



NORTHERN TERRITORY OF AUSTRALIA

No. 54 of 1985

AN ACT

To amend the *Taxation (Administration) Act*

[Assented to 25 November 1985]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Taxation (Administration) Amendment Act (No. 2) 1985*.

2. COMMENCEMENT

This Act shall come into operation on 1 December 1985.

3. PRINCIPAL ACT

The *Taxation (Administration) Act* is in this Act referred to as the Principal Act.

4. INTERPRETATION

Section 4(1) of the Principal Act is amended by inserting in the definition of "return" after the expression "24," the expressions "29E, 29N,".

5. NEW DIVISIONS

The Principal Act is amended by inserting after section 29 the following:

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"Division 3A - Credit Card Transaction Duty

"29A. INTERPRETATION

"(1) In this Division, unless the contrary intention appears -

'cardholder' means a person resident in the Territory to whom or at whose direction a credit card has been issued by a credit card agency;

'credit card' means a card or other writing (other than a bill of exchange) of such nature that, where used, directly or indirectly, in connection with any liable credit card transaction with a merchant, a person (whether the credit card agency which issued the card or not) other than the cardholder agrees, whether subject to conditions or not, to make payment to that merchant;

'credit card agency' means a person who has issued a credit card and, in the ordinary course of business, will or will cause to make payment to a merchant pursuant to an obligation accepted by the credit card agency upon the issue of the credit card;

'liable credit card transaction' means a transaction entered into with a merchant, whether within the Territory or not, for the supply of goods, services, money, or money's worth against the use of a credit card, being a transaction which resulted in a debit being entered in the account of a cardholder with a credit card agency;

'merchant' means a person who supplies goods, services, money, or money's worth and, for payment or recoupment, relies wholly or in part on the use, directly or indirectly, of a credit card in connection with such supply;

'payment' means the transference of money or money's worth, and includes the adjustment of credits or debits and the giving of credit.

"(2) For the purposes of this Division, a person shall be taken to be resident in the Territory if the person's address last known to a credit card agency which issued a credit card to or at the direction of that person is an address in the Territory.

"29B. CREDIT CARD AGENCIES TO BE REGISTERED

"(1) A person shall not in the Territory -

(a) carry on the business of a credit card agency issuing credit cards to or at the direction of a person; or

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- (b) advertise or hold himself out in any way as carrying out such business -

unless that person is registered under this Division.

Penalty: \$500 and a further \$500 for each week or part of a week during which the offence continues.

"(2) Nothing in this section shall affect an obligation or liability to a cardholder or merchant incurred by a credit card agency carrying on business as such in contravention of this section.

"29C. REGISTER OF CREDIT CARD AGENCIES

For the purposes of this Division, the Commissioner shall keep a register to be called the 'Register of Credit Card Agencies'.

"29D. REGISTRATION

"(1) A credit card agency carrying on or intending to carry on business as such in the Territory may apply to the Commissioner in accordance with an approved form for registration under this Division.

"(2) Upon receipt of an application under subsection (1), the Commissioner shall register the credit card agency by entering its name in the Register of Credit Card Agencies, and shall then give notice of the registration to the applicant.

"(3) Where a credit card agency registered under this Division -

- (a) requests the Commissioner to do so;
- (b) becomes bankrupt, is or is being wound up, has a liquidator or receiver appointed in respect of it, or ceases to carry on business as such; or
- (c) contravenes or fails to comply with, or evades or attempts to evade, any of the provisions of this Act,

the Commissioner may revoke the registration of the credit card agency.

"29E. RETURNS AND PAYMENT

"(1) Within 15 days after the expiry of each month, a credit card agency shall forward to the Commissioner a return, in an approved form, setting out -

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- (a) the number of liable credit card transactions debited in the accounts of the agency's cardholders with the credit card agency during that month; and
- (b) a computation of the amount of credit card transaction duty disclosed as being payable in relation to the return in accordance with the following formula:

$$(A-1) \times \$B$$

where -

- A is the number of liable credit card transactions disclosed under paragraph (a); and
- B is the stamp duty payable on each liable credit card transaction.

"(2) A return sent to the Commissioner under subsection (1) shall be verified by the signature of a senior administrative officer of the credit card agency.

"(3) Any credit card transaction duty disclosed on a return as being payable under subsection (1)(b) shall be payable, in the time specified in subsection (1), by the credit card agency which forwarded the return to the Commissioner.

"(4) A credit card agency which fails to comply with subsection (1) or (2) is guilty of an offence.

Penalty: \$500.

"(5) If a credit card agency fails to comply with subsection (1) or (2), the Commissioner may give notice of that fact in the Gazette.

"(6) From the date of publication of a notice under subsection (5) until the date of publication of a further notice revoking that notice, each cardholder of the credit card agency that is the subject of the notice shall -

- (a) be primarily liable for unpaid credit card transaction duty otherwise payable by the credit card agency; and
- (b) within 15 days after the receipt of a statement of account or of transactions from the credit card agency -
 - (i) furnish a return to the Commissioner setting out, with any necessary modification, the information specified in subsection (1)(a) and (b); and

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- (ii) pay to the Commissioner any credit card transaction duty disclosed on the return as being payable.

Penalty: \$200.

"29F. EXTENSION OF TIME

"(1) The Commissioner may, on the application in writing of a credit card agency in relation to the time specified in section 29E(1) within which a return must be made and credit card transaction duty paid, authorize the extension or variation of that time -

- (a) specifically, in respect of a particular return or payment; or
- (b) generally, in respect of all returns or payments,

from the credit card agency.

"(2) The Commissioner may at any time revoke an authority under subsection (1).

"(3) Where the Commissioner authorizes an extension or variation of time under this section, then, for the purposes of this Act, the time specified in section 29E(1) shall be construed as if it were the time so extended or varied.

"29G. CREDIT CARD AGENCY MAY RECOVER DUTY

A credit card agency may require a cardholder, in respect of whose liable credit card transactions the agency has paid or is liable to pay credit card transaction duty, to pay to the agency as a separate debt an amount equal to the duty so paid and may recover that amount from the cardholder.

"Division 3B - Electronic Debit Transaction Duty

"29H. INTERPRETATION

"(1) In this Division, unless a contrary intention appears -

'financial institution' means -

- (a) a bank;
- (b) a building society;
- (c) a credit union; or
- (d) a person or class of persons prescribed as being a financial institution for the purposes of this Division,

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and includes any branch of any of them;

'liable account' means an account kept in the Territory with a financial institution, being an account in respect of which a transaction can be carried out directly by electronic means;

'liable account holder' means the person in whose name, or either or any of the persons in whose names, a liable account is kept;

'liable debit transaction' means the debit entered in a liable account as a result of a withdrawal made from that account directly by electronic means; but does not include such a debit -

(a) made pursuant to section 29Q and reflecting the recovery of electronic debit transaction duty; or

(b) made pursuant to section 10(3) of the *Bank Account Debits Tax Administration Act 1982* of the Commonwealth.

"(2) For the purposes of this Division, a transaction in respect of an account with a financial institution is carried out directly by electronic means if the account holder can initiate, or authorize the initiation of, the transaction by or through the use of an electrically powered machine without the presentation of a cheque, bill of exchange, withdrawal slip or similar instrument to authorize the transaction, and without the necessity for any intermediate action by a human agency.

"29J. CERTAIN FINANCIAL INSTITUTIONS TO BE REGISTERED

"(1) A financial institution shall not in the Territory keep or offer to keep a liable account for a person unless that financial institution is registered under this Division.

Penalty: \$500 and a further \$500 for each week or part of a week during which the offence continues.

"(2) Nothing in this section shall affect an obligation or liability to the holder of an account kept by a financial institution in contravention of this section.

"29K. REGISTER OF FINANCIAL INSTITUTIONS

"For the purposes of this Division, the Commissioner shall keep a register to be called the 'Register of Financial Institutions'.

"29M. REGISTRATION

"(1) A financial institution keeping or intending to keep a liable account in the Territory may apply to the Commissioner in accordance with an approved form for registration under this Division.

"(2) Upon receipt of an application under subsection (1), the Commissioner shall register the financial institution by entering its name in the Register of Financial Institutions, and shall then give notice of the registration to the applicant.

"(3) Where a financial institution registered under this Division -

- (a) requests the Commissioner to do so;
- (b) becomes bankrupt, is or is being wound up, has a liquidator or receiver appointed in respect of it, or ceases to carry on business as such; or
- (c) contravenes or fails to comply with, or evades or attempts to evade, any of the provisions of this Act,

the Commissioner may revoke its registration.

"29N. RETURNS AND PAYMENT

"(1) Within 15 days after the expiry of each month, a registered financial institution shall forward to the Commissioner a return, in an approved form, setting out -

- (a) the number of liable debit transactions reflected in the accounts kept by the financial institution during that month; and
- (b) a computation of the amount of electronic debit transaction duty disclosed as being payable in relation to the return.

"(2) A return sent to the Commissioner under subsection (1) shall be verified by the signature of a senior administrative officer of the financial institution.

"(3) Any electronic debit transaction duty disclosed on a return as being payable under subsection (1)(b) shall be payable, in the time specified in subsection (1), by the financial institution which forwarded the return to the Commissioner.

"(4) A registered financial institution which fails to comply with subsection (1) or (2) is guilty of an offence.

Penalty: \$500.

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"(5) If a registered financial institution fails to comply with subsection (1) or (2), the Commissioner may give notice of that fact in the Gazette.

"(6) From the date of publication of a notice under subsection (5) until the date of publication of a further notice revoking that notice, each liable account holder of the registered financial institution that is the subject of the notice shall -

- (a) be primarily liable for unpaid electronic debit transaction duty otherwise payable by the financial institution; and
- (b) within 15 days after the receipt of a statement of account or of transactions from the financial institution -
 - (i) furnish a return to the Commissioner setting out, with any necessary modification, the information specified in subsection (1)(a) and (b); and
 - (ii) pay to the Commissioner any electronic debit transaction duty disclosed on the return as being payable.

"29P. EXTENSION OF TIME

"(1) The Commissioner may, on the application in writing of a registered financial institution in relation to the time specified in section 29N(1) within which a return must be made and electronic debit transaction duty paid, authorize the extension or variation of that time -

- (a) specifically, in respect of a particular return or payment; or
- (b) generally, in respect of all returns or payments,

from the registered financial institution.

"(2) The Commissioner may at any time revoke an authority under subsection (1).

"(3) Where the Commissioner authorizes an extension or variation of time under this section, then, for the purposes of this Act, the time specified in section 29N(1) shall be construed as if it were the time so extended or varied.

"29Q. FINANCIAL INSTITUTION MAY RECOVER DUTY

"A registered financial institution may require a liable account holder, in respect of whose liable debit transactions the financial institution has paid or is liable to pay electronic debit transaction duty, to pay to the institution as a separate debt an amount equal to the duty so paid and may recover that amount from the liable account holder."

6. TRANSITIONAL

(1) The prohibition specified in section 29B(1) of the Principal Act does not apply to a credit card agency (within the meaning of section 29A of that Act) carrying on business as such in the Territory as at the commencement of this Act until -

- (a) where the agency has applied before the expiry of 31 December 1985 for registration under Division 3A of the Principal Act, the determination of the application by the Commissioner; or
- (b) where the agency has not so applied, 1 January 1986.

(2) The prohibition specified in section 29J of the Principal Act does not apply to a financial institution (within the meaning of section 29H of that Act) keeping a liable account for a person as at the commencement of this Act until -

- (a) where the institution has applied before the expiry of 31 December 1985 for registration under Division 3B of the Principal Act, the determination of the application by the Commissioner; or
 - (b) where the institution has not so applied, 1 January 1986.
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