



MT 2039 - Debits tax : taxable accounts: settlement accounts held by non-bank financial institutions with banks

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TAXATION RULING NO. MT 2039

DEBITS TAX : TAXABLE ACCOUNTS; SETTLEMENT ACCOUNTS HELD
BY NON-BANK FINANCIAL INSTITUTIONS WITH BANKS

F.O.I. EMBARGO: May be released

REF N.O. REF: 87/5421-7 DATE OF EFFECT: Immediate

B.O. REF: Syd. BDT 111 DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1183829	DEBITS TAX TAXABLE ACCOUNTS SETTLEMENT ACCOUNTS	DEBITS TAX ADMINISTRATION ACT; SECTIONS 3 AND 3A

OTHER RULINGS ON TOPIC MT 2002; MT 2004

PREAMBLE This Ruling considers the application of Debits Tax to agency accounts held with banks by a non-bank financial institution (an institution). The agency accounts arise where an institution provides general cheque facilities to its members.

2. The two particular questions arising are whether such an account is an "account" within the meaning of the Debits Tax Administration Act and, if so, whether the institution is liable for debits tax in respect of the single bulk debit or the separate individual debits to members' accounts.

3. Subsection 3(1) defines an "account" to mean an account kept with a bank, being an account to which payments by the bank in respect of cheques drawn on the bank by the account holder, or by any one or more of the account holders, may be debited.

4. Section 3A provides that, a debit that, but for that section, would be a single debit made to an account in respect of two or more account transactions are to be treated as being separate debits in relation to each of those account transactions.

FACTS 5. Under agency or third party arrangements entered into by institutions, an agreement is entered into between the institution and a bank which, amongst other things, establishes a settlement account with the bank in the name of the institution.

6. Under the agreement, members of the institution are authorised to draw cheques on this settlement account. The settlement account is bulk debited by the bank on a daily basis. The bank then supplies the institution with details of the individual cheques presented to the bank to allow the institution to debit the individual members' accounts with the institution. The institution replenishes the settlement account on a daily basis with an amount representing the current day's

deposited cheques drawn by members and any adjustments.

- RULING
7. The argument has been raised that the settlement account is not an account within the definition in subsection 3(1) because cheques are not actually drawn on the account by the account holder, i.e. the institution.
8. This is not accepted. The definition of "account" in subsection 3(1) only requires that the account be one in respect of which cheques may be drawn on the account by the account holder. In other words, if the account is one where payments may be debited by the bank in respect of cheques drawn on the bank by the account holder, it is not necessary that the account holder has actually drawn a cheque on the account. The important question is whether the holder can draw cheques on the account.
9. In any event, as the members of the institution actually draw cheques on the account, it is considered that the account is being operated by the account holder, namely the institution. The cheques are drawn by the members as persons authorised by the account holder (the institution) or as agents of the account holder. As the cheques are drawn on the bank by the account holder, the account is within the definition.
10. While agency cheque agreements between banks and institutions may vary as to their terms, the general effect of the institution member acting as an agent or with the authority of the institution remains basically the same, and this Ruling has application.
11. Under the provisions of section 3A of the Debits Tax Administration Act, for the purposes of determining liability to debits tax, a single debit covering two or more account transactions is broken down to the individual transactions that the single debit covers. Thus, while a bank may debit the account once only each day for all cheques presented on the account for the day, a liability will arise for each cheque covered by the single debit.

COMMISSIONER OF TAXATION

16 June 1988