

2000

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**FINANCIAL INSTITUTIONS DUTY ACT 1987
FINANCIAL INSTITUTIONS DUTY REGULATIONS AMENDMENT**

SUBORDINATE LAW NO. 39 OF 2000

EXPLANATORY STATEMENT

The *Financial Institutions Duty Act 1987* (the Act) provides for the imposition of financial institutions duty (FID) on certain receipts by financial institutions in the ACT. FID is payable by financial institutions which register under the Act and by depositors with those financial institutions which do not register.

Section 39 of the Act empowers the Executive to make regulations prescribing matters permitted by the Act to be prescribed.

Subsection 6 (2) of the Act enumerates non-dutiable receipts, among which are receipts of money for pensions, benefits or allowances payable under the *Social Security Act 1991* (C'wealth) or *Veterans' Entitlements Act 1986* (C'wealth). However, since 1 July 2000, these payments have been made under new Commonwealth legislation as part of the new tax system, namely, *A New Tax System (Family Assistance) (Administration) Act 1999* and *A New Tax System (Bonuses for Older Australians) Act 1999*, and are therefore not currently exempt from FID. The ACT Government has undertaken to ensure that they are exempt.

Paragraph 6 (2) (s) of the Act allows the receipt of money by a registered financial institution to be prescribed by the regulations as a non-dutiable receipt. The purpose of this Financial Institutions Duty Regulations Amendment (the Amendment) is to amend the *Financial Institutions Duty Regulations* to add these payments to other prescribed non-dutiable receipts.

Clauses 1 and 2 of the Amendment are formal requirements. They refer to the commencement date, and the title of the regulations being amended as being the *Financial Institutions Duty Regulations*. The regulations are taken to have commenced on 1 July 2000 to ensure that FID is not imposed on non-dutiable receipts between 1 July 2000 and the date of Gazettal of the Amendment.

Clause 3 – Substitution, repeals regulation 1 and substitutes a new name for the regulations, namely the *Financial Institutions Duty Regulations 1990*, to indicate the year in which the Regulations were originally made.

Clause 4 – Non-dutiable receipts, amends regulation 2A by omitting subregulation (1) and substituting a restructured subregulation (1) to allow the addition of the new non-dutiable receipts. Paragraph 2A (1) (a) now contains the provisions formerly at subregulation (1). It exempts a receipt of money by a financial institution that holds an exchange settlement account with the Reserve Bank of Australia (RBA), subject to the specified conditions. This allows receipts into Scorekeeping Accounts maintained by the RBA for use in the operation of the Real Time Gross Settlement system (which is defined in subregulation 2A (2)) to be non-dutiable. At the end of each day the balance of the account must be transferred to another account of the same person, kept by the same financial institution. Transactions posted from these exempt accounts at the end of each day would, however, be subject to normal FID assessment.

Clause 4 also adds a new provision at paragraph 2A(1) (b) to prescribe, as a non-dutiable receipt, the receipt of money resulting from the direct credit of a payment under

- a family assistance law; or
 - the *A New Tax System (Bonuses for Older Australians) Act 1999* (Cwlth)
- to an account kept by a financial institution. The clause provides that the meaning of “family assistance law” is the same as in subsection 3 (1) of the *A New Tax System (Family Assistance) (Administration) Act 1999* (Cwlth). It also inserts definitions of “direct credit” and “prescribed payments”.

Circulated by authority of
Gary Humphries, Treasurer