



FINANCIAL INSTITUTIONS DUTY (EXEMPT ACCOUNTS) AMENDMENT ACT 1994

No. 69 of 1994

SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of s. 3—Interpretation
4. Amendment of s. 31—Special bank accounts of non-bank financial institutions
5. Substitution of s. 37
 37. Payments and returns by account holders
6. Amendment of s. 43—Assessments of duty
7. Amendment of s. 55—Offences
8. Statute revision amendments

SCHEDULE

Statute Revision Amendments



ANNO QUADRAGESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1994

No. 69 of 1994

An Act to amend the Financial Institutions Duty Act 1983.

[Assented to 24 November 1994]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Financial Institutions Duty (Exempt Accounts) Amendment Act 1994*.

(2) The *Financial Institutions Duty Act 1983* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 3—Interpretation

3. Section 3(1) of the principal Act is amended—

(a) by striking out paragraphs (c) and (d) of the definition of "the prescribed percentage" and substituting the following paragraph:

(c) where the money is received by the financial institution on or after 1 June 1993—0.065 per cent.;

(b) by striking out paragraphs (c) and (d) of the definition of "the relevant amount" and substituting the following paragraph:

(c) in relation to any month from June 1993—\$1 846 154.:

Amendment of s. 31—Special bank accounts of non-bank financial institutions

4. Section 31 of the principal Act is amended by striking out from subsection (11)(h) "The Stock Exchange of Adelaide Limited" and substituting "Australian Stock Exchange Limited".

Substitution of s. 37

5. Section 37 of the principal Act is repealed and the following section is substituted:

Payments and returns by account holders

37. (1) A person in whose name an exempt account to which this section applies is kept must, not later than two months after the end of each financial year—

- (a) provide the Commissioner with a return in a form approved by the Commissioner—
 - (i) giving details of any amounts paid into the account in contravention of this Act; or
 - (ii) if no amount was paid into the account in contravention of this Act—stating that fact; and
- (b) if amounts were paid into the account in contravention of this Act, pay to the Commissioner in respect of each such amount—
 - (i) duty equal to—
 - (A) the prescribed percentage of the amount; or
 - (B) \$1 200,whichever is the less; and
 - (ii) additional duty equal to the amount of that duty.

Penalty: \$10 000.

(2) The Commissioner may remit additional duty payable under subsection (1) in whole or part.

(3) This section applies to the following classes of exempt accounts:

- (a) short term dealing accounts; and
- (b) special accounts kept in the name of a pastoral finance company; and
- (c) sweeping accounts; and
- (d) any other class of exempt accounts prescribed by regulation.

(4) Parts VII, VIII, IX and X apply—

- (a) as if duty payable under subsection (1) were financial institutions duty payable by a financial institution; and
- (b) as if additional duty payable under subsection (1) were additional duty payable by a financial institution under section 41(2).

(5) In this section—

“**financial year**” means the year ending on 30 June or on any other date approved by the Commissioner in a particular case.

Amendment of s. 43—Assessments of duty

6. Section 43 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) Where financial institutions duty is assessed under this section, penal duty is payable of an amount stated in the assessment of duty (but not exceeding the amount of financial institutions duty that has not, but should have, been paid in respect of the period to which the assessment relates).

Amendment of s. 55—Offences

7. Section 55 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) It is a defence to a charge of an offence against subsection (1)(c) to prove that the defendant has provided a return and paid duty and additional duty to the Commissioner in accordance with section 37 in relation to the payment to which the charge relates.

Statute revision amendments

8. The principal Act is further amended in the manner set out in the schedule.

SCHEDULE
Statute Revision Amendments

Provision Amended	How Amended
Section 3(1)	
definition of "corporation"	Strike out this definition and substitute: "corporation" has the same meaning as is assigned to the term by section 9 of the <i>Corporations Law</i> .
definition of "dealer in securities"	Strike out this definition and substitute: "dealer in securities" has the same meaning as is assigned to the term "dealer" by section 9 of the <i>Corporations Law</i> .
definition of "dealing"	Strike out this definition and substitute: "deal" has the same meaning as is assigned to the term by section 9 of the <i>Corporations Law</i> in relation to securities: and "dealing" has a corresponding meaning.
definition of "financial institution"	Strike out from paragraph (e) "Division VI of Part IV of the <i>Companies (South Australia) Code</i> or of a corresponding law in force in another State or in a Territory" and substitute "section 9 of the <i>Corporations Law</i> ".
definition of "securities"	Strike out this definition and substitute: "securities" has the same meaning as is assigned to the term by section 9 of the <i>Corporations Law</i> .
definition of "short-term dealer"	"Strike out from paragraph (a) "section 97(7)(b) of the <i>Companies (South Australia) Code</i> is declared, or is deemed to be declared, to be an authorized" and substitute "section 65(1)(a) of the <i>Corporations Law</i> is declared to be an authorised".
definition of "voting share"	Strike out this definition and substitute: "voting share" has the same meaning as is assigned to the term by section 9 of the <i>Corporations Law</i> .
Section 7(2)(f)	Strike out from subparagraph (i) "Division VI of Part IV of the <i>Companies (South Australia) Code</i> or a corresponding law in force in another State or in a Territory" and substitute "Division 5 of Chapter 7.12 of the <i>Corporations Law</i> ".

Section 7(2)(q)	Strike out " <i>Repatriation Act 1920</i> " and substitute " <i>Veterans' Entitlements Act 1986</i> ".
Section 14	Strike out "by reason of the provisions of the <i>Companies (South Australia) Code</i> , deemed, for the purposes of that Code, to be" and substitute "for the purposes of the <i>Corporations Law</i> ,".
Section 16(4)	Strike out "by reason of the provisions of the <i>Companies (South Australia) Code</i> , to be deemed, for the purposes of that Code, to be" and substitute "for the purposes of the <i>Corporations Law</i> ,".
Section 20(2)	Strike out "which, by reason of the provisions of the <i>Companies (South Australia) Code</i> , is to be deemed, for the purposes of that Code, to be related" and substitute "related, for the purposes of the <i>Corporations Law</i> ,".
Section 34(5)(a)	Strike out " <i>Securities Industry (South Australia) Code</i> " and substitute " <i>Corporations Law</i> ".
Section 46(7)(b)	Strike out " <i>Companies (South Australia) Code</i> " and substitute " <i>Corporations Law</i> ".
Section 61(2)(a)	Strike out " <i>Companies (South Australia) Code</i> " and substitute " <i>Corporations Law</i> ".
Section 78	Strike out this section.
Schedule	Strike out this schedule.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor