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

DEBITS TAX BILL 1997

EXPLANATORY MEMORANDUM

Circulated by the authority of the Chief Minister and Treasurer

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Debits Tax Bill 1997

Summary

The *Debits Tax Bill 1997* will provide for the imposition of a tax on all debits of \$1 or more (other than debits specifically exempted) made to customer cheque accounts and accounts having cheque facilities of banks, building societies and credit unions (financial institutions), from 1 July 1997

The requirement to pay the tax imposed on a debit to an account kept with a financial institution will, in all but certain special cases, fall on the financial institution. The financial institution will be required to furnish a monthly return of taxable debits to the Commissioner for ACT Revenue and to pay the tax imposed on those debits within 14 days of the end of the month to which the return relates. A statutory right is provided to the financial institution to recover from the customer the tax payable on debits to a customer's account.

The Commissioner is empowered to issue a certificate of exemption in respect of an account, on application from persons or bodies entitled to exemption from the tax. A financial institution will not be liable to pay tax in respect of debits to accounts for which a certificate of exemption is in force. Exemption from the tax will generally be available for governments, charitable organisations and for individuals and organisations exempted from the payment of taxes by Commonwealth legislation. In addition a scheme for certain pensioners to receive a rebate of debits tax paid, within prescribed limits, will be available.

The proposed Debits Tax Act will be a tax law for the purposes of the Taxation (Administration) Act 1987 (TAA) and should be read as one with the TAA. Provisions of the TAA such as delegations, assessments, additional tax, penalties, refunds, objections and appeals are all applicable to the operation of the proposed Debits Tax Act.

Financial Implications

It is anticipated that revenue from debits tax will amount to \$14.15m in 1997-98. Any increase in revenue will be largely off-set by a reduction in financial institutions duty collected (approximately \$8.5m) because the rate of duty will be reduced from 0.1% to 0.06% of dutiable receipts from 1 July 1997. The provision of a pensioner rebate scheme is expected to cost in the vicinity of \$1.297m annually.

Details of the Debits Tax Bill 1997

Title

Clause 1 - provides for the short title of this Act to be the *Debits Tax Act 1997*

Commencement

Subclause 2(1) - provides for sections 1 and 2 of this Act to commence on the day the Act is notified in the Gazette

Subclause 2(2) - provides that the remaining provisions will commence on 1 July 1997

Interpretation

Clause 3 - provides for the definition of a number of terms used in the Act.

"account" is defined to mean.

a) a bank account on which payments by the bank for cheques drawn on the bank by the account holder/s may be debited, and

b) a non-bank financial institution account on which payments by the institution for payment orders drawn on the institution by the account holder/s may be debited

"account holder" is the person or persons in whose name or names the account is kept

"account transaction" is the payment of a cheque, a payment order or the undertaking of any action or thing which would result in a debit to an account

"bank" is expressed to mean a person who carries on banking business and, in so doing, provides cheque account facilities. By this definition, the term can include a bank carrying on business outside the Territory. It does not include a non-bank financial institution.

"certificate of exemption" is defined to mean a certificate issued under section 13 (by the Commissioner for ACT Revenue in respect of an account held by one of the bodies or persons entitled to exemption from the tax)

"charitable organisation" is defined to mean 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" is given its ordinarily understood meaning, that is, a demand on a bank to pay an amount from a customer's or its customers' account to a third person. It therefore does not include instruments known as bank cheques.

"company" is defined to mean any incorporated or unincorporated association or body of persons, including a partnership.

"Department" is defined to mean an administrative unit (which, for the time being, is established under section 13(1) of the Public Sector Management Act 1994).

"eligible debit" is a debit made to an account, other than an excluded debit or an exempt debit. Eligible debits are identified as the category of debits for which the account holder and not the bank, can, in special circumstances, be required to pay the tax. For example, a debit made to an account held outside the Territory in order to avoid paying debits tax in the ACT.

"excluded debit" has the meaning given by section 5. Basically, it refers to debits made to an account which, primarily by virtue of the nature of the body or person in whose name the account is held, and in limited circumstances by virtue of the nature of the debit itself, are to be exempt from the tax in the hands of the bank, when made to an account on which a certificate of exemption issued by the Commissioner for ACT Revenue is in force. An excluded debit made to an account that does not have a certificate of exemption in force, will be subject to tax payable by the bank.

"exempt account" means an account kept in the Territory in respect of which a certificate of exemption issued by the Commissioner for ACT Revenue for the purposes of this Act, is still in force.

"exempt debit" defines a class of debits for which tax will not be imposed under any circumstances. Debits in this class which do not require the holding of an exemption certificate for the debit to an account to be exempt, include

- a) an adjusting debit made to reverse a credit entry previously made to an account resulting from an error or cheque dishonour,
- b) a debit to an account for income tax purposes under section 221YHZC(1A) of the *Income Tax Assessment Act 1936*,
- (c)(d) a debit to an account for the purposes of recovering from the account holder/s an amount equal to debit tax or financial institutions duty payable by the financial institution,

While other jurisdictions have included the following debits in the "excluded" debit category this is not possible in the ACT. The Territory is unable to impose a tax on debits to the account/s of the following people or organisations because their tax-free status arises either because of section 27 of the Self-Government Act (Territory laws cannot bind the Commonwealth Crown unless permitted by regulation under that Act) or because other Commonwealth legislation prevents the charging of debits tax. Therefore, irrespective of whether the account holder/s hold an exemption certificate or not on their account/s, any debit to the account would be an "exempt" debit.

Although these persons or bodies are exempt, to facilitate financial institutions providing an exemption it is necessary for the account holder/s to obtain a certificate of exemption on their account/s, from the Commissioner for ACT Revenue.

Exempt debits in this category are debits made to an account in the name of.

- e) the Governor General,
- f) the government of a foreign country,
- g) an individual entitled to exemption from debits tax under any law of the Commonwealth, such as foreign diplomatic or consular personnel with bank accounts in the ACT, who are entitled to exemption from the tax by reason of the Diplomatic Privileges and Immunities Act 1967 or under the Consular Privileges and Immunities Act 1972,
- h) an organisation entitled to exemption from debits tax by virtue of any law of the Commonwealth, such as an international organisation that is established by an agreement to which Australia is a party, and which obliges Australia (and thereby the ACT) to grant that organisation an exemption from the tax,
- j) that is referred to in subsection (6). (Subsection (6) effectively exempts a debit to an account kept with a financial institution by a Commonwealth Department or authority whose sole or principal function is not to carry on an activity in the nature of a business, whether or not for profit Where any legislation or regulations require a Commonwealth Department or authority to pay any taxes, which for all intents and purposes would include debits tax, then this exemption would not apply), and
- k) a kind or class of debit prescribed for the purposes of the exempt debit category

"financial institution" means a bank or non-bank financial institution

"goods" is defined to include water, gas and electricity This definition is related to the proposed exemption for debits to accounts held by certain Commonwealth, State and Territory government bodies The practical effect of this definition is that a government body which supplies water, gas or electricity to the public for a fee or charge will, for the purposes of the definition of "excluded debit", be deemed to be carrying on an activity in the nature of a business

"incomplete" as it relates to a cheque or payment order means the cheque or payment order has insufficient information contained therein to make it an effective instrument, and requires filling up to complete it

"non-bank financial institution" has the same meaning as given in the *Cheques and Payment Orders Act 1986*, and which keeps accounts that may be drawn on by payment orders

"payment order" has the same meaning as given in the *Cheques and Payment Orders Act 1986*

"person" is widely defined to include, in addition to a natural person, a body politic (a government body or authority), a company, a partnership and any other unincorporated association or body of persons

"tax " is defined to mean tax imposed by this Act

"taxable account" is the term used to refer to an account for which a certificate of exemption is not in force and tax is to be paid on debits to the account

"taxable debit" means any debit made to an account, other than an exempt debit
Excluded debits, as defined, will be subject to tax as a taxable debit unless a certificate of exemption, issued by the Commissioner for ACT Revenue, is in force in relation to the account to which they are debited

"Taxation (Administration) Act means the *Taxation (Administration) Act 1987* This Act, as a tax law, should be read as one with the Taxation (Administration) Act

Subclause 3(2) defines the term "resident of the Territory at a particular time"

By paragraph a, a natural person shall be taken to have been a resident of the Territory if he or she resided in the Territory, or if not residing in the Territory, was domiciled in the Territory, at that time.

By paragraph b, a company will be taken to be a resident of the Territory if the company was incorporated in the Territory at that time, or if it carried on business in the Territory at that time and had either its central management and control here or its voting power controlled by shareholders in the Territory, at that time

By paragraph c, a company being a partnership, or other unincorporated association or body of persons, will be taken to be resident of the Territory at that time, if any member was a resident of the Territory at that time

Subclause 3(3) extends the meaning of the term "exempt debit" in subclause 3(1) to deem a debit made to an account and subsequently reversed to be, and to have always been, an exempt debit

Subclause 3(4) specifies that tax, or additional tax under Section 30 of the Taxation (Administration) Act, is "due and payable", for the purposes of this Act, on the day on which the tax or additional tax is required to be paid.

Subclause 3(5) imposes joint and several liability on persons who are members of a partnership or other association or body to pay any tax or additional tax imposed under this Act or under the Taxation (Administration) Act

Subclause 3(6) provides that, subject to subclauses (7) and (9), for the purposes of paragraph j) a debit is an exempt debit for the purposes of the definition of "exempt" debit in subclause 3(1) if it is made to an account kept with a financial institution by a Commonwealth Department or authority

Subclause 3(7) provides that the debit mentioned in subclause (6) will not be exempt if it is a debit

- a) made to an account kept in the name of a Department or authority whose sole or principal function is to carry on an activity in the nature of a business (whether or not for profit), or
- b) it is made in connection with a transaction or transactions entered into by or on behalf of a Department or authority in connection with the carrying on of an activity in the nature of a business (unless it is an insignificant part of its functions) (whether or not for profit)

Subclause 3(8) qualifies the effect of subclause 3(6) and 5(2) by indicating these provisions have no effect on the operation of Commonwealth legislation which makes Commonwealth authorities liable to payment of debits tax or taxes that include debits tax

Subclause 3(9) has the practical effect of deeming Commonwealth, State or Territory Departments or authorities, mentioned in subclauses 3(6) or 5(2) or paragraph 6(1)(b), which supply goods or services to the public for payment, to be carrying on an activity in the nature of a business (and consequently liable to debits tax on debits to their account/s).

Subclause 3(10) allows for certain goods or services to be declared by regulations, by the Executive, to not be goods or services for the purposes of subclause 3(9)

Incorporation of Taxation (Administration) Act 1987

Clause 4 advises that the provisions of the Taxation (Administration) Act apply and shall be read as one with this Act.

Application

Subclause 5(1) has the practical effect of making ACT Departments or authorities liable to payment of debits tax, to the extent that they are not able to obtain an exemption under other provisions of the Act

Subclause 5(2) has the practical effect of making debits to an account kept with a financial institution by a Commonwealth Department or authority that is a government business enterprise, or the making of debits to an account by or on behalf of a Commonwealth department or authority, in connection with transactions relating to a business activity, (unless they are a minor or insignificant part of the functions of the body) liable to debits tax, as are similar Territory Departments or authorities.

Excluded Debit

Clause 6 identifies the debits which will be excluded debits by reason that the body or person/s in whose name the account is held is entitled to exemption from the tax

For the exemption to apply to the account the account holder/s must obtain a certificate of exemption from the Commissioner for ACT Revenue. Excluded debits, therefore, are debits made to an account in the name of

- i) a charitable organisation,
- ii) a hospital recognised under the *Health Insurance Act 1973* of the Commonwealth,
- iii) a non-profit school, college or university,

A debit made to an account held by any of the bodies mentioned in i), ii), or iii) will not be an excluded debit unless it is related to a transaction carried out wholly and exclusively in furtherance of the objects of the body,

- b) a State or Territory government Department or authority, provided it is not the sole or principal function of the Department or authority to carry on a business, see subclause 6(2) (A debit made to an account held by such a Department or authority will not be an excluded debit if it resulted from a transaction connected with a business activity where such activity is not a minor or insignificant part of the bodies' functions)

For the purposes of this provision, the Bill specifies (subclause 3(9) and 3(10)) that a Department or authority that makes a charge for goods or services, (other than for goods or services prescribed for the purposes of this provision) which are supplied to the public for payment, by other than as a minor or insignificant part of the functions of the Department or authority, is deemed to be carrying on a business,

- c) a government department or authority that is prescribed by regulation for the purposes of this provision,
- d) a bank, where a debit is made to an account kept with another bank, by a bank that carries on banking business in Australia, other than a debit resulting from a financial institution providing to a customer an incomplete cheque or payment order, which the customer is authorised to complete (For practical purposes, this means that a certificate of exemption will be available for accounts of financial institutions kept with other financial institutions),
- e) an account holder, where the tax on the debit to an account with the financial institution has been paid but cannot be recovered from the customer/s, eg where an exemption certificate for the account had been provided to the financial institution, but had not been operating on the account. This means that the debit involved will become an excluded debit and the tax previously paid by the financial institution will be able to be refunded to the financial institution, by the Commissioner for ACT Revenue,
- f) a person who is entitled to an exemption from the tax by virtue of a kind or class of debit that has been prescribed for the purposes of this paragraph

Clause 6(2) provides that the debit mentioned in paragraph 6(1)(b) will not be exempt if it is a debit

- a) made to an account kept in the name of a Department or authority whose sole or principal function is to carry on an activity in the nature of a business (whether or not for profit), or
- b) it is made in connection with a transaction or transactions entered into by or on behalf of a Department or authority in connection with the carrying on of an activity in the nature of a business (unless it is an insignificant part of its functions) (whether or not for profit)

Notional separation of debits

Subclauses 7(1) provides that where a single debit to an account results in multiple transactions, the transactions will each be treated as a single debit and be separately taxable

Subclause 7(2) provides that subclause 7(1) will not apply to a debit or a kind or class of debits that is prescribed for the purposes of the provision

Debits made in currency other than Australian currency

Clause 8 provides that where a debit is made in a foreign currency the amount of the debit is to be expressed in Australian currency for the purposes of this Act

Administration

Clause 9 provides for the Commissioner for ACT Revenue to be responsible for administration of the Act

Imposition of tax

Subclause 10(1) provides that the determined amount of Debits tax is to be imposed on debits of \$1 or more in the following manner.

- taxable debits made to taxable accounts That is, standard cheques and payment orders drawn on, and debits to, bank and non-bank accounts having cheque facilities, on which an exemption is not in force,
- eligible debits made to exempt accounts That is, debits that are liable to tax, other than exempt or excluded debits, made to accounts which are normally exempt from tax by virtue of holding an exemption certificate from the Commissioner,
- eligible debits made to accounts outside the ACT where the account holder is a resident of the ACT and the transaction is carried out with the intention of avoiding ACT debits tax.

Subclause 10(2) provides that liability to debits tax also applies in relation to a debit to an interstate non-bank account (including accounts kept by way of withdrawable

share capital) where the non-bank holds an account with a cheque facility with a bank, on which its customers can draw cheques

Liability to tax

Subclause 11 (1) provides for the financial institution and the account holder/s to be jointly and severally liable to pay debits tax on a taxable debit made to an account (While the Commissioner is entitled to recover tax from either the financial institution or the account holder/s, common practice is for the financial institution to pay the tax and debit that amount to the relevant account)

Subclause 11(2) provides that the account holder is liable, or the account holders are jointly and severally liable, to pay debits tax on an eligible debit made to an account. This would include an account located outside the Territory, including an exempt account.

Subclause 11(3) provides that the liability to tax imposed by subclauses 11(1) and 11(2) do not apply to a person or organisation exempted from paying debits tax under Commonwealth legislation, including a Commonwealth Department or authority.

When tax payable

Clause 12 formally specifies when the debits tax is to be paid

Paragraph 12(1)(a) specifies that tax payable by a financial institution in respect of a taxable debit made during a month is to be paid by the 14th day after the end of the month,

Paragraph 12(1)(b) specifies that tax payable by account holder/s under an assessment under section 20 of the Taxation (Administration) Act is to be paid on the date specified in a notice, which is to be a date not less than 14 days after the day on which the notice of the assessment is served on the person/s

Subclause 12(2) specifies that additional tax payable under an assessment issued under section 30 of the Taxation (Administration) Act is due and payable on the date specified in the notice of assessment

Recovery of tax by financial institutions

Clause 13 provides a statutory right for financial institutions to recover tax paid in accordance with the Act

Subclause 13(1) makes an account holder liable, or account holders jointly and severally liable, to pay to the financial institution an amount equal to the tax paid, or liable to be paid, by the financial institution in respect of taxable debits made to the account of the account holder/s

Subclause 13(2) provides that the financial institution may sue in a court of competent jurisdiction to recover the tax from the account holder/s

Subclause 13(3) provides that the account holder/s are not liable to pay to a financial institution under subclause 13(1) an amount of tax that has been refunded to a financial institution in accordance with the Taxation (Administration) Act

Subclause 13(4) specifies that a financial institution may debit an account of an account holder/s with an amount the account holder/s is liable to pay

Subclause 13(5) specifies that nothing in Clause 13 will prevent a financial institution from entering into an agreement or arrangement with an account holder/s

Subclause 13(6) provides that the agreement or arrangement mentioned in subclause 13(5) is one which enables the financial institution to recover amounts equal to tax paid or payable, in respect of debits to an account of an account holder/s, from the account holder/s

Certificates of exemption

Clause 14 governs the issue and revocation of a certificate of exemption by the Commissioner for ACT Revenue. The function of a certificate of exemption is to authorise a bank to make debits to the account to which the certificate relates free of tax.

Subclause 14(1) specifies that the Commissioner will, upon proper application being made by an account holder, issue a certificate of exemption in respect of an account if, as specified in paragraph (a), the Commissioner is satisfied that all debits to the account are or will be excluded debits or exempt debits

Where the Commissioner refuses to issue a certificate because she or he is not satisfied that all debits to the account will be excluded debits or exempt debits, paragraph 14(1)(b) will require the Commissioner to serve a notice of the decision on the account holder who applied for the certificate

Subclause 14(2) provides that a certificate of exemption will remain in force for such period as is shown on the certificate or, where a date of expiry has not been specified on the certificate, until the certificate is revoked by the Commissioner

Subclause 14(3) authorises the Commissioner to revoke a certificate of exemption if either the account holder/s notifies her or him (paragraph (a)) or the Commissioner otherwise becomes satisfied (paragraph (b)), that an eligible debit (a debit on which the account holder is liable to pay the tax) has been or is to be made to the account. In effect, the certificate may be revoked if the account ceases to be used wholly for exempt purposes

Subclause 14(4) places an obligation on an account holder who has obtained an exemption certificate in respect of an account to notify the Commissioner within 7

days if an eligible debit has been made to the account or if the account holder expects that, within 30 days, an eligible debit will be made to the account

Subclause 14(5) places a similar obligation on account holders in respect of an eligible debit being made to an exempt account, as subclause 14(4) places on an account holder, with the added requirement that each account holder is required to notify the Commissioner within the required period. However, where one has notified the Commissioner, the obligation on the others is removed.

Subclause 14(6) requires the Commissioner to serve notice of revocation of a certificate of exemption on each account holder concerned and on the financial institution concerned. The certificate of exemption ceases to be in force when the notice of revocation of the certificate is served on the financial institution.

Subclause 14(7) requires an application for a certificate of exemption to be made in a form approved by the Commissioner.

Subclause 14(8) requires the applicant for a certificate of exemption to furnish such information or documents as the Commissioner requires for consideration of the application.

Offences relating to certificates of exemption

Clause 15 creates several offences relating to forging or falsifying a certificate of exemption. The maximum penalty for such an offence is 100 penalty units or imprisonment for 2 years or both.

Rebates

Subclause 16(1) defines "pensioner" to mean certain Social Security and Veterans' Affairs pension or allowance beneficiaries.

Subclause 16(2) provides that a pensioner may, within 3 months of the end of the financial year, apply to the Commissioner for a rebate in respect of debts tax paid during the year in respect of an account kept in the Territory.

Subclause 16(3) provides that the application may not be made later than 3 months after the end of the financial year, without the approval of the Commissioner. (The applicant, when seeking the Commissioners' approval for submitting a late application, would need to state fully the circumstances surrounding why the application was not made on time.)

Subclause 16(4) provides that a person is limited to submitting an application for a rebate on 1 account only, whether or not it is a joint account.

Subclause 16(5) provides that a rebate provided on a joint account, irrespective of the number of account holders, will be calculated as if the account were held by one

person. In effect it would be up to the account holders to distribute the rebate proportionally amongst themselves.

Subclause 16(6) provides that the amount of rebate payable on an account held during a financial year will be the amount of debits tax paid, subject to that amount being within the parameters set by determination, under subclauses 16(7) and (8).

Subclause 16(7) provides that where the amount of rebate payable in respect of a financial year is less than the amount set by determination in respect of this subclause no rebate is payable.

Subclause 16(8) provides that where the amount of the rebate payable in respect of a financial year is greater than the amount set by determination in respect of this subclause the amount of rebate payable shall be the determined amount.

Subclause 16(9) provides that where a person is a pensioner for part of a year only, the person can still apply for a rebate, but eligibility for the rebate will be dependent on the debits tax paid within the period in which the person was a pensioner, meeting the amount determined in respect of subclause 16(7). The rebate payable for that period will not exceed the amount determined in respect of subclause 16(8).

Subclause 16(10) for practical purposes provides that the rebate is not available to the estate of a deceased person.

Subclause 16(11) provides that the application for a rebate will be made on a form approved by the Commissioner.

Subclause 16(12) provides that a person making an application is to furnish information and documents as required by the Commissioner, to enable proper consideration of the application.

Returns in respect of taxable debits

Clause 17 places an obligation on financial institutions and account holders to submit returns.

Subclause 17(1) requires a financial institution which makes a taxable debit to taxable accounts during a month to lodge a return with the Commissioner for ACT Revenue.

Subclause 17(2) requires that a return referred to in subclause 17(1) shall relate to all taxable debits made to taxable accounts during the month,

Subclause 17(3) requires the return to be lodged with the Commissioner for ACT Revenue within 14 days after the end of the month to which the return relates, or such later date as the Commissioner allows.

Subclause 17(4) authorises the Commissioner to permit a financial institution to lodge more than 1 return in relation to taxable debits made to taxable accounts, where this may be convenient to the financial institution

Subclause 17(5) provides that where the Commissioner believes an account holder is liable to pay tax in respect of eligible debit/s made to an exempt or non-Territory account, the Commissioner can request the account holder, by notice in writing, to lodge a return

Subclause 17(6) requires the return referred to in subclause 17(5) to relate to all eligible debits to which the account holder is liable to pay tax during the period specified in the notice

Subclause 17(7) specifies that the return referred to in subclause 17(5) shall be lodged with the Commissioner within the time specified in the notice, being a time not less than 21 days after the day on which the notice is given

Subclause 17(8) specifies that a return required to be furnished must be in an approved form and contain such particulars as are required by the form

Return in relation to exempt accounts

Subclause 18(1) places an obligation on a financial institution to lodge with the Commissioner, within 2 months after the end of each calendar year, a return setting out details of exempt accounts kept by the financial institution during the year

Subclause 18(2) provides that the financial institution may, with the agreement of the Commissioner, furnish the information required in a return of exempt accounts by way of electronic medium, or other form approved by the Commissioner

Representative officers etc

Clause 19 requires financial institutions to be represented, for the purposes of the proposed legislation, by specified officers of the financial institution

Subclause 19(1) for all practical purposes, defines"

"carry on business" to mean in the case of a bank, banking business, and in the case of a non-bank financial institution the carrying on of a business that includes the keeping of accounts which can be drawn on by payment orders,

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

"representative officer" to be a person appointed to represent a financial institution, and

"resident financial institution" to be a bank or non-bank financial institution that carries on business in the Territory

Subclause 19(2) provides that a financial institution may appoint a person to be a representative officer for the purposes of the Act

Subclause 19(3) provides that a financial institution shall at all times maintain a representative officer, unless exempted from doing so by the Commissioner for ACT Revenue

Subclause 19(4) provides that the obligation on a financial institution to appoint and maintain a representative officer commences 1 month after it begins to carry on the business of a financial institution in the Territory

Subclause 19(5) requires a financial institution to notify the Commissioner in writing of the appointment, or termination of the appointment, of a representative officer, and the address for service of notices on the representative officer, within 7 days of the appointment or termination

Subclause 19(6) permits a financial institution to notify the Commissioner in writing of a new address at which documents may be served on a representative officer.

Subclause 19(7) sets out the requirements to be observed by the financial institution in relation to the signing of returns lodged by the financial institution. A return is required to be signed by either a representative officer or a senior officer of the financial institution and shall specify an address at which documents relating to the return may be served on the financial institution

Subclause 19(8) provides that the service of a document on a financial institution, at the latest address notified for a representative officer, or at the address specified in a return lodged with the Commissioner, will be deemed to be effective service for the purposes of the legislation

Subclause 19(9) provides that a financial institution which fails to maintain a representative officer at all times or fails to notify the Commissioner of the appointment of, or termination of, and the address of a representative officer, within 7 days of the occurrence, will be guilty of an offence punishable on conviction by a fine of 1 penalty unit for each day in which it contravenes these requirements, as set out in subclauses 19(3) and (5)

Regulations

Subclause 20(1) provides that the Executive may make Regulations for the purposes of the Act

Subclause 20(2) provides that the Regulations may prescribe penalties of no greater than, if the offender is a natural person, 10 penalty units, or a body corporate, 50 penalty units

Amendment of section 3 of the *Taxation (Administration) Act 1987*

Subclause 21(1) amends section 3 of the *Taxation (Administration) Act 1987* to provide that the *Debits Tax Act 1997* is a tax law for the purposes of the *Taxation (Administration) Act 1987*. In practical terms this means that the Debits Tax Act should be read as one with the *Taxation (Administration) Act*.

Subclause 21(2) amends section 99 of the *Taxation (Administration) Act* to provide that an amount may be determined by the Minister for the purposes of subclauses 16(7) and (8) of the *Debits Tax Act 1997*. (Subclause 22(2) provides an interim determination of the amounts to be used in respect of subclauses 16(7) and (8).)

Interim Determinations

Subclause 22(1) provides a Table setting out the range of amounts of tax payable on taxable and eligible debits, which have been taken to have been determined by the Minister under section 99 of the *Taxation (Administration) Act*, for the purposes of subclause 9(1).

Subclause 22(2) provides that the following amounts are taken to have been determined by the Minister under section 99 of the *Taxation (Administration) Act*, for the purposes of subclauses 16(7) and 16(8) respectively.

- (a) \$15 is the minimum amount of debits tax which has to be paid annually before a pensioner can claim a rebate of debits tax paid, and
- (b) \$50 is the maximum annual rebate that a pensioner can receive for payment of debits tax.

Subclause 22(3) provides that for the purpose of facilitating revocation or variation of amounts determined under these provisions, the Minister may, by notice published in the *Gazette*, make determinations under section 99(1) of the *Taxation (Administration) Act*.

- (a) setting out the same range of amounts in subclause 22(1), for the purposes of subclause 9(1), or
- (b) the same amounts set out in subclause 22(2), for the purposes of subclauses 16(7) and (8), respectively.

Subclause 22(4) provides that upon publication in the *Gazette* of a determination referred to in

- (a) paragraph 22(3)(a), subclause 22(1) will be taken to have expired, and
- (b) subclause 22(3)(b), subclause 22(2) will be taken to have expired.

Subclause 22(5) provides that a determination referred to in subclause 22(3)(a) or (b) cannot be disallowed by the Legislative Assembly

Subclause 22(6) provides that a determination referred to in subclause 22(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

Clause 23 provides that where a financial institution commenced to carry on business in the Territory less than 1 month before the commencement of the time to have a representative officer appointed, in accordance with subclause 19(3), a period of 1 month is allowed to the financial institution from its date of commencement, to arrange for the appointment of a representative officer

Transitional

Clause 24 provides for a customer of a financial institution to complete a declaration (as set out in the Schedule) seeking exemption on account/s with cheque facilities, which will only be used for exempt or excluded debits. The declaration may then be submitted to the Commissioner for ACT Revenue who may, if the person is eligible for an exemption, issue a Certificate of Exemption (as set out in the Table). The exemption is subject to the date of commencement of section 14 of the Debits Tax Act 1997, and will only take effect from that date. Prior to that time, the Certificate has no effect.

The object of this provision is to lessen the need for the ACT Revenue Office and financial institutions to process huge numbers of exemptions immediately after the commencement of the Act, and to assist account holders eligible for exemption to have that exemption from the date of commencement of the Act, where practicable.