

# Debits Tax Act 1990 No 112

[1990-112]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 July 2001 to 1 July 2008 (accessed 12 July 2024 at 2:25)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by sec 4 of the [State Revenue Legislation Amendment Act 2008 No 67](#) with effect from 2.7.2008.

### Authorisation

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# Debits Tax Act 1990 No 112



New South Wales

An Act for the imposition of a tax in respect of certain debits made to accounts kept with financial institutions.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Debits Tax Act 1990*.

### 2 Commencement

- (1) This Act commences or is taken to have commenced on a day or days to be appointed by proclamation.
- (2) Any such proclamation may appoint 1 December 1990 or a later day.

### 3 Definitions

- (1) In this Act:

**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 one 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.

**assessment** means an assessment or reassessment by the Chief Commissioner under Part 3 of the *Taxation Administration Act 1996*.

**certificate of exemption** means a certificate under section 13.

**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 any one 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.

**Chief Commissioner** means the Chief Commissioner of State Revenue referred to in section 60 of the [Taxation Administration Act 1996](#).

**company** means a body corporate, a partnership or any other unincorporated association or body of persons.

**eligible debit** means a debit (other than an excluded debit or an exempt debit) made to an account.

**excepted goods**, in relation to a Department, authority, corporation or body, means goods, or goods included in a class of goods, that are declared by the regulations to be excepted goods.

**excepted services**, in relation to a Department, authority, corporation or body, means services, or services included in a class of services, that are declared by the regulations to be excepted services.

**excluded debit** means a debit:

- (a) made to an account kept with a financial institution in the name of:
  - (i) the Governor-General or the Governor of a State, or
  - (ii) a government of a country other than Australia, or
  - (iii) a person who, but for section 10 (3) and (4), would be entitled to exemption from the tax by virtue of any other law of the State of New South Wales, being a debit made in relation to a transaction or transactions carried out by or on behalf of the person for purposes related wholly and exclusively to the person's private or domestic affairs, other than purposes related to activities that constitute the carrying on of a business by that person in Australia, or
  - (iv) an organisation other than:
    - (A) a Department of the Government of the Commonwealth or of a State or Territory, or
    - (B) an authority of the Commonwealth or of a State or Territory, or
    - (C) a council within the meaning of the [Local Government Act 1993](#),  
that, but for section 10 (3) and (4), would be entitled to exemption from the tax by virtue of any other law of the State of New South Wales, being a debit made in relation to a transaction or transactions carried out by or on behalf of the organisation wholly or exclusively in engaging in its official activities, or
  - (v) any of the following:

- (A) a public benevolent or a religious institution, or a non-profit organisation having as one of its objects a charitable, benevolent, philanthropic or patriotic purpose,
- (B) a public hospital or a hospital 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,
- (C) a university, a 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 institution, organisation, hospital, university, college or school, as the case may be, wholly and exclusively in furtherance of its objects, or

- (vi) a society, institution or organisation that has been established, and is carried on, wholly and exclusively for the purpose of raising money for, or otherwise promoting the interests of, a specified institution, organisation, hospital, university, college or school referred to in subparagraph (v), being a debit made in relation to a transaction or transactions carried out by or on behalf of that society, institution or organisation wholly and exclusively in furtherance of its objects, or
- (vii) any of the following:
  - (A) a Department of the Government of the Commonwealth or of a State or Territory,
  - (B) an authority of the Commonwealth or of a State or Territory,
  - (C) a council within the meaning of the [Local Government Act 1993](#),  
other than such a Department, authority, corporation or body the sole or principal function of which is to carry on an activity in the nature of a business (whether or not for profit), not being a debit made in relation to a transaction or transactions entered into by or on behalf of the Department, authority, corporation or body 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, authority, corporation or body) in the nature of a business (whether or not for profit), or
- (viii) the Sydney Organising Committee for the Olympic Games or of Sydney Paralympic Organising Committee Limited, or
- (viiib) the Australian Olympic Committee Incorporated, or of the New South Wales

Olympic Council Incorporated, and if the account is used solely for the purposes of the Olympic Games to be held in the year 2000, or

- (viic) the New South Wales Electricity Transmission Authority and if the account is used solely for the purposes of the administration of the Market Settlements Fund.
- (viii) an authority of the Commonwealth, or of a State or Territory, that is prescribed for the purposes of this subparagraph, or
- (b) 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 New South Wales 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 New South Wales, 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, or
- (c) 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, or
- (d) made to an account kept with a financial institution that is an “offshore banking unit” (within the meaning of Division 11A of Part III of the *Income Tax Assessment Act 1936* of the Commonwealth), being a debit made in relation to an “offshore banking activity” (within the meaning of section 121D of that Act), or
- (d1) (Repealed)
- (e) that is included in a kind or class of debits that is prescribed for the purposes of this paragraph.

**exempt account** means an account kept in New South Wales 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, or

- (b) that is made for the purpose of deducting an amount under section 221YHZC (1A) of the *Income Tax Assessment Act 1936* of the Commonwealth, 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 Division 29 of Part 3 of the *Stamp Duties Act 1920*, or
- (e) that is included in a kind or class of debits that is prescribed for the purposes of this paragraph.

**financial institution** means an institution that is a financial institution for the purposes of the *Cheques Act 1986* of the Commonwealth.

**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.

**month** means one of the 12 months of the year.

**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.

**proclaimed day** means the day appointed by the Governor by proclamation for the purposes of sections 8, 13, 15 and 44.

**Editorial note—**

Appointed day: 1.1.2002 see Gazette No 161 of 26.10.2001, page 8716.

**tax** means tax imposed by this Act.

**taxable account** means an account (other than an exempt account) kept in New South Wales.

**taxable debit** means a debit (other than an exempt debit) made to an account.

- (2) For the purposes of this Act, a person is to be taken to have been a resident of New

South Wales at a particular time if:

(a) in the case of a person other than a company:

- (i) that person resided in New South Wales at that time, or
- (ii) except in the case where the Chief Commissioner is satisfied that that person's permanent place of residence at that time was outside New South Wales—that person was domiciled in New South Wales at that time,

(b) in the case of a company being a body corporate:

- (i) the company was incorporated in New South Wales at that time, or
- (ii) if the company was incorporated outside New South Wales at that time, at that time the company carried on business in New South Wales and either:
  - (A) had its central management and control in New South Wales, or
  - (B) had its voting power controlled by shareholders who were residents of New South Wales, 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 New South Wales 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, if a Department, authority, corporation or body referred to in paragraph (a) (vii) of the definition of **excluded debit** in subsection (1) supplies goods (other than excepted goods) or provides services (other than excepted services) to the public for payment, the supply of those goods or the provision of those services by the Department, authority, corporation or body is to be taken to constitute the carrying on of an activity in the nature of a business by the Department, authority, corporation or body.

(5) (Repealed)

(6) Where:

- (a) this Act provides that an account holder or person is guilty of an offence, and
- (b) the account holder or person is a partnership or an unincorporated association or other body of persons,

that reference to the account holder or person is:

(c) in the case of a partnership—to be read as a reference to each member of the partnership, and

- (d) in the case of another unincorporated association or other body of persons—to be read as a reference to each member of the committee of management of the association or body.
- (7) If a liability is imposed on a person, being a partnership or other unincorporated association or body of persons, to pay any tax or other amount under this Act or any interest or penalty tax under Part 5 of the *Taxation Administration Act 1996*, that liability is taken to be imposed jointly and severally on the persons who are members of the partnership or other association or body at the time when the liability arises.
- (8) A reference in this Act to a liability of a person to the State of New South Wales is a reference to a liability of a person to the State of New South Wales arising under, or by virtue of, an Act of which the Chief Commissioner has the general administration.
- (9) A reference in this Act to an account kept with a financial institution includes, where the institution is not a bank, a reference to an account kept by way of withdrawable share capital in, or money deposited with, the institution.
- (10) In this Act:
- (a) a reference to a function includes a reference to a power, authority and duty, and
  - (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.
- (11) A reference in this Act to banking business includes a reference to business carried on by a financial institution in the course of which the institution keeps accounts for its customers.

#### 4 Notional separation of debits

- (1) For the purposes of this Act, a single debit made to an account in respect of 2 or more account transactions:
- (a) under a third party cheque arrangement, or
  - (b) of a kind, or in circumstances, prescribed by the regulations,
- has the same effect as separate debits for each of those transactions.
- (2) In this section, **third party cheque arrangement** means an arrangement under which a person, other than the account holder, is entitled to draw cheques on an account and the account holder is entitled to recover the amount of any cheque so drawn from the drawer.

#### 5 Taxation Administration Act 1996

This Act is to be read together with the *Taxation Administration Act 1996* which makes provision for the administration and enforcement of this Act and other taxation laws.

**6, 7 (Repealed)**

**Part 2 Imposition and amount of tax**

**8 Imposition of tax**

(1) Tax is imposed in respect of:

- (a) each taxable debit of not less than \$1 made before the proclaimed day to a taxable account, and
- (b) each eligible debit of not less than \$1 made before the proclaimed day to an exempt account, and
- (c) each eligible debit of not less than \$1 made before the proclaimed day to an account kept outside New South Wales 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 New South Wales, 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 New South Wales.

(2) A reference in this section to a debit made to an account kept outside New South Wales includes a reference to a debit made to an account (in this section called the **customer's account**) kept outside New South Wales 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 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 financial

institution to enable the financial institution to honour the cheque, to debit the customer's account.

- (3) The conclusion referred to in subsection (1) (c) (ii) may not be drawn if, under a law of the place where the account is kept, the person concerned would be liable, in relation to the use of the account, to pay tax of a similar kind to the tax imposed by this section.

## **9 Amount of tax**

The amount of tax in respect of a taxable debit or eligible debit is the amount set out in Column 2 of Schedule 1 opposite to the reference in Column 1 of Schedule 1 to the range of amounts within which the amount of that debit is included.

## **Part 3 Liability to tax**

### **10 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) A law, or a provision of a law, passed before the commencement of this section that purports to exempt a person from liability to pay a tax which could be taken to include tax imposed by this Act does not exempt that person from liability to pay that tax.
- (4) A law, or a provision of a law, passed after the commencement of this section that purports to exempt a person from liability to pay taxes under the laws of the State of New South Wales or to pay certain taxes under those laws that include tax imposed by this Act, other than a law or a provision that expressly exempts a person from liability to pay that tax, is not to be construed as exempting the person from liability to pay that tax.

### **11 When tax payable**

- (1) Tax payable on a taxable debit to a taxable account must be paid not later than 14 days after the end of the month during which the debit was made to the account.
- (2) The amount specified by the Chief Commissioner in a notice of assessment as tax payable on an eligible debit to an account other than a taxable account must be paid not later than the day specified in the notice, being a day not less than:
  - (a) 14 days after the day on which the notice is served on the person or persons liable to pay the tax, or

- (b) if there are two or more persons liable to pay the tax and the notice is served on them on different days—14 days after the earlier or earliest of those days.

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

- (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 and the financial institution may recover that amount from that 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.
- (2) 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 the Chief Commissioner has refunded to the financial institution.
- (3) 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).
- (4) Where a financial institution would, but for this section, have power to enter into an agreement or arrangement with the account holder or account holders of a taxable account kept with the financial institution under which the financial institution would be 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, nothing in this section prevents the financial institution from entering into such an agreement or arrangement.

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

- (1) Where an account holder in respect of an account kept in New South Wales applies to the Chief Commissioner in accordance with this section for the issue of a certificate of exemption in relation to the account:
  - (a) if the Chief Commissioner is satisfied that all debits made, or to be made, to the account are, or are likely to be, either excluded debits or exempt debits—the Chief Commissioner must issue a certificate of exemption in relation to the account, or
  - (b) if the Chief Commissioner is not so satisfied—the Chief Commissioner must refuse the application and must cause notice in writing of the decision in relation to the application to be served, by post or otherwise, on the person who made the application.
- (2) A certificate of exemption comes into force on a day specified in the certificate as the day of commencement of the certificate (which may be a day before the day on which

the certificate is issued) and remains in force until the expiration of the day specified in the certificate as the day of expiry of the certificate or, if no day is specified as the day of expiry of the certificate, until the certificate ceases to be in force by virtue of subsection (6).

(3) Where the Chief Commissioner:

- (a) is notified by the account holder, or either or any of the account holders, of an exempt account 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 an exempt account,

the Chief Commissioner has a discretionary power to revoke the certificate by notice in writing.

(4) Subject to subsection (5), where, before the proclaimed day:

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

the account holder (or each of the account holders) of the exempt account, must, within 7 days, notify the Chief Commissioner in writing accordingly.

Maximum penalty: 100 penalty units.

(5) Where:

- (a) there are 2 or more account holders of an exempt account, and
- (b) one of those account holders notifies the Chief Commissioner in accordance with subsection (4) of an eligible debit to, or expected to be made to, the exempt account,

the other account holder (or account holders) are not required to notify the Chief Commissioner under that subsection of the eligible debit.

(5A) If the Chief Commissioner is not notified of the making of an eligible debit to an exempt account as required under subsection (4), then, for the purposes of Part 5 of the *Taxation Administration Act 1996*:

- (a) that failure is taken to be a tax default, and
- (b) interest and penalty tax (if any) are to be calculated by reference to the tax payable on the eligible debit as if it had been required to be paid within 7 days

after the eligible debit was made to the exempt account.

- (6) Where the Chief Commissioner has revoked a certificate of exemption in relation to an account, the Chief Commissioner must 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 shown on 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 made for the issue of a certificate of exemption must be in writing and the person making the application must furnish such information as the Chief Commissioner requires in connection with the consideration of that application.

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

- (1) A person must not:
- (a) forge a certificate or utter a certificate knowing it to be forged, or
  - (b) without lawful authority, alter or sign a certificate, or
  - (c) deliver a document (not being a certificate) that purports to be a certificate, or
  - (d) knowingly represent that a certificate is in respect of an account other than the account in respect of which the certificate was issued.

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

- (2) In subsection (1), **certificate** means a certificate of exemption.

### **Part 4 Returns and refunds**

#### **15 Returns 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 must, not later than 14 days after the end of that month or such later date as the Chief Commissioner allows, furnish to the Chief Commissioner a return, or, where subsection (2) applies, returns, relating to all taxable debits made during that month to taxable accounts kept with the financial institution.
- (2) A financial institution may, with the consent of the Chief Commissioner, furnish 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.

- (3) Where the Chief Commissioner has reason to believe that an account holder is liable to pay tax by virtue of section 10 (2) in respect of an eligible debit or eligible debits made to an account, the Chief Commissioner may, by notice in writing, require that account holder to furnish to the Chief Commissioner, within a time specified in the notice, not being a time earlier than 21 days after the day on which the notice is given, a return relating to all eligible debits in respect of which that account holder is liable to pay tax by virtue of section 10 (2) during the period specified in the notice.
- (4) If a return is not lodged with the Chief Commissioner as required under subsection (3) relating to eligible debits in respect of which an account holder is liable to pay tax by virtue of section 10 (2), then, for the purposes of Part 5 of the *Taxation Administration Act 1996*:
  - (a) that failure is taken to be a tax default, and
  - (b) interest and penalty tax are to be calculated by reference to the tax payable on the eligible debits as if the tax had been required to be paid within the time within which the return was required to be lodged with the Chief Commissioner.
- (5) A return under this section is not required to be furnished in respect of any period that commences on or after the proclaimed day.

## **16 Refund of amounts incorrectly paid**

- (1) A person may apply under Part 3 of the *Taxation Administration Act 1996* to the Chief Commissioner for the issue of a notice of assessment of the tax liability in respect of an amount paid as tax by a financial institution.
- (2) An application for the issue of the notice of assessment may be made:
  - (a) if the amount has not been recovered by the financial institution from an account holder—by the financial institution, or
  - (b) if the amount has been so recovered—by the account holder as if the account holder were the taxpayer.
- (3) In the case of an application by an account holder, the Chief Commissioner must not refuse to make a refund of any tax that has been overpaid on the grounds that the amount in respect of which the application is made has been passed on to the account holder.

## **17 Refunds for tax paid on excluded debits**

- (1) If, on application made by a person, the Chief Commissioner is satisfied that tax has been paid by a financial institution in respect of an excluded debit made to a taxable account, the Chief Commissioner must pay an amount equal to the amount of that tax

to the person.

(2) An application may be made:

(a) if the tax has not been recovered by the financial institution from an account holder—by the financial institution, or

(b) if the tax has been so recovered—by the account holder.

(3) In the case of an application for a refund by an account holder, the Chief Commissioner must not refuse to make the refund on the grounds that the amount for which the application is made has been passed on to the account holder.

(4) An application for a refund under this section must be made not later than 5 years after the tax was paid.

#### **18-22 (Repealed)**

### **Parts 5-7**

#### **23-43 (Repealed)**

## **Part 8 Miscellaneous**

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

(1) A financial institution must, within 2 months, or such further time as the Chief Commissioner allows, after the end of the year ending on 31 December 1990, and within 2 months, or such further time as the Chief Commissioner allows, after the end of each subsequent year, furnish to the Chief Commissioner 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) must be:

(a) if the Chief Commissioner agrees to the return being in the form of a disc, tape or other device from which information required by the Chief 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 Chief Commissioner and containing such particulars as are required by that form.

(3) A return under this section is not required to be furnished in respect of any year that commences on or after the proclaimed day.

#### **45-52 (Repealed)**

### **53 Regulations**

(1) The Governor may make regulations, not inconsistent with this Act, for or with respect

to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

#### **54 (Repealed)**

#### **55 Transitional provisions**

Schedule 3 has effect.

### **Schedule 1 Amount of tax**

(Section 9)

<b>Column 1</b>	<b>Column 2</b>
<b>Range of amounts of taxable debits or eligible debits</b>	<b>Amount of tax</b>
Not less than \$1 but less than \$100	30 cents
Not less than \$100 but less than \$500	70 cents
Not less than \$500 but less than \$5,000	\$1.50
Not less than \$5,000 but less than \$10,000	\$3.00
\$10,000 or more	\$4.00

### **Schedule 2 (Repealed)**

### **Schedule 3 Savings and transitional provisions**

(Section 55)

## **Part 1 Preliminary**

### **1 Definitions**

In this Schedule:

**Commissioner of Taxation** means the person holding office for the time being as Commissioner of Taxation under the [Taxation Administration Act 1953](#) of the Commonwealth.

**the Commonwealth Act** means the [Debits Tax Administration Act 1982](#) of the Commonwealth.

#### **1A Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent

on the enactment of the following Acts:

*State Revenue Legislation Further Amendment Act 1995*

*State Revenue Legislation Amendment Act 2000*

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

## **Part 2 Interim arrangements for the administration of this Act**

### **2 Interim arrangements for the administration of this Act**

- (1) The Chief Commissioner may make an arrangement with the Commissioner of Taxation about any matter in connection with the administration of this Act or the regulations.
- (2) In particular, an arrangement may provide:
  - (a) for the exercise by the Commissioner of Taxation or a Second Commissioner of Taxation of functions conferred by clause 3, and
  - (b) for the services of officers or employees under the control of the Commissioner of Taxation to be used for the purposes of matters relating to the administration of this Act.
- (3) The Chief Commissioner is empowered to do all such things as may be necessary or convenient to give effect to an arrangement made under this clause.
- (4) In relation to functions exercised in accordance with an arrangement made under this clause:
  - (a) a reference in this Act to the Chief Commissioner is a reference to the Commissioner of Taxation or a Second Commissioner of Taxation, and
  - (b) a reference in this Act to an officer is a reference to an officer or employee under the control of the Commissioner of Taxation whose services are used in accordance with the arrangement.

### **3 Conferral of functions on Commissioner of Taxation etc**

- (1) The Commissioner of Taxation and the Second Commissioners of Taxation have the functions under this Act of the Chief Commissioner, subject to this clause.
- (2) The Commissioner of Taxation may exercise the functions of a State taxation officer for the purposes of Part IIIA of the *Taxation Administration Act 1953* of the Commonwealth, subject to this clause.
- (3) The Commissioner of Taxation or a Second Commissioner of Taxation must not exercise a function conferred by this clause except in accordance with an arrangement made under clause 2.

### **4 Public notification of arrangement**

- (1) The Chief Commissioner may give notice, by publication in the Gazette, of an arrangement made under clause 2.
- (2) Subclause (1) does not limit the manner in which the Chief Commissioner may give notice of an arrangement made under clause 2 to a person who may be affected by it.

### **5 Cessation of arrangement**

- (1) An arrangement made under clause 2 and in force immediately before 31 December 1992, in so far as it authorises the assessment, receipt or collection of tax paid or payable under this Act, ceases to have effect on that day, except as provided by this clause.
- (2) If, before 31 December 1992, a proclamation is made and published in the Gazette appointing a later day for the purposes of this clause, the arrangement ceases to have effect as referred to in subclause (1) on the day specified in the proclamation.
- (3) Despite the other provisions of this clause, anything done or purporting to be done before 31 December 1993 under the arrangement made under clause 2 is taken to have been validly done.

### **6 Exemption certificates**

- (1) A certificate under section 11 of the Commonwealth Act in force immediately before the commencement of section 13 of this Act is taken to have been issued under section 13 of this Act.
- (2) An application under section 11 of the Commonwealth Act (being an application by a financial institution which is a resident of New South Wales) which had not been dealt with before the commencement of section 13 of this Act is taken to be an application under section 13 of this Act.

## **7 Representative officers etc of financial institutions**

An appointment of an officer as a representative officer of a financial institution in force under section 57 of the Commonwealth Act immediately before the commencement of section 45 of this Act is to be taken to have been made for the purposes of section 45 of this Act.

## **8 Acceptance of things done in compliance with the Commonwealth Act**

- (1) The Chief Commissioner (or a person authorised by any arrangement made under clause 2) may accept anything done in compliance with a provision of the Commonwealth Act as having been done in compliance with a corresponding provision of this Act and may notify a person affected by the corresponding provision accordingly.
- (2) If the Chief Commissioner (or a person so authorised) so notifies a person, the person is to be taken to have complied with the corresponding provision concerned.

## **9 Information included in returns in respect of taxable debits or eligible debits**

Nothing in this Act prevents a financial institution or an account holder from including in a return required to be furnished under this Act to the Chief Commissioner information relating to debits which are taxable debits or eligible debits in accordance with a law of another State or a Territory, being a law that corresponds to this Act.

## **Part 3**

### **10-24 (Repealed)**

#### **Editorial note—**

Clause 24 (1) reads as follows: "This Part is repealed on the day appointed under section 2 for the commencement of Part 5 of this Act". Part 5 of the Act commenced on 1.1.1994.