed, the debit is, for this Act, to be taken to be, and to have always been, an exempt debit.

- (4) For this Act, tax or penalty tax payable under the Administration Act, part 5 is due and payable at the expiration of the day by which the tax or penalty tax is required by this Act and the Administration Act, part 7 to be paid.
- (5) If this Act imposes a liability on a person, being a partnership or other unincorporated association or body of persons, to pay any tax (including penalty tax under the Administration Act, part 5) 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 subsection (1), definition of *exempt debit*, paragraph (i), 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 subsection (6) and section 5 (2):

***authority of the Commonwealth*** does not include an authority established under a Commonwealth Act if the Act provides that the authority is liable to pay the tax or taxes that include the tax.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

- (9) For this Act, if a department or authority referred to in subsection (6) or section 5 (2) or 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 this subsection.

#### **4 Incorporation of Administration Act**

The Administration Act is incorporated and shall be read as one with this Act.

#### **5 Application**

- (1) The *Legislation Act 2001*, section 121 (2) does not apply to this Act.

*Note* Section 121 (2) provides that an Act does not bind the Territory to the extent that it requires or otherwise provides for the payment of money that, on payment, would form part of the public money of the Territory.

- (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.

## 6 Excluded debits

- (1) For 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; or
  - (ii) a hospital that is a recognised hospital under the *Health Insurance Act 1973* (Cwlth); 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 this paragraph;
- (d) a debit made to an account kept with a financial institution (the *account keeping institution*) in the name of another financial institution (the *account holding institution*) if—
- (i) either of the following conditions is satisfied:
    - (A) the business carried on by the account holding institution in the ACT consists wholly or principally of banking business; or
    - (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 ACT; and
  - (ii) the debit is not in connection with a cheque drawn on the account keeping institution by the account holding institution where the cheque 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;
- (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 this paragraph.
- (2) Subsection (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).

**7 Notional separation of debits**

- (1) Subject to subsection (2), for 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 this subsection.

**8 Debts made in currency other than Australian currency**

If a debit is made in a currency other than Australian currency, a reference in this Act to the amount of the debit is a reference to the amount of the debit expressed in terms of Australian currency.

**9 Administration**

The commissioner has the general administration of this Act.

## Part 2                      Imposition of tax

### 10                      Imposition of tax

- (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; and
  - (b) each eligible debit of not less than \$1 made to an exempt account; and
  - (c) each eligible debit of not less than \$1 made to an account kept outside the ACT if—
    - (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 ACT; 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 ACT.
- (2) A reference in this section to a debit made to an account kept outside the ACT includes a reference to a debit made to an account (a *customer's account*) kept outside the ACT 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) if—

- (a) another account is kept with a financial institution in the name of the body; and
- (b) the customer's account has characteristics such that a cheque may be drawn on the financial institution 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) the body is authorised, for the purpose of making a payment to the bank to enable the bank to honour the cheque, to debit the customer's account.



## Part 3 Liability to tax

### 11 Liability to tax

- (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 section 3 (1), definition of *exempt debit*, paragraphs (e) to (i).

### 12 When tax payable

- (1) Subject to this Act—
  - (a) if 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 in relation to which a notice of assessment or reassessment has been issued under the Administration Act, section 14 shall be paid not later than the day specified in the notice of that assessment as the day when the tax is due for payment, being a day not less than 14 days after—
    - (i) if notice of that assessment was required to be served on 1 person—the day when the notice was served on the person; or

- (ii) if 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 when the notice was served on the persons; or
- (iii) if 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.

### **13 Recovery of tax by financial institutions**

- (1) If 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 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) If 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 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.

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

- (1) If an account holder in respect of an account kept in the ACT 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.

*Note* If a form is approved under the *Taxation Administration Act 1999*, s 139C (Approved forms) for an application, the form must be used.

- (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 when 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 under subsection (6).
- (3) If 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), if—
  - (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) If—
  - (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) If 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 applicant must furnish the information and documents the commissioner requires in connection with the consideration of the application.

## 16 Rebates

- (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* (Cwlth) 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; or
- (b) a service pensioner within the meaning of the *Veterans' Entitlements Act 1986* (Cwlth); or

- (c) a person to whom the *Veterans' Entitlements Act 1986* (Cwlth), section 22 applies who is being paid at the maximum rate referred to in that Act, section 22 (3); or
- (d) a person to whom a pension under the *Veterans' Entitlements Act 1986* (Cwlth), part 2 is being paid and to whom—
  - (i) that Act, section 22 (4), 23, 24 or 30 (1) applies; or
  - (ii) that Act, section 27 applies because of a war-caused injury or war-caused disease of a kind specified in section 27 (1), table, item 1, 2, 3, 4, 5 or 6; or
- (e) a person who is (or was) in a domestic partnership who would be eligible as a pensioner mentioned in paragraph (a) because of that partnership if the person's domestic partner were (or had been) the person's partner within the meaning of the *Social Security Act 1991* (Cwlth), section 4; or
- (f) a person who is (or was) in a domestic partnership who would be eligible as a pensioner mentioned in paragraph (b) because of that partnership if the person's domestic partner were (or had been) the person's partner within the meaning of the *Veterans' Entitlements Act 1986* (Cwlth), section 5E; or
- (g) a person who was in a domestic partnership until the death of his or her domestic partner who would be eligible as a pensioner mentioned in paragraph (d) (i) because of the domestic partner's death if the person were the domestic partner's dependant within the meaning of the *Veterans' Entitlements Act 1986* (Cwlth), section 11; or
- (h) a person prescribed under the regulations for this paragraph.

*Note for pars (e), (f) and (g)*

The Legislation Act, s 169, def **domestic partner** and def **domestic partnership** apply to partners irrespective of their sex, while the *Social Security Act 1991* (Cwlth), s 4, def **partner** and the *Veterans' Entitlements Act 1986* (Cwlth), s 5E, def **partner** and s 11, def **dependant** only apply to partners (or former partners) of the opposite sex to each other.

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

- (a) registered as unemployed with Centrelink; and
- (b) receiving an allowance in respect of unemployment under the *Social Security Act 1991* (Cwlth);

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

- (2) Subject to this section, a pensioner or an unemployed person, who is a resident of the ACT 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 ACT.

*Note* If a form is approved under the *Taxation Administration Act 1999*, s 139C (Approved forms) for an application, the form must be used.

- (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) If 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) If 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) If 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) If 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), if a person is a pensioner or an unemployed person for part of a financial year (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 applicant must furnish the information and documents the commissioner requires in connection with the consideration of the application.



## Part 4 Returns

### 17 Return in respect of taxable debits

- (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.

*Note* If a form is approved under the *Taxation Administration Act 1999*, s 139C (Approved forms) for a return, the form must be used.

- (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 any later date 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) If the commissioner has reason to believe that an account holder is liable to pay tax under section 11 (2) in respect of an eligible debit or eligible debits made to an account, the commissioner may, by written notice, 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 under section 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 when the notice is given.

## Part 5 Miscellaneous

### 18 Return in relation to exempt accounts

- (1) A financial institution shall, within 2 months, or any further time 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 accordance with the form approved under the *Taxation Administration Act 1999*, section 139C (Approved forms) for this section.

### 19 Representative officers

- (1) In this section:

*keeping of accounts*, in relation to a 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 institution, means a person appointed under subsection (2).

*resident financial institution* means a financial institution that carries on business in the ACT.
- (2) A resident financial institution may appoint a person to be a representative officer of the financial institution for 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 banking business in the ACT.
- (5) If 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) for an appointment—of the name of the officer appointed and an address where documents may be served on that officer; and
  - (b) for a termination of appointment—of that fact.
- (6) A financial institution may at any time notify the commissioner in writing of a new address where 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 where 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) for 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) commits an offence in respect of each day when it contravenes that subsection (including the day of a conviction of an offence against this subsection or any subsequent day).

Maximum penalty (for each day): 1 penalty unit

## 20 Regulation-making power

- (1) The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

## 22 Interim determinations

- (1) Subject to this section, with effect on and after 1 July 1997, each amount specified in table 22, column 3 opposite a range of amounts shall be taken to have been determined by the Minister under the Taxation (Administration) Act, section 99 (1) for section 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 22** Amount of tax

column 1 item	column 2 range of amounts of taxable debits or eligible debits	column 3 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

<b>column 1 item</b>	<b>column 2 range of amounts of taxable debits or eligible debits</b>	<b>column 3 amount of tax</b>
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 the Taxation (Administration) Act, section 99 (1) for section 16 (7); and
- (b) \$50 shall be taken to have been determined by the Minister under the Taxation (Administration) Act, section 99 (1) for section 16 (8).
- (3) For the purpose of facilitating revocation or variation by determination under the Taxation (Administration) Act, section 99 (1) of the ranges of amounts and the corresponding amounts of tax provided for in table 22 and the amounts specified in subsection (2), the Minister may, in writing, make a determination—
- (a) for section 10 (1) being a determination that is expressed to determine those ranges of amounts and corresponding amounts of tax; and
- (b) for sections 16 (7) and (8) being a determination that is expressed to determine—
- (i) for section 16 (7)—the amount specified in subsection (2) (a); and
- (ii) for section 16 (8)—the amount specified in subsection (2) (b).

- (4) On the publication in the Gazette of a determination—
- (a) referred to in subsection (3) (a)—subsection (1) shall be taken to have expired; or
  - (b) referred to in subsection (3) (b)—subsection (2) shall be taken to have expired.
- (5) A determination under subsection (3) is a notifiable instrument.
- Note*     A notifiable instrument must be notified under the *Legislation Act 2001*.
- (6) A determination referred to in subsection (3) (a) or (b) has effect according to its terms, and may be revoked or varied, as if it had been made under the Taxation (Administration) Act, section 99 (1).

## Part 6                      End of effect of Act

### 23            **No liability for debits from 1 July 2005**

- (1) A person is not liable under section 11 (1) to pay tax on a taxable debit made on or after 1 July 2005 to a taxable account.
- (2) A person is not liable under section 11 (2) to pay tax on an eligible debit made on or after 1 July 2005 to an account other than a taxable account.

### 24            **No returns required for months from July 2005**

A financial institution is not required to give a return under section 17 (Return in respect of taxable debits) for any month after June 2005.

### 25            **Expiry of Act from 1 July 2006**

This Act expires on 30 June 2006.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired



### 3 Legislation history

#### **Debits Tax Act 1997 No 20**

notified 29 May 1997 (Gaz 1997 No S136)  
s 1, s 2 commenced 29 May 1997 (s 2 (1))  
remainder commenced 1 July 1997 (s 2 (2))

*Note* Act exp 30 June 2006 (s 25)

as amended by

#### **Debits Tax (Amendment) Act 1998 No 59**

notified 27 November 1998 (Gaz 1998 No S207)  
ss 1-3 commenced 27 November 1998 (s 2 (1))  
remainder commenced 1 December 1998 (s 2 (2) and see Cwlth  
Gaz 1998 No S371)

#### **Taxation Administration (Consequential and Transitional Provisions) Act 1999 No 5 sch 2**

notified 1 March 1999 (Gaz 1999 No S8)  
commenced 1 March 1999 (s 2)

#### **Legislation (Consequential Amendments) Act 2001 No 44 pt 99**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 99 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

#### **Legislation Amendment Act 2002 No 11 pt 2.15**

notified LR 27 May 2002  
s 1, s 2 commenced 27 May 2002 (LA s 75)  
pt 2.15 commenced 28 May 2002 (s 2 (1))

#### **Sexuality Discrimination Legislation Amendment Act 2004 A2004-2 sch 1 pt 1.5**

notified LR 18 February 2004  
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))  
sch 1 pt 1.5 commenced 22 March 2004 (s 2 and CN2004-4)

#### **Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.24**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 2 pt 2.24 commenced 9 April 2004 (s 2 (1))

## Endnotes

4 Amendment history

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### **Revenue Legislation Repeal Act 2005 A2005-2 s 5**

notified LR 22 February 2005

s 1, s 2 commenced 22 February 2005 (LA s 75 (1))

s 5 commenced 23 February 2005 (s 2)

## **4 Amendment history**

### **Commencement**

s 2 om R1 LRA

### **Interpretation for Act**

s 3 am 1999 No 5 sch 2; am 2001 No 44 amdt 1.1042  
def **account** sub 1998 No 59 s 4  
def **account transaction** sub 1998 No 59 s 4  
def **Administration Act** ins 1999 No 5 sch 2  
def **bank** om 1998 No 58 s 4  
def **banking business** ins 1998 No 59 s 4  
def **cheque** sub 1998 No 58 s 4  
def **exempt debit** pars renum R2 LA  
def **financial institution** sub 1998 No 58 s 4  
def **incomplete** am 1998 No 59 s 4  
def **non-bank financial institution** om 1998 No 58 s 4  
def **payment order** om 1998 No 58 s 4  
def **Taxation (Administration) Act** om 1999 No 5 sch 2

### **Incorporation of Administration Act**

s 4 sub 1999 No 5 sch 2

### **Application**

s 5 am 2002 No 11 amdt 2.30

### **Excluded debits**

s 6 am 1998 No 59 s 5

### **Imposition of tax**

s 10 am 1998 No 59 s 6

### **When tax payable**

s 12 am 1999 No 5 sch 2

### **Recovery of tax by financial institutions**

s 13 am 1999 No 5 sch 2

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

s 14 am 2001 No 44 amdts 1.1043-1.1045

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

s 15 om A2004-15 amdt 2.51

**Rebates**

s 16 am 1998 No 59 s 7; 2001 No 44 amdts 1.1046-1.1048;  
A2004-2 amdt 1.16

**Return in respect of taxable debits**

s 17 am 2001 No 44 amdt 1.1049, amdt 1.1050

**Return in relation to exempt accounts**

s 18 am 2001 No 44 amdt 1.1051

**Representative officers**

s 19 am 1998 No 59 s 8

**Regulation-making power**

s 20 am 2001 No 44 amdt 1.1052, amdt 1.1053

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

s 21 om R1 LRA

**Interim determinations**

s 22 am 2001 No 44 amdt 1.1054, amdt 1.1055; table renum R4 LA

**End of effect of Act**

pt 6 hdg ins A2005-2 s 5

**No liability for debits from 1 July 2005**

s 23 om 1998 No 59 s 9  
ins A2005-2 s 5

**No returns required for months from July 2005**

s 24 om 2001 No 44 amdt 1.1056  
ins A2005-2 s 5

**Expiry of Act from 1 July 2006**

s 25 ins A2005-2 s 5

**Declaration as to status of organisation**

sch om 2001 No 44 amdt 1.1056

## Endnotes

5 Earlier republications

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### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1999 No 5	31 October 2000
2	Act 2001 No 44	12 March 2002
3	A2002-11	30 May 2002
4	A2004-2	22 March 2004
5	A2004-15	9 April 2004

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