

SOUTH AUSTRALIA



STATE TAXATION OFFICE

Stamp Duties

Circular No. 12

STAMP DUTIES (CONCESSIONAL DUTY AND EXEMPTIONS) AMENDMENT ACT - NO. 19 OF 1991

Cheque Duty Provisions

Your attention is drawn to the above Act which was assented to on 18 April, 1991 and came into operation on the same date. The information below is of necessity brief and the precise nature and scope of the change must be taken from the reading of the provisions as set out in full in the amendment Act in conjunction with the Stamp Duties Act, 1923.

The purpose of this particular circular is to focus on the amendment to Exemption 4 of the Second Schedule under the heading, Bill of Exchange and Promissory Note.

PURPOSE OF THE AMENDMENTS

The intention of the Government in introducing the amendment was to;

(i) redraft the exemption from cheque duty to specifically embody it in the Stamp Duties Act. The exemption has been drafted to ensure that all charitable, educational, benevolent, religious, sporting, community and philanthropic bodies entitled to and currently receiving a cheque duty exemption continue to do so. However, the exemption has been drafted so that it is clear that it is not available to certain bodies which engage in business activities or to private individuals operating personal cheque accounts.

(ii) include the concept of payment orders under Section 46, 46a and 48a of the Act.

IMPACT ON THE STAMP DUTIES ACT

As a consequence of the passing of the Stamp Duties (Concessional Duty and Exemptions) Amendment Act, 1991 Exemption 4 of the Second Schedule under the heading "Bill of Exchange and Promissory Note" has been repealed.

A new Exemption 4 has been introduced to reflect the necessary changes.

SPECIFIC CHANGES

The amendment provides that **any cheque drawn** by a customer on their account with a bank, (or by a building society under the Building Societies Act, 1990 or credit union under the Credit Unions Act, 1989 pursuant to an agreement where the customer's account may be debited by the sum paid by that cheque) is exempt from stamp duty where the customer is a body established for charitable, educational, benevolent, religious, sporting, community or philanthropic purposes.

Any payment order given by bodies established for similar purposes is also exempt from duty.

APPLICATION OF AMENDMENT

Four of the new exempt classifications from stamp duty on cheques align with the exemptions under the F.I.D. Act. The three additional classifications are sporting, philanthropic and community bodies. Consequently where approval for a F.I.D. exemption on an account has been previously granted to an organisation (up to the date of assent of this amendment) exemption from stamp duty will be automatic.

WHAT EVIDENCE IS REQUIRED TO RECEIVE A CHEQUE DUTY EXEMPTION

-- All persons with a F.I.D. exemption certificate will automatically qualify for a cheque duty exemption. These bodies should, if they have not already done so, present their current F.I.D. exemption certificate to the financial institution. It is not necessary in these cases for the financial institution to refer to the State Taxation Office for authority.

-- Persons/bodies who currently do not pay Stamp Duty on cheques and who do not have F.I.D. exemptions **SHOULD** make application to the State Taxation Office for a cheque duty exemption. It will be necessary to set out the basis for the application and may require the lodgement of supporting information i.e. organisation 's constitution, bank statements etc to assist this office to determine if the body is entitled to an exemption.

However, if banks are able to provide lists of these customers to the State Taxation Office it may be possible to circumvent this requirement in many cases. This will be subject to negotiations between individual banks and this Office.

APPLICATION PROCEDURES

Account holders who wish to apply for exemption for stamp duty on cheques for the first time may use an "application for exemption" form. The same form may be used to make application for exemption for a F.I.D. account providing the necessary criteria are satisfied. Copies of these are available and will be forwarded to banks, building societies and credit unions.

To enable this Office to accommodate the anticipated initial large volume of applications for exemption it is recommended that the applicants lodge the application form as soon as possible.

TRANSITIONAL ARRANGEMENTS

Because banks will be faced with administrative problems in implementing these amendments the following transitional arrangements are proposed.

1. All cheques ordered by banks from authorised printers following the date of assent **must** have the "Stamp Duty Paid" stamp printed on them and duty paid by way of monthly return **unless**

(i) The customer for whom the cheque is intended has already been granted an exemption from Financial Institutions Duty or

(ii) the customer for whom the cheque is intended has supplied the bank with a Certificate of Exemption from Stamp Duty on cheque forms, issued by this Office.

(iii) The bank has received notification from this Office that an exemption has been granted to a particular customer.

2. Cheque forms printed prior to the date of assent, held by banks for customers and on which no Stamp Duty has been recorded or paid, may be issued to customers **free** of Stamp Duty **provided** that cheque books are issued in quantities corresponding with previous issue rates. This arrangement will operate until 30 June, 1991.

3. All cheques issued by banks to customers following 30 June, 1991 **must** have Stamp Duty Paid on them unless

(i) The customer for whom the cheque is intended has already been granted an exemption from Financial Institutions Duty.

(ii) The customer for whom the cheque is intended has supplied the banks with a Certificate of Exemption from Stamp Duty on cheque forms, issued by this Office or,

(iii) The bank has received notification from this office that an exemption has been granted to a particular customer.

In this situation banks may find themselves holding cheques for customers who are not entitled to the exemption but on which no duty has been recorded or paid to this Office. Options available to individual banks could be:

- Destroy the cheque forms
- Affix adhesive stamps to each cheque
- Overprint each cheque with the "Stamp Duty Paid" stamp and account for payment in the normal monthly returns
- Negotiate an alternative arrangement with this Office

ADDITIONAL INFORMATION

Applications for exemption may be FAXED to the Returns Section, State Taxation Office (Fax number 2263737) or posted to the Commissioner of Stamps, GPO Box 1353, Adelaide SA 5001. Telephone enquiries can be made to 2263711.

18 April, 1991

COMMISSIONER OF STAMPS