SOUTH AUSTRALIA

STATE TAXATION OFFICE

Financial Institutions Duty **Circular No. 44**
(formerly FID Circular No. 6)

INTERNAL ACCOUNTING PRACTICE

Questions have been raised at to:-

1 whether or not certain credit entries in accounts constitute a "receipt" as defined in Section 3 and further defined in Section 6 of the Financial Institutions Duty Act, 1983 ("the Act"); or

2 that the concept of "internal accounting practice" as described at Section 6 (7) of the Act has effect to deem certain credit entries made in the books of a financial institution non-dutiable.

"Receipt" is defined in the Act to include payment, repayment, deposit or subscription and the crediting of an account [Section 3].

Section 6 (4) provides that a reference to the crediting of the account includes a reference to:-

> "(a) the depositing of money to the credit of an account by the person in whose name the account is kept or by another person;
>
> (b) without limiting the generality of paragraph (a), the transfer of money to the credit of the account from another account of the person in whose name the account is kept or from an account of another person:

and

> (c) the transfer between ledgers or divisions in an account where different terms and conditions apply in respect of those ledgers or divisions."

Section 6 (7) provides also that:-

> "(7) An entry made in an account of a financial institution by that financial institution solely in accordance with its internal accounting practices does not constitute a dutiable receipt."

A financial institution makes and entry (an entry to mean a double entry of debit and credit) in its books under the following circumstances.

(i) To execute a policy decision made by it to carry on its business in the most effective and efficient manner which entries will not affect the institution's contractual positionm to persons ousdie it.
Some examples are:-

- entries to consolidate profits of different divisions of the financial institution, or to separate such consolidated profits to a different division, to provision accounts, to reserves etc;

- entries to consolidate debtors/creditors accounts, or to separate such consolidated amounts to individual accounts;

- entires to consolidate assets/liabilities accounts or to separate such consolidated amounts to individual accounts;

- entries to transfer expenses, income, assets or liabilities between divisions of financial institution.

(ii) To comply with regulations made by regulatory bodies pursuant to,

- Corporation Law,

- Schedule 5 to the Corporations Regulations,

- Accounting Standards of the Accounting Standards Review Board,

- Australian Standards issued jointly by Institute of Chartered Accountants in Australia and the Australian Society of Certified Practising Accountants,

- Australian Stock Exchange Ltd listing rules,

- Australian Securities Commission/National Companies and Securities Commission Policy Releases, Class Orders, Practice Notes, etc.

which will not affect the institution's position to parties external to it.

(iii) To change its position in relation to parties external to it. Examples are:-

- altering the financial institution's indebtedness to or its claim against, a person external to it;

- altering the institution's contractual position with respect to each and every separate contract with an external person.

RULING

This Office considers that the credit entries (of double entries) made in the books of account of a financial institution solely to make adjustments to accounts and which do not affect the financial institution's contractual position with respect to persons external to it are entries made solely in accordance with its internal accounting practice and such a credit is not a receipt for the purposes of the Act. The other credit entries in accounts made will be considered "receipts" and will be liable to financial institutions duty.

Consequently it is this Office's view that credit entries made in relation to (I) and (ii) above are internal accounting entries and they will not constitute dutiable receipts pursuant to Section 6 (7) of the Act. However, entries made pursuant to (iii) will constitute dutiable receipts and will be subjected to financial institutions duty.

Appendix A to this Circular sets out some of the rulings given by this Office in accordance with the above stated interpretation.

26 May, 1992 **<u>COMMISSIONER OF STAMPS</u>**

APPENDIX A

FINANCIAL INSTITUTIONS DUTY
NON-DUTIABLE RECEIPTS -
INTERNAL ACCOUNTING PRACTICES

The following Rulings are provided on examples put to the Commissioner:-

(a) A borrower has a multi-currency facility from a financier and is entitled on certain periodic occasions to change the currency of the borrowing. The borrower elects to change currencies and the financier in the course of his own accounting practices credits the account of the borrower on the currency change with the amount necessary to settle that account and opens a fresh account in the new currency in the name of the borrower.

Ruling: Non-dutiable (same contract)

If the debits and credits to foreign currency accounts flow from one single contract between the bank and the borrower, it is agreed that the credits will fall under an "internal accounting practice" and therefore any credit will not be a dutiable receipt.

(b) A person borrows a sum of money for the purchase of a principal dwelling house secured by a first mortgage over the dwelling house. A mortgage at a preferential rate for the dwelling house is provided by the financier and the mortgage includes a provision that the dwelling is to be used as the principal place of residence of the borrower.

The borrower ceases to reside in the dwelling house as he is moved interstate in the course of his employment, however, he retains ownership of the dwelling house and informs the financier. The financier agrees to the changed use under the mortgage but increases the interest rate as it now treats the mortgage as a commercial loan. The borrower accepts that. The financier maintains in its ledgers a division between commercial loans and housing finance loans. The borrower's account in the home loan division of the ledger is credited with an amount sufficient to close that account and a fresh account is opened up in the commercial division of the financier's ledger with the appropriate debit entry.

Ruling: Non-dutiable (same contract)

The same concept as in multicurrency facilities above applies here. If the credits flow from a single contract, such credits are not dutiable receipts.

(c) Invariably goods and services are supplied by suppliers on credit to a financial institution which is also a bank. it has been submitted that such crediting of an account of a supplier will make the credit entry a “receipt” for financial institutions duty purposes under the ruling.

When goods and services are supplied, the relevant accounting entries in the books will be:-

Debit: Goods and Services account
Credit: Supplier’s account

Ruling: Non-dutiable.

As soon as goods and services are supplied a contract per se exists between the bank and the supplier and the recording of that fact does not alter the contractual position of the bank. Therefore it is an entry made pursuant to the “internal accounting practice” of the institution.

Debit: Clearing House Settlement Account
Credit: Reserve Bank Account

Ruling: Credit entries (1), (2) and (3) shown above do not as stated at paragraph (c) above, alter the bank’s contractual position in relation to the customer.

Clearing bank warrants either directly or through the Reserve Banking System do not give rise to FID liability.

(f) At times a bank writes off a debt by debiting in the Profit and Loss Account and crediting wither the debtors or the Bad Debt provision account. Does this credit entry give rise to a dutiable receipt?

Ruling: A debtor remains as a debtor to the financial institution irrespective of whether his/her account has been written off or a bad debt provision has been created in relation to his/her debt. Thus these credit entries do not alter the contractual position of the debtor to the bank and are therefore entries made consequent to the institution’s internal accounting practice and as such are not dutiable.