

Australian Capital Territory Taxation (Administration)

No. 42 of 1969

An Act relating to the Assessment, Payment and
Collection of Australian Capital Territory Stamp
Duty and Tax.

[Assented to 14 June 1969]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and
the House of Representatives of the Commonwealth of Australia,
as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Australian Capital Territory Taxation (Administration) Act 1969*. Short title.

2. This Act shall come into operation on a date to be fixed by Proclamation. Commence-
ment.

3. This Act is divided into Parts, as follows:—

Parts.

Part I.—Preliminary (Sections 1–4).

Part II.—Administration (Sections 5–8).

Part III.—Liability to Duty or Tax.

Division 1.—General (Sections 9–17).

Division 2.—Cheques on Authorized Cheque Forms (Sections
18–26).

Division 3.—Other Bills of Exchange and Promissory Notes
(Sections 27–29).

Division 4.—Hire-purchase Agreements included in Business
Returns (Sections 30–34).

Division 5.—Other Hire-purchase Agreements (Sections 35–38).

Division 6.—Insurance Business (Sections 39–44).

Division 7.—Conveyances (Sections 45–50).

Division 8.—Transfers of Marketable Securities included in Brokers' Returns (Sections 51–55).

Division 9.—Transfers of Marketable Securities liable to Duty (Sections 56–58).

Part IV.—Assessments (Sections 59–73).

Part V.—Reviews and Appeals (Sections 74–79).

Part VI.—Recovery of Duty and Tax (Sections 80–86).

Part VII.—Prosecutions (Sections 87–90).

Part VIII.—Miscellaneous (Sections 91–99).

Interpretation.

4.—(1.) In this Act, unless the contrary intention appears—

“ adhesive stamp ” means an adhesive stamp made in pursuance of sub-section (1.) of section 8 of this Act;

“ approved ” means approved for the purposes of this Act by the Commissioner of Taxation;

“ assessment ” means an assessment under this Act by the Commissioner of Taxation of the amount of duty or tax payable, and includes an amended assessment of duty or tax and an assessment of tax in respect of a return, and “ assess ” and “ assessed ” have corresponding meanings;

“ Australian Stock Exchange ” means the Sydney Stock Exchange, the Stock Exchange of Melbourne, the Brisbane Stock Exchange, the Stock Exchange of Adelaide, the Stock Exchange of Perth or the Hobart Stock Exchange;

“ authority of the Commonwealth or of a Territory ” means a body corporate (not being an incorporated company, society or association) incorporated for a public purpose by or under a law of the Commonwealth or of a Territory of the Commonwealth;

“ bill of exchange ” means an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a sum certain in money to or to the order of a specified person, or to bearer;

“ Board of Review ” means a Board of Review constituted under the *Income Tax Assessment Act 1936–1968*;

“ broker ” means a member of an Australian Stock Exchange;

“ cancel ”, in relation to an adhesive stamp, means cancel the stamp as provided by sub-section (1.) of section 14 of this Act, and “ cancelled ” and “ cancellation ” have corresponding meanings;

“ cheque ” means a bill of exchange drawn on a banker payable on demand, and includes a promissory note payable on demand made by a banker;

- “company” includes a body, society, association, authority or institution, whether corporate or unincorporate, but does not include a partnership;
- “consular post” means a consulate-general, consulate, vice-consulate or consular agency;
- “conveyance” means a lease, a transfer or assignment of a lease, an agreement for a transfer or assignment of a lease, or a transfer, or an agreement for a transfer, of an estate in fee simple in land;
- “Crown lease” means a lease granted by or in the name of the Commonwealth;
- “debenture” includes debenture stock, bond, note and any other security of a company, whether it constitutes a charge on assets of the company or not;
- “duty” means stamp duty;
- “execute”, in relation to an instrument, means sign the instrument and, if the instrument is under seal, sign and seal the instrument, and “execution” has a corresponding meaning;
- “goods” includes all chattels personal other than money or things in action;
- “hire-purchase agreement” includes a letting of goods with an option to purchase and an agreement for the purchase of goods by instalments (whether the agreement describes the instalments as rent or hire or otherwise), but does not include an agreement—
 - (a) by which the property in the goods comprised in the agreement passes at the time of the agreement or upon or at a time before delivery of the goods; or
 - (b) under which the goods are being hired or purchased primarily for the purpose of re-sale by a person who is engaged in the trade or business of selling goods of the same nature or description as the goods comprised in the agreement;
- “hirer”, in relation to a hire-purchase agreement, means the person to whom goods are let, hired or agreed to be sold under the agreement;
- “holder”, in relation to a bill of exchange or promissory note, means the payee or indorsee in possession of the bill of exchange or promissory note or, in the case of a bill of exchange or promissory note that is payable to bearer, the person in possession of the bill of exchange or promissory note;
- “impressed stamp” means a stamp impressed by the Commissioner of Taxation by means of a die or other device made in pursuance of sub-section (1.) of section 8 of this Act;
- “instrument” includes any document;

“insurance” means an undertaking of liability to make good, or indemnify against, loss or damage (including liability to pay damages or compensation), or insuring the payment of money, contingent upon the happening of a specified event, and includes—

- (a) the accepting of a premium in consideration of the granting, issuing or keeping in force of a policy of insurance;
- (b) the granting of a cover note or the receiving of a letter or declaration of interest attaching to a policy of insurance; and
- (c) the carrying out, by means of insurance effected outside the Territory, of a contract or undertaking in the Territory to effect that insurance,

but does not include re-insurance effected with another insurer;

“insurer” means a person who carries on the business of insurance, and includes an authority constituted under a law of a State that carries on the business of insurance, but does not include the Director of War Service Homes;

“lease” includes a sub-lease and an agreement for a lease or sub-lease, but does not include—

- (a) an attornment under a mortgage or contract of sale;
- (b) a right granted by a company to a shareholder of the company, by virtue of his being such a shareholder, to occupy or use land owned or held under lease by the company; or
- (c) an option to renew a lease;

“lessee” means a person to whom a lease is granted or agreed to be granted;

“life insurance” means insurance insuring the payment of money on death (not being death by accident only or specified sickness only) or on the happening of a contingency dependent upon the termination or continuance of human life (either with or without provision for a benefit under a continuous disability contract referred to in paragraph (c) of this definition), and includes—

- (a) insurance under an instrument evidencing a contract that is subject to payment of premiums for a term dependent upon the termination or continuance of human life;
- (b) insurance under an instrument securing the grant of an annuity for a term dependent upon the termination or continuance of human life;
- (c) insurance under a continuous disability insurance contract (which is by its terms expressed to be of more than one year’s duration and is incorporated in a life policy) under which a person is to become entitled to a benefit in the event of the occurrence, within the duration of the contract, of death by accident or by another cause specified in the contract, or injury or disability caused by accident or sickness; and

(d) insurance under a sinking fund policy insuring the payment of a sum, or series of sums, of money on a future date or dates in consideration of one or more premiums;

“ marketable security ” means a share in the capital of, or a debenture of, a company, and includes a right, whether existing or future and whether contingent or not, of a person to have issued to him such a share or debenture, whether on payment of money or other consideration or not;

“ member of a diplomatic mission ” means the head of a diplomatic mission or a member of the diplomatic staff or administrative and technical staff of a diplomatic mission;

“ negotiation ”, in relation to a bill of exchange or promissory note, means acceptance, indorsement or transfer of the bill of exchange or promissory note, and “ negotiated ” has a corresponding meaning;

“ non-resident ” means a person who is not a resident of Australia;

“ owner ”, in relation to a hire-purchase agreement, means the person letting, hiring or agreeing to sell goods under the agreement;

“ person ” includes a company;

“ premium ”, in relation to insurance, means the gross amount charged or payable as premium in respect of the insurance without deduction for an amount paid or payable or allowed or allowable by way of discount or commission to an agent or other person for securing or arranging that insurance for or on behalf of the insurer, and includes an instalment of a premium;

“ premium received ” includes an amount credited in account in the books of an insurer in respect of insurance as a premium received for that insurance, whether by way of a charge made by the insurer against moneys due to the person insured by the insurance, or otherwise, but does not include, where the head office for Australia of an insurer is in the Territory, a premium noted only in the books of the head office as a premium received in a branch or agency of the insurer outside the Territory;

“ promissory note ” means an unconditional promise in writing made by one person to another, signed by the maker, engaging to pay, on demand or at a fixed or determinable future time, a sum certain in money, to or to the order of a specified person, or to bearer;

“ purchase price ”, in relation to a hire-purchase agreement, means the total amount of moneys paid or payable, and the value of any

other consideration provided or to be provided, by the hirer under the agreement less the sum of—

- (a) the amount of any deposit or other money or the value of any other consideration paid or given by the hirer at or before the execution of the agreement as part consideration;
- (b) the total amount payable under the agreement for or by way of interest, insurance or other charge; and
- (c) an amount—
 - (i) payable under the agreement;
 - (ii) designated as stamp duty on the agreement or as tax in respect of the agreement; and
 - (iii) not exceeding the amount of the stamp duty or tax;

“registered owner” means a person who is registered under Division 4 of Part III.;

“rent” does not include an amount in the nature of a penal rent;

“return” means a return under section 24, 32, 42 or 53 of this Act;

“stamp duty” means stamp duty imposed by the *Australian Capital Territory Stamp Duty Act 1969*;

“tax” means a tax imposed by the *Australian Capital Territory Tax (Sales of Marketable Securities) Act 1969*, the *Australian Capital Territory Tax (Purchases of Marketable Securities) Act 1969*, the *Australian Capital Territory Tax (Insurance Business) Act 1969*, the *Australian Capital Territory Tax (Cheques) Act 1969* or the *Australian Capital Territory Tax (Hire-purchase Business) Act 1969*;

“the Territory” means the Australian Capital Territory, and includes the Territory accepted by the Commonwealth in pursuance of the *Jervis Bay Territory Acceptance Act 1915* and described in the Agreement set out in the Schedule to that Act;

“third party insurance” means insurance effected for the purpose of, and in accordance with the requirements of, a law of a State or Territory of the Commonwealth relating to the compulsory insurance of the owners and drivers of motor vehicles, as defined by that law, against liability in respect of the death of, or bodily injury to, persons caused by or arising out of the use of the motor vehicles;

“trustee” includes—

- (a) a person constituted a trustee under an implied or constructive trust;
- (b) in relation to a deceased person, an executor of the will, or an administrator of the estate, of that deceased person;
- (c) a receiver, guardian, committee or manager of the property of a person under a legal or other disability;

- (d) a receiver or manager of the property of a company or a liquidator of a company for the purpose of its winding-up;
- (e) a broker who executes a transfer of a marketable security as transferee on behalf of another person for the purpose of safeguarding the interests of that person in relation to dividends payable to the holder of that marketable security or in relation to the issue of other marketable securities to which the holder of that first-mentioned marketable security becomes entitled by reason of being such a holder; and
- (f) a person who may be required to exercise his voting power in relation to a marketable security at the direction of, or holds the marketable security for the benefit of, another person.

(2.) For the purposes of the definition of “bill of exchange” in the last preceding sub-section, an order to pay out of a particular fund or within a specified time is not unconditional within the meaning of that definition, but an unqualified order to pay coupled with an indication of a particular account to be debited with the amount is unconditional.

(3.) For the purposes of this Act, a reference to the duly stamping of an instrument is a reference—

- (a) in relation to an instrument the duty on which is required or permitted by this Act to be denoted by an adhesive stamp—to the affixing of an adhesive stamp to the instrument having a value not less than the amount of the duty and the cancellation of the stamp in accordance with this Act; and
- (b) in relation to an instrument the duty on which is required or permitted by this Act to be denoted by impressed stamp—to the impressing on the instrument by the Commissioner of Taxation of a stamp of the amount of the duty.

(4.) Unless the contrary intention appears, a reference in this Act to a broker includes, where the broker is a member of a firm of brokers, a reference to that firm.

(5.) A reference in this Act to the Commissioner of Taxation includes—

- (a) a reference to a Second Commissioner of Taxation;
- (b) a reference to an Acting Commissioner of Taxation;
- (c) a reference to an Acting Second Commissioner of Taxation; and
- (d) in respect of matters as to which the Commissioner of Taxation has delegated a power or function under this Act to a Deputy Commissioner of Taxation or other person—a reference to that Deputy Commissioner of Taxation or that other person, as the case may be.

PART II.—ADMINISTRATION.

Administration
of Act.

5. The Commissioner of Taxation has the general administration of this Act.

Powers and
functions of
Second
Commissioner
of Taxation.

6.—(1.) A Second Commissioner of Taxation has all the powers and may perform all the functions of the Commissioner of Taxation under this Act.

(2.) The exercise of a power or the performance of a function of the Commissioner of Taxation under this Act by a Second Commissioner of Taxation does not prevent the exercise of that power or performance of that function by the Commissioner of Taxation.

(3.) The Commissioner of Taxation has, in relation to an act of a Second Commissioner of Taxation, the same powers as if that act were done by himself.

(4.) Where, in this Act, the exercise of a power or the performance of a function by the Commissioner of Taxation is dependent upon the opinion, belief or state of mind of the Commissioner of Taxation in relation to a matter, that power may be exercised or that function performed by a Second Commissioner of Taxation upon the opinion, belief or state of mind of that Second Commissioner of Taxation in relation to that matter.

Secrecy.

7.—(1.) Subject to this section, a person who is or has been employed by the Commonwealth shall not, either directly or indirectly, except for the purposes of this Act—

- (a) make a record of, or communicate to a person, information concerning the affairs of another person acquired by him under this Act by reason of that employment; or
- (b) produce to a person or permit a person to have access to a document furnished to him for the purposes of this Act.

Penalty: Imprisonment for two years.

(2.) The last preceding sub-section does not apply to the communication of information or the production of a document by the Commissioner of Taxation, or by a person authorized by him, to—

- (a) a Board of Review;
- (b) a person performing, in pursuance of employment by the Commonwealth, a function under an Act administered by the Commissioner of Taxation for the purpose of enabling that person to carry out that function; or
- (c) a person performing a function under a law of a State or Territory of the Commonwealth relating to stamp duty or other taxation.

8.—(1.) For the purposes of this Act, the Commissioner of Taxation shall cause adhesive stamps for denoting the payment of amounts of duty or of additional amounts payable by way of penalty under section 70 of this Act to be made and sold as he directs, and shall cause dies or other devices for the making of impressed stamps for denoting the payment of amounts of duty or tax, for denoting the payment of those additional amounts or for the purposes of section 17 of this Act to be made and used as he directs. Duty stamps.

(2.) A person shall not, without lawful authority—

- (a) make, sell, use, utter or have in his possession a counterfeit adhesive stamp knowing it to be counterfeit;
- (b) make, sell, use or have in his possession a die, plate or other device for printing or making adhesive stamps; or
- (c) make, sell, use or have in his possession, a die or other device for making impressed stamps.

Penalty: Imprisonment for two years.

(3.) A stamp, die, plate or device made, sold, used, uttered or had in possession in contravention of this section is forfeited to the Commonwealth.

PART III.—LIABILITY TO DUTY OR TAX.

Division 1.—General.

9.—(1.) Subject to this Act—

- (a) tax in respect of a return is due and payable by the person required by this Part to furnish the return upon the last day for the due furnishing of that return;
- (b) duty on an instrument that is required by this Act to be lodged with the Commissioner of Taxation for assessment is due and payable by the person liable to pay it upon the date specified in a notice of that assessment as the date upon which the duty is due and payable or, if a date is not so specified or such a notice is not served on that person, upon the expiration of thirty days after the date of his being informed of the assessment; and
- (c) duty on any other instrument is due and payable at the time when the instrument is required by this Part to be duly stamped.

When duty or tax payable.

(2.) Where the Commissioner of Taxation extends the time for payment of duty or tax for a period, the duty or tax is not due and payable until the expiration of that period.

(3.) The Commissioner of Taxation may, in such circumstances as he thinks fit, permit the payment of duty or tax to be made by instalments in such amounts and at such times as he determines, and each instalment of that duty or tax is due and payable at the time so determined in relation to that instalment.

(4.) If an instalment of duty or tax is not paid on or before the time for the due payment of that instalment, the whole of the duty or tax outstanding becomes due and payable at that time.

Avoidance
of duty.

10.—(1.) A person liable to duty or tax who knowingly avoids the duty or tax is guilty of an offence punishable upon conviction by a fine of not less than One hundred dollars or more than One thousand dollars.

(2.) Where a director, servant or agent of a company that is liable to duty or tax knowingly avoids the duty or tax, the company and the director, servant or agent, as the case may be, are each guilty of an offence punishable upon a conviction by a fine of not less than One hundred dollars or more than One thousand dollars.

(3.) Upon the conviction of a person under either of the last two preceding sub-sections, the court may, in addition to the penalty prescribed by that sub-section and without affecting the person's liability to pay the amount of duty or tax avoided, order that person to pay to the Commissioner of Taxation an amount not exceeding an amount equal to double the amount of the duty or tax.

(4.) A certificate of an order under the last preceding sub-section, in accordance with an approved form, may be registered in a court having civil jurisdiction to the extent of the amount of the order.

(5.) Upon registration, the certificate becomes a record of the court with the same force and effect as a judgment of the court, and the like proceedings (including proceedings in bankruptcy) may be taken upon the certificate as if the order had been a judgment of the court in favour of the Commissioner of Taxation.

Duty and tax
denoted by
stamps.

11. Subject to this Act, payment of stamp duty shall be denoted by adhesive stamp or impressed stamp, and payment of tax by impressed stamp.

Fraudulently
removing, &c.,
stamps.

12.—(1.) A person shall not, with intent to defraud—

- (a) deface an adhesive stamp;
- (b) remove an adhesive stamp from an instrument liable to duty;
- (c) affix an adhesive stamp that has been so removed from an instrument to another instrument liable to duty; or
- (d) impress on an instrument a stamp that is or resembles an impressed stamp.

Penalty: Imprisonment for two years.

(2.) An instrument shall be regarded as being duly stamped notwithstanding that an adhesive stamp has been defaced or removed if the Commissioner of Taxation is satisfied that an adhesive stamp denoting the duty payable had been duly affixed to the instrument.

13.—(1.) Where an adhesive stamp has been spoilt by a person or has been affixed by a person to an instrument in error, the person may deliver the stamp or the instrument to the Commissioner of Taxation and apply to him, in accordance with an approved form, for a refund of the amount of duty denoted by the stamp.

Refunds for spoilt, &c., stamps.

(2.) If the Commissioner of Taxation is satisfied that an adhesive stamp has been so spoilt or has been so affixed to an instrument in error, he shall cause the stamp to be destroyed and shall refund to the applicant the amount of duty denoted by the stamp.

14.—(1.) Subject to this section, where duty on an instrument is required or permitted by this Act to be denoted by adhesive stamp, and an adhesive stamp is accordingly affixed to the instrument, the person affixing the stamp shall, immediately after affixing it, cancel the stamp—

Cancellation of stamps.

- (a) by writing in ink on or across the stamp, his name or initials, or by so writing the name or initials, or by impressing the seal, of a firm or company on whose behalf the instrument is executed on or across the stamp; and
- (b) by writing in ink on or across the stamp the date on which the cancellation is made.

Penalty: Fifty dollars.

(2.) If there are several parties executing an instrument at the time an adhesive stamp is affixed to it, the cancellation shall be regarded as effectual if made as provided by the last preceding sub-section by any one of the parties.

(3.) A person shall not fraudulently remove from an adhesive stamp any writing placed on it under sub-section (1.) of this section.

Penalty: One thousand dollars or imprisonment for six months.

(4.) Where a bill of exchange or promissory note to which is affixed an adhesive stamp that has not been cancelled comes into the hands of a holder in the Territory, the holder shall forthwith cancel the stamp.

Penalty: Fifty dollars.

15.—(1.) Where one instrument relates to several distinct matters in respect of which duty or tax is payable, each of those matters shall, for the purposes of this Act, be treated as if it were expressed in a separate instrument.

Matters subject to duty or tax.

(2.) Where two or more instruments together but not separately relate to the same matter, the instruments shall be treated, for the purposes of this Act, as a single instrument executed at the time when the last instrument was executed.

16. Where duty or tax in respect of an instrument is imposed in respect of an amount of money expressed in the instrument otherwise than in Australian currency, the duty or tax shall be calculated in Australian currency at the rate of exchange current at the date of the instrument.

Money in foreign currency to be valued.

Instrument on which no duty is payable.

17.—(1.) Where the Commissioner of Taxation is satisfied that an instrument liable to duty has been duly stamped, he may put an impressed stamp in accordance with an approved style on a counterpart or copy of that instrument.

(2.) Where the Commissioner of Taxation is satisfied that no duty or tax is payable in respect of an instrument, he may put an impressed stamp in accordance with an approved style on the instrument or on a counterpart or copy of the instrument.

(3.) Where a banker carrying on business in the Territory is satisfied that cheques drawn by a customer of the banker are exempt from stamp duty, the banker may impress a stamp or print on or perforate a cheque form supplied by the banker to the customer in accordance with an approved style.

(4.) A person shall not, without lawful authority, impress a stamp or print on or perforate an instrument in accordance with a style that resembles or purports to be an approved style under this section.

Penalty: Imprisonment for two years.

(5.) An agreement for a lease or for a transfer or assignment of a lease or of an estate in fee simple, being an agreement executed after the commencement of this Act, shall, for the purposes of this Act, be treated as the original of the lease, transfer or assignment made subsequently to give effect to the agreement, and the lease, transfer or assignment so made shall be treated as the counterpart of the agreement.

(6.) Where—

- (a) two or more instruments together but not separately relate to the same matter, being a matter in respect of which duty is payable;
- (b) each such instrument contains a reference to the other instrument or instruments; and
- (c) one of those instruments is duly stamped,

each such instrument shall be deemed to be duly stamped.

Division 2.—Cheques on Authorized Cheque Forms.

Authority to bankers to supply printed cheque forms.

18.—(1.) A banker carrying on business in the Territory may apply to the Commissioner of Taxation in writing in accordance with an approved form for an authority under this Division.

(2.) Upon application under the last preceding sub-section from a banker carrying on business in the Territory, the Commissioner of Taxation may, by instrument, authorize the banker to supply to customers of the banker, or to use for the purposes of the banker, cheque forms bearing the impression of a stamp or printing or perforation in accordance with an approved style.

(3.) An instrument granting an authority under this Division shall set out the approved style of stamp, printing or perforation on the cheque forms for the purpose of the last preceding sub-section.

19. A banker to whom an authority is granted under this Division shall— Conditions of authority.

- (a) maintain adequate control over the printing, stamping, perforation, supply and use of all cheque forms of the banker;
- (b) keep proper records in relation to those cheque forms; and
- (c) otherwise comply with the provisions of this Act that are applicable to him.

Penalty: Two hundred dollars.

20. The Commissioner of Taxation may, by instrument served on a banker, revoke an authority granted to the banker under this Division if the banker is convicted of an offence against this Act. Revocation of authority.

21.—(1.) Where the Commissioner of Taxation revokes an authority that has been granted to a banker under this Division, the banker may appeal to the Supreme Court of the Australian Capital Territory against the revocation within twenty-one days after the revocation on the ground that the nature of the offence for which he was convicted was not such as to warrant the revocation of the authority. Appeals against revocation of authority.

(2.) On the hearing of the appeal, the Supreme Court of the Australian Capital Territory shall confirm or set aside the decision of the Commissioner of Taxation.

22. A banker shall not supply or use a cheque form bearing the impression of a stamp or printing or perforation in accordance with a style approved under section 18 of this Act, or resembling or purporting to be such an approved style, except in pursuance of an authority granted under this Division. Unauthorized bankers not to issue authorized cheque forms.

Penalty: One thousand dollars.

23. A person shall not draw a cheque on an instrument bearing the impression of a stamp or printing or perforation in accordance with a style approved under section 18 of this Act, or resembling or purporting to be such an approved style, knowing it to be an instrument that is not a cheque form supplied by a banker in pursuance of an authority under this Division. Offence to use unauthorized cheque forms denoting payment of tax.

Penalty: One hundred dollars.

Returns by
authorized
bankers.

24.—(1.) A banker to whom an authority has been granted under this Division shall, within twenty-one days after the expiration of each month of each year—

- (a) furnish to the Commissioner of Taxation a return of all cheque forms supplied or used by the banker during that month; and
- (b) pay the tax payable in respect of the cheque forms so supplied or used by the banker during that month less the amount of any tax remitted under the next succeeding section.

(2.) A return under this section shall be in accordance with an approved form and shall contain such particulars as are required by the form.

Penalty: Fifty dollars.

Refund or
remission of
duty for
unused or
unusable
cheque forms.

25. Where the Commissioner of Taxation is satisfied that a customer of a banker to whom the banker has supplied a cheque form in pursuance of an authority under this Division has returned the cheque form in an unused or unusable condition, the Commissioner of Taxation shall—

- (a) if tax has been paid in respect of the cheque form by the banker—refund the amount of tax so paid; and
- (b) if tax has not been so paid—remit the amount of tax payable in respect of the cheque form.

Recovery of
tax by banker.

26. A banker who pays or is liable to pay as tax an amount in respect of a cheque form supplied by him to a customer may recover from the customer an amount equal to the tax paid or payable.

Division 3.—Other Bills of Exchange and Promissory Notes.

How duty
denoted.

27. The payment of stamp duty on a bill of exchange or promissory note shall be denoted by adhesive stamp.

Drawer of
bill or note to
cause it to be
duly stamped.

28. The drawer of a bill of exchange drawn in the Territory and the maker of a promissory note made in the Territory, being a bill of exchange or promissory note that is liable to stamp duty, shall, forthwith upon the drawing of the bill of exchange or making of the promissory note, cause it to be duly stamped.

Penalty: Fifty dollars.

Negotiating,
&c., unstamped
bill or note.

29.—(1.) A person shall not, in the Territory, negotiate, present for payment or pay a bill of exchange or promissory note liable to stamp duty that is not duly stamped.

Penalty: Fifty dollars.

(2.) It is a defence to a prosecution for an offence against the last preceding sub-section if the defendant proves that, at the time of the alleged offence, he had reasonable grounds for believing that the bill of exchange or promissory note was duly stamped or was not liable to stamp duty.

(3.) Where a bill of exchange or promissory note that is liable to duty but is not duly stamped comes into the hands of the drawee or a holder of the bill of exchange or promissory note in the Territory, the drawee or holder may cause it to be duly stamped.

(4.) A person who, in accordance with the last preceding sub-section, causes a bill of exchange or promissory note payable on demand or at sight that is presented to him for payment to be duly stamped may charge the amount of stamp duty in account against the drawer of the bill of exchange or maker of the promissory note or deduct the amount of stamp duty from the amount paid by him under the bill of exchange or promissory note.

Division 4.—Hire-purchase Agreements included in Business Returns.

30. For the purposes of this Division, the Commissioner of Taxation shall keep a register to be called "Register of Hire-purchase Owners".

Register of
Hire-purchase
Owners.

31.—(1.) A person may apply to the Commissioner of Taxation in writing in accordance with an approved form for registration in the Register kept under this Division.

Registration.

(2.) The Commissioner of Taxation may, upon application under the last preceding sub-section, register an applicant by entering his name in the Register kept under this Division.

(3.) The Commissioner of Taxation shall give notice of the registration by instrument served on the owner.

(4.) The Commissioner of Taxation shall revoke the registration of a person under this Division by removing his name from the Register upon receiving notification of that person's death or bankruptcy, or in the case of a company, of the winding-up of the company, or upon receiving a request to revoke the registration from that person.

32.—(1.) A registered owner shall, within twenty-one days after the expiration of each month of each year—

Returns by
registered
hire-purchase
owners.

(a) furnish to the Commissioner of Taxation a return relating to hire-purchase agreements in respect of which tax is imposed that have been entered into by him as registered owner during that month; and

(b) pay the tax payable in respect of those hire-purchase agreements.

Penalty: Fifty dollars.

(2.) A return under this section shall be in accordance with an approved form and shall contain such particulars as are required by the form.

Registered owner not required to affix duty stamps.

33.—(1.) A registered owner shall endorse each hire-purchase agreement particulars of which are required to be shown in a return under the last preceding section with a notation in writing to the effect that he is registered under this Division.

Penalty: Fifty dollars.

(2.) A registered owner is not required to denote by adhesive stamp or impressed stamp the payment of tax in respect of hire-purchase agreements entered into by him as registered owner.

Owner may recover tax from hirer.

34. A registered owner under a hire-purchase agreement may add to an amount payable by or on behalf of the hirer under the agreement, whether payable under the agreement or otherwise, an amount designated as the tax imposed in respect of the agreement and equal to the amount of the tax and may recover the amount designated as the tax from the hirer.

Division 5.—Other Hire-purchase Agreements.

Application.

35. This Division applies to and in relation to a hire-purchase agreement on which stamp duty is imposed that is entered into in the Territory by an owner who is not a registered owner.

Duty to be paid by owner.

36. The owner under a hire-purchase agreement in relation to which this Division applies shall cause the agreement to be duly stamped forthwith upon the execution of the agreement by both parties, or if the agreement is made by communication to the owner of the acceptance of an offer, forthwith upon the acceptance coming to his knowledge.

Penalty: Two hundred dollars.

How duty denoted.

37. Stamp duty imposed on a hire-purchase agreement in relation to which this Division applies shall be denoted by adhesive stamp.

Owner may recover stamp duty from hirer.

38. An owner under a hire-purchase agreement to which this Division applies may add to an amount payable by or on behalf of the hirer under the agreement an amount designated as the stamp duty imposed on the agreement and equal to the amount of the stamp duty and may recover the amount designated as the stamp duty from the hirer.

Division 6.—Insurance Business.

Insurer in the Territory to be registered.

39.—(1.) An insurer shall not carry on in the Territory the business of insurance in respect of which tax is imposed after the expiration of the period of fourteen days from the date of commencement of this Act unless he is registered under this Division.

Penalty: Two hundred dollars.

(2.) Nothing in this section affects the liability (including a contingent liability) of an insurer under a policy of insurance issued by the insurer in the course of carrying on the business of insurance in the Territory in contravention of this section.

40. For the purpose of this Division, the Commissioner of Taxation shall keep a register to be called "Register of Insurers". Register of Insurers.

41.—(1.) An insurer carrying on or intending to carry on in the Territory the business of insurance in respect of which tax is imposed may apply to the Commissioner of Taxation in writing in accordance with an approved form for registration in the Register kept under this Division. Registration.

(2.) The Commissioner of Taxation shall, upon receiving an application from an insurer under the last preceding sub-section, register the insurer by entering the name of the insurer in the Register.

(3.) The Commissioner of Taxation shall give notice of the registration by instrument served on the insurer.

(4.) The Commissioner of Taxation shall revoke the registration of an insurer under this Division by removing his name from the Register upon receiving notification of the death or bankruptcy of the insurer, or in the case of a company, of the winding-up of the company, or upon receiving a request from the insurer to revoke the registration.

42.—(1.) An insurer registered under this Division shall, within twenty-one days after the expiration of each month of each year— Returns in respect of insurance business.

(a) furnish to the Commissioner of Taxation a return of all premiums received in that month by the insurer in respect of which tax is imposed; and

(b) pay the tax payable in respect of those premiums less the amount of any tax remitted under the next succeeding section.

Penalty: Fifty dollars.

(2.) A return under this section shall be in accordance with an approved form and shall contain such particulars as are required by the form.

43. Where the Commissioner of Taxation is satisfied that—

(a) a policy of insurance in respect of which tax is imposed has been surrendered or cancelled before the expiration of the term of the insurance expressed in the policy; and Refund or remission of tax for surrendered or cancelled insurance.

- (b) the insurer has refunded to the person by whom premiums were payable under the policy an amount equal to the amount of the premiums received by the insurer in respect of a period occurring after the surrender or cancellation,

the Commissioner of Taxation shall—

- (c) if the insurer has not paid the tax in respect of that amount of premiums—remit the tax payable; and
(d) if the insurer has paid the tax payable in respect of that amount of premiums—refund to the insurer the amount of the tax so paid.

Insurer may
recover tax
from person
paying
premiums.

44. An insurer may, by an instrument served on the person by whom premiums are payable under a policy of insurance in respect of which tax is imposed, require that person to pay to the insurer as a separate debt an amount designated as the tax and equal to the amount of the tax, and the insurer may recover the amount designated as the tax from that person.

Division 7.—Conveyances.

Persons liable
to pay duty.

45.—(1.) Duty imposed on a transfer of an estate in fee simple in land or of a Crown lease for a term exceeding five years, or an agreement for such a transfer, is payable by the transferee or the person to whom the estate in fee simple or the lease is to be transferred under the agreement, as the case may be.

(2.) Duty imposed on a lease is payable by the lessee.

(3.) Duty imposed on a transfer or assignment, or agreement for a transfer or assignment, of a lease other than a Crown lease for a term exceeding five years is payable by the transferee or assignee, or the person to whom the lease is to be transferred or assigned under the agreement, as the case may be.

How duty
denoted.

46. Payment of duty on conveyances required to be lodged with the Commissioner of Taxation under this Act shall be denoted by impressed stamp, and payment of duty on other conveyances shall be denoted by adhesive stamp.

Instrument of
conveyance to
be stamped or
lodged for
assessment.

47.—(1.) Within thirty days after the execution of a transfer of an estate in fee simple in land or of a Crown lease for a term exceeding five years, or of an agreement for such a transfer, being a transfer or agreement on which duty is imposed, the transferee or person to whom the estate or lease is to be so transferred shall lodge the instrument of transfer or the agreement with the Commissioner of Taxation for assessment.

Penalty: Twenty dollars.

(2.) The lessee under a lease on which duty is imposed, being a lease—

- (a) the only consideration for which is by way of rent;

- (b) the total amount or value of the consideration for which does not exceed One thousand five hundred dollars; and
- (c) that is for a term not exceeding three years,

shall, forthwith on the execution of the lease, cause the lease to be duly stamped.

Penalty: Two hundred dollars.

(3.) The lessee under a lease on which duty is imposed, being a lease—

- (a) for which the only consideration is by way of rent the total amount or value of which exceeds One thousand five hundred dollars;
- (b) the consideration for which is not wholly by way of rent; or
- (c) that is for a term exceeding three years,

shall, within thirty days after the execution of the lease, lodge the lease with the Commissioner of Taxation for assessment.

Penalty: Twenty dollars.

(4.) Where the total amount or value of the consideration given in respect of the transfer or assignment of a lease on which duty is imposed exceeds Five hundred dollars, the transferee or assignee shall, within thirty days after the execution of the instrument of transfer or assignment, lodge the instrument with the Commissioner of Taxation for assessment.

Penalty: Twenty dollars.

(5.) Where the total amount or value of the consideration agreed to be given in respect of the transfer or assignment of a lease under an agreement on which duty is imposed exceeds Five hundred dollars, the person to whom the lease is to be transferred or assigned under the agreement shall, within thirty days after the execution of the agreement, lodge the agreement with the Commissioner of Taxation for assessment.

Penalty: Twenty dollars.

(6.) Where the total amount or value of the consideration given in respect of the transfer or assignment of a lease other than a Crown lease for a term exceeding five years, being a transfer or assignment on which duty is imposed, does not exceed Five hundred dollars, the transferee or assignee shall, forthwith on the execution of the instrument of transfer or assignment, cause the instrument to be duly stamped.

Penalty: One hundred dollars.

(7.) Where the total amount or value of the consideration agreed to be given in respect of an agreement for the transfer or assignment of a lease

other than a Crown lease for a term exceeding five years, being an agreement on which duty is imposed, does not exceed Five hundred dollars, the person to whom the lease is to be transferred or assigned under the agreement shall, forthwith on the execution of the agreement, cause the agreement to be duly stamped.

Penalty: One hundred dollars.

Interpretation
of term of
lease.

48. A period specified in a lease as the period during which the lease is to continue shall be regarded as the term of the lease notwithstanding that the lease is expressed to be for a weekly, monthly, quarterly, half-yearly or yearly tenancy or otherwise.

Increase in
rent by
instrument.

49. Where an instrument provides for an increase in the rent that has been reserved by a lease granted after the commencement of this Act (whether or not that lease is in writing), the instrument shall, for the purposes of this Act, be treated as a lease granted for a consideration equal to the amount of the additional rent provided by the instrument for the remaining term of the lease.

Refund of duty
where early
determination
of lease.

50.—(1.) Where duty has been paid on a lease that has been granted for a term of not less than two years and the lease is determined before the expiration of that term, an amount equal to the amount of the difference between the amount of duty so paid and the amount of duty that would have been payable on the lease if the lease had been granted for a term expiring on the date of the determination of the lease shall, subject to this section, be refunded to the person who was the lessee immediately before the determination of the lease.

(2.) A refund under this section is not payable to a person unless he furnishes to the Commissioner of Taxation, within ninety days after the determination of the lease, an application in accordance with an approved form together with such information as the Commissioner of Taxation requires to enable him to determine the amount of the refund.

*Division 8.—Transfers of Marketable Securities included in
Brokers' Returns.*

Record of
transfers.

51.—(1.) A broker who carries on business in the Territory shall, forthwith after each sale or purchase by him of a marketable security in respect of which tax is imposed, make a record of particulars of the sale or purchase showing—

- (a) the date of the sale or purchase;
- (b) the name of the person for whom he was acting;
- (c) the name of the broker (if any) acting for the person with whom the sale or purchase was made;

- (d) the full description of the marketable security;
- (e) the selling price of the marketable security; and
- (f) if tax is payable, the amount of the tax.

(2.) Where marketable securities are sold or purchased in a parcel, a broker shall, in the record made under this section, show the quantity of the marketable securities in the parcel and the selling price per unit and in total of the marketable securities in the parcel.

(3.) A broker shall retain the record of a sale or purchase of a marketable security for a period of not less than three years after the date of the sale or purchase.

Penalty: Five hundred dollars.

52.—(1.) Where a broker makes a sale or purchase of a marketable security in respect of which tax is imposed or in respect of which an exemption from tax is provided by an Act with which this Act is incorporated for a consideration of not less than the unencumbered value of the marketable security, the broker shall make a statement in respect of the sale or purchase, as the case may be, on the instrument of transfer to which the sale or purchase relates to the effect that stamp duty, if payable, has been or will be paid, and shall set out the date of the statement and impress a stamp expressed to be the stamp of the broker on the instrument of transfer.

Broker's statement on transfer.

(2.) A broker shall not make a statement under the last preceding sub-section on an instrument of transfer of a marketable security in respect of which tax is imposed before recording particulars of the sale or purchase under the last preceding section.

(3.) A person shall not, without lawful authority, impress a stamp resembling or purporting to be a stamp of a broker on an instrument of transfer of a marketable security.

Penalty: One thousand dollars.

53.—(1.) A broker carrying on business in the Territory shall, within fourteen days after the expiration of each month of each year—

Return by brokers.

- (a) furnish to the Commissioner of Taxation a return showing particulars of sales and purchases of marketable securities in respect of which tax is imposed that have been made by him during that month or, if no such sales or purchases have been made in that month, making a statement to that effect; and

- (b) pay the tax payable in respect of each such sale and purchase.

Penalty: Fifty dollars.

(2.) A return under this section shall be in accordance with an approved form.

54. A broker who pays or is liable to pay tax under the last preceding section in respect of a sale or purchase of a marketable security may recover from the vendor or purchaser, as the case may be, for whom he

Broker may recover tax.

has made the sale or purchase an amount designated as the tax and equal to the amount of tax.

Certain transfers deemed to have been made through a broker.

55.—(1.) A broker who makes a sale or purchase of a marketable security in accordance with an order from a person (not being a broker or a person acting for or on behalf of a broker) given to an agent or employee of the broker who carries on business on behalf of the broker in the Territory shall be deemed to have made a sale or purchase of that marketable security in accordance with an order to sell or purchase, as the case may be, given to the broker in the Territory.

(2.) For the purposes of this Act—

(a) where a broker carrying on business in the Territory—

- (i) makes a sale in the Territory of a marketable security on his own account or behalf to a person who is not a broker or is not acting for or on behalf of a broker; or
- (ii) makes a sale of a marketable security to such a person in accordance with an order to sell given to him in the Territory,

the broker shall, notwithstanding that no order to purchase was given to him, be deemed to have also made a purchase of that marketable security in accordance with an order to purchase given to him in the Territory by the person to whom he had made the sale; and

(b) where a broker carrying on business in the Territory—

- (i) makes a purchase in the Territory of a marketable security on his own account or behalf from a person who is not a broker or is not acting for or on behalf of a broker; or
- (ii) makes a purchase of a marketable security from such a person in accordance with an order to purchase given to him in the Territory,

the broker shall, notwithstanding that no order to sell was given to him, be deemed to have also made a sale of that marketable security in accordance with an order to sell given to him in the Territory by the person from whom he made the purchase.

Division 9.—Transfers of Marketable Securities liable to Duty.

When transfers are to be duly stamped.

56.—(1.) The transferee under a transfer of a marketable security on which stamp duty is imposed, being a marketable security listed for quotation in the official list of an Australian Stock Exchange or a prescribed stock exchange (whether within or outside Australia), shall cause the instrument of transfer to be duly stamped—

- (a) where it is executed by or on behalf of the transferee in the Territory—within thirty days after the instrument is so executed; and

- (b) where it is executed by or on behalf of the transferee outside the Territory—within thirty days after it is first received in the Territory after the instrument is so executed.

(2.) The transferee under a transfer of any other marketable security on which stamp duty is imposed shall lodge the instrument of transfer with the Commissioner of Taxation for assessment—

- (a) where it is executed by or on behalf of the transferee in the Territory—within thirty days after the instrument is so executed; and
- (b) where it is executed by or on behalf of the transferee outside the Territory—within thirty days after it is first received in the Territory after the instrument is so executed.

Penalty: Fifty dollars.

57. Stamp duty imposed on an instrument of transfer of a marketable security is payable by the transferee. Duty payable by transferee.

58.—(1.) The payment of stamp duty imposed on an instrument of transfer referred to in sub-section (1.) of section 56 of this Act shall be denoted by adhesive stamp or by impressed stamp. How duty denoted.

(2.) The payment of stamp duty imposed on an instrument of transfer of any other marketable security shall be denoted by impressed stamp.

PART IV.—ASSESSMENTS.

59.—(1.) The Commissioner of Taxation shall, from a return and any other information in his possession, make an assessment of the amount of tax payable in respect of the return. Assessment of returns.

(2.) A return purporting to be made and signed by or on behalf of a person shall, unless the contrary is proved, be deemed to have been made and signed by him or with his authority.

(3.) A trustee of a deceased person shall furnish such returns as the deceased person, if he were still living, would be required by this Act to furnish.

(4.) The furnishing of a return for assessment does not relieve the person liable to pay tax in respect of the return of the liability to pay the tax as provided by this Act.

(5.) Where, by reason of an assessment of a return, a person has overpaid tax, the amount of tax overpaid shall be refunded.

60.—(1.) A person liable to pay duty on an instrument that is not required by this Act to be lodged for assessment of duty may, within thirty days after the date of execution of the instrument by him, lodge the instrument with the Commissioner of Taxation for assessment of duty. Lodging of instruments for assessment.

(2.) The lodging of an instrument for assessment of duty does not relieve a person liable to pay duty on the instrument of his liability to pay the duty in accordance with this Act and to cause the instrument to be duly stamped.

Information for
the purpose of
making
assessment.

61.—(1.) The Commissioner of Taxation may, at any time, by instrument served on a person who has furnished a return or lodged an instrument for assessment, require that person to furnish, within a specified period, further information by statutory declaration or otherwise in connexion with the return so furnished or instrument so lodged.

(2.) Where the Commissioner of Taxation has reason to believe, for the purpose of the assessment or amendment of an assessment or enquiring into or ascertaining the liability of a person under this Act, that a person is capable of giving information or producing documents that may be used for that purpose, the Commissioner of Taxation may, by instrument served on that person, require that person—

- (a) to furnish to him in writing, within the period and in the manner specified in the instrument, any such information;
- (b) to attend before him or a person specified in the instrument at such time and place as is specified and there to answer questions for that purpose; or
- (c) to produce to him or to a person specified in the instrument, in accordance with the instrument, any such document.

(3.) The Commissioner of Taxation or person before whom a person is required to attend under the last preceding sub-section may take evidence on oath or affirmation and, for that purpose, may administer an oath or affirmation to the person attending.

Failure to
comply with
requirements
for further
information,
&c.

62.—(1.) A person shall not—

- (a) refuse or fail to comply with a requirement in an instrument served under the last preceding section to the extent to which he is capable of complying with it;
- (b) in purported compliance with such a requirement, furnish information that is false or misleading in a material particular; or
- (c) when attending before the Commissioner of Taxation or a person in pursuance of such a requirement—
 - (i) make a statement or produce a document that is false or misleading in a material particular; or
 - (ii) refuse or fail to be sworn or to make an affirmation.

Penalty: One thousand dollars.

(2.) It is a defence to a prosecution for an offence against the last preceding sub-section of furnishing information, or making a statement, or producing a document, that is false or misleading in a material particular if the defendant proves that the false or misleading information,

statement or document was furnished, made or produced through ignorance or inadvertence.

(3.) Upon the conviction of a person for an offence of refusing or failing to comply with a requirement under sub-section (1.) of this section, the court may order that person, within a period fixed by the court, to comply with that requirement.

(4.) A person to whom such an order is given shall not refuse or fail to comply with the order.

Penalty: Four hundred dollars.

(5.) An order under sub-section (3.) of this section may be given orally by the court to the person or may be served by sending a copy of the order by post addressed to that person at his last-known place of residence or business.

(6.) Upon the conviction of a person for an offence against sub-section (1.) of this section of furnishing information, or making a statement, or producing a document, that is false or misleading in a material particular, the court may, in addition to the penalty prescribed by that sub-section and without affecting the person's liability to pay the amount of duty or tax properly payable, order that person to pay to the Commissioner of Taxation an amount not exceeding an amount equal to double the amount of duty or tax that would have been avoided if the information, statement or document had been accepted as correct.

63.—(1.) A person who is required by this Act to furnish a return to the Commissioner of Taxation shall not furnish a return that is false or misleading in a material particular.

False or misleading returns.

Penalty: One thousand dollars.

(2.) It is a defence to a prosecution for an offence against this section if the defendant proves that the false or misleading return was furnished through ignorance or inadvertence.

(3.) Upon the conviction of a person for an offence against this section, the court may, in addition to the penalty prescribed by this section and without affecting the person's liability to pay the amount of tax properly payable, order that person to pay to the Commissioner of Taxation an amount not exceeding an amount equal to double the amount of tax that would have been avoided if the return had been accepted as correct.

64. A person is not excused from furnishing information or producing a document in compliance with an instrument served on him under section 61 of this Act or in compliance with an order of a court under sub-section (3.) of section 62 of this Act on the ground that the information or document might tend to incriminate him, but his answer to any question asked in the order or instrument or any information furnished by him in pursuance of the order or instrument is not admissible in evidence against him in criminal proceedings other than proceedings under this Act.

Incriminating information, &c.

Enforcement of
court orders
to pay.

65.—(1.) Where a court makes an order for the payment of an additional penalty under section 62 or 63 of this Act, a certificate of the order in accordance with an approved form may be registered in a court having civil jurisdiction to the extent of the amount of the order.

(2.) Upon registration, the certificate becomes a record of the court with the same force and effect as a judgment of the court, and the like proceedings (including proceedings in bankruptcy) may be taken upon the certificate as if the order had been a judgment of the court in favour of the Commissioner of Taxation.

Assessment of
duty on
instruments.

66.—(1.) Where an instrument is lodged with the Commissioner of Taxation for assessment—

- (a) if he adjudges that duty on the instrument is not payable—he may put an impressed stamp on the instrument as provided by sub-section (2.) of section 17 of this Act; or
- (b) if he adjudges that duty is payable—he shall assess the amount of the duty.

(2.) The Commissioner of Taxation shall inform the person lodging the instrument of his assessment under the last preceding sub-section, but is not required to give notice in writing of the assessment to that person unless so requested in writing by that person within thirty days after the lodging of the instrument.

(3.) If an instrument lodged for assessment has been returned before a request for notice in writing of the assessment, the Commissioner of Taxation may refuse to give the notice in writing unless the person requesting the notice in writing re-lodges the instrument with him.

(4.) Where, by reason of an assessment of an instrument in respect of which an amount has been paid as duty, a person has overpaid duty, the amount of duty overpaid shall be refunded.

Retaining and
impounding of
instruments.

67.—(1.) Where the Commissioner of Taxation has reason to believe that an instrument liable to duty has not been duly stamped, or has not been lodged for assessment as required by this Act, a person authorized by the Commissioner of Taxation may seize the instrument.

(2.) The Commissioner of Taxation may retain possession of an instrument lodged for assessment of duty, or seized under the last preceding sub-section, until his assessment and any duty assessed by him and any additional amount payable by way of penalty in respect of that instrument under this Act has been paid.

(3.) Notwithstanding the last preceding sub-section, the Commissioner of Taxation shall, on being required to do so by subpoena, summons or order of a court, produce the instrument or cause it to be produced to the court for as long as it is required in proceedings in the court.

(4.) This Act applies to an instrument that has been seized under this section as though it had been lodged with the Commissioner of Taxation for assessment.

68. Where—

Default assessments.

- (a) a person liable to furnish a return has failed to furnish a return, has furnished a return that is false or misleading in a material particular or has failed to include in a return particulars required by this Act to be included;
 - (b) a person has not complied with a requirement under section 61 of this Act in respect of a return or instrument; or
 - (c) an instrument has been seized under the last preceding section,
- the Commissioner of Taxation may make an assessment of the amount of duty or tax that, in his opinion, is payable.

69. As soon as practicable after an assessment made in the circumstances referred to in the last preceding section under which duty or tax is assessed to be payable, the Commissioner of Taxation shall cause notice in writing of the assessment and the amount of the duty or tax payable to be served on the person who is adjudged by him to be the person liable to pay it.

Notice of default assessment.

70.—(1.) Where a person is liable to pay duty or tax by virtue of an assessment made under section 68 of this Act, that person is liable to pay, by way of penalty, in addition to the amount of the duty or tax, an amount equal to double the amount of that duty or tax.

Penalty additional to duty or tax on default assessments.

(2.) Where a person furnishes a return or lodges an instrument after the expiration of the period within which he is required by this Act to furnish or lodge it, that person is liable to pay, by way of penalty, in addition to the amount of tax or duty that he is liable to pay in respect of that return or instrument, an amount calculated at the rate of ten per centum per annum upon the amount of that tax or duty.

(3.) For the purposes of the last preceding sub-section, the amount calculated at the percentage specified in that sub-section shall be computed for the period commencing on the last day of the period within which that person is required to furnish the return or lodge the instrument and ending on the day upon which it is furnished or lodged.

(4.) Where a person fails to include in a return particulars of a matter required by this Act to be included and the amount of tax properly payable in respect of that matter is assessed to be greater than the amount of tax that would be payable on the basis of the particulars furnished by him, that person is liable to pay, by way of penalty, in addition to the amount of tax properly payable, an amount equal to double the amount of the difference between the amount of tax properly payable and the amount of tax that would be payable on the basis of those particulars.

(5.) The Commissioner of Taxation shall include particulars of an amount payable by way of penalty under this section in a notice given under the last preceding section.

(6.) The Commissioner of Taxation may, in a particular case, for such reasons as in his discretion he thinks sufficient, remit the whole or part of an amount payable by way of penalty under this section.

(7.) The Commissioner of Taxation shall denote on an instrument assessed under section 68 of this Act, by impressed stamp or adhesive stamp, the payment of an additional amount payable by way of penalty under this section in respect of the instrument.

Amended
assessments.

71.—(1.) The Commissioner of Taxation may, at any time within a period of three years after the date of an assessment by him of duty or tax, amend the assessment by making such alterations or additions to it as he thinks necessary.

(2.) The last preceding sub-section does not prevent the amendment of an assessment after the expiration of the period referred to in that sub-section in order to give effect to a decision on an appeal or review under Part V., or the amendment of an assessment after the expiration of that period by way of reduction on an objection under that Part or pending such an appeal or review.

(3.) Where, by reason of an amendment of an assessment, a person has overpaid duty or tax, the amount of duty or tax overpaid shall be refunded.

(4.) As soon as practicable after the amendment of an assessment under this section, the Commissioner of Taxation shall cause notice in writing of the amended assessment and the amount of duty or tax payable in accordance with the amended assessment, together with the amount of any duty or tax underpaid or overpaid, to be given to the person who is adjudged by him to be the person liable to pay the duty or tax.

Assessments in
relation to
deceased
persons.

72. The Commissioner of Taxation has the same powers of assessment of duty or tax in relation to a trustee of a deceased person as he would have had in relation to that person if he were still living.

Validity of
assessments.

73. The validity of an assessment is not affected by reason that a provision of this Act has not been complied with.

PART V.—REVIEWS AND APPEALS.

Objections to
assessments.

74.—(1.) A person who is aggrieved by an assessment made in relation to him may, within sixty days after the date of the assessment, post to, or lodge with, the Commissioner of Taxation an objection in writing to the assessment.

(2.) An objector shall, in an objection to an assessment, state fully and in detail the grounds on which he relies.

(3.) The Commissioner of Taxation shall consider the objection, and may either disallow it, or allow it, either wholly or in part.

(4.) The Commissioner of Taxation shall cause notice in writing of his decision on an objection to be served on the objector.

(5.) An objector who is dissatisfied with a decision of the Commissioner of Taxation on his objection may, within sixty days after service on him of notice of the decision, post to or lodge with the Commissioner of Taxation a request in writing, accompanied by a fee of Two dollars, to refer the decision to a Board of Review for review.

(6.) The fee shall be refunded to the objector if his assessment is amended by the Board of Review.

(7.) The objector has no further right of objection in relation to an amended assessment than he would have had if the amendment had not been made, except to the extent to which a fresh liability is imposed upon him or an existing liability is increased by reason of the amendment.

75.—(1.) A Board of Review has power to review assessments of the Commissioner of Taxation referred to it under this Act and, for that purpose, the Board has all the powers and functions of the Commissioner of Taxation in making assessments, determinations and decisions under this Act, and assessments, determinations and decisions of the Board of Review shall, for the purposes of this Act (other than the purposes of sub-section (5.) of section 74 and section 76 of this Act), be deemed to be assessments, determinations and decisions of the Commissioner of Taxation.

Review by
Board of
Review.

(2.) A person is limited in the review by the Board of Review under this section to the grounds stated in his objection under the last preceding section.

(3.) If the assessment has been amended by the Commissioner of Taxation, the amended assessment is the assessment to be dealt with by the Board of Review under this section.

(4.) On the review, the burden of proving that the assessment is excessive lies on the person who requested the review.

(5.) The Board of Review, on a review, shall give a decision in writing and may confirm, reduce, increase or vary the assessment.

(6.) On request made at the hearing by the Commissioner of Taxation or the person who requested the review, the Board of Review shall, when giving its decision, state in writing its findings of fact and its reasons for the decision.

76.—(1.) The Commissioner of Taxation or a person who requested a review by a Board of Review may appeal to the Supreme Court of the Australian Capital Territory against a decision of the Board on the review that involves a question of law.

Appeals and
references to
Supreme Court
of the
Australian
Capital
Territory.

(2.) A Board of Review shall, at the request of a party, refer to the Supreme Court of the Australian Capital Territory a question of law arising before the Board in the course of a review.

(3.) Jurisdiction is conferred on the Supreme Court of the Australian Capital Territory to hear and determine an appeal or reference made under this section.

A pending appeal or reference not to affect payment of tax or duty.

77. The fact that a reference to a Board of Review or an appeal or reference to the Supreme Court of the Australian Capital Territory is pending does not, in the meantime, affect the assessment that is the subject of the appeal or reference, and duty or tax may be recovered on the assessment as if the appeal or reference had not been made.

Adjustments of duty or tax after appeal.

78.—(1.) If an assessment is varied on a reference or appeal, the Commissioner of Taxation shall—

- (a) cause all necessary adjustments to be made; and
- (b) cause notice in writing of the varied assessment to be given to the person who requested the review of the assessment.

(2.) If an assessment is varied on a reference or appeal—

- (a) an amount of duty or tax not paid or underpaid is recoverable from the person liable under the assessment as varied to pay the duty or tax; and
- (b) an amount of duty or tax overpaid shall be refunded.

Evidence of assessments.

79. In proceedings under this Act on a review of an assessment or on a reference or appeal relating to an assessment—

- (a) the production of an instrument under the hand of the Commissioner of Taxation purporting to be a copy of a notice of assessment is evidence of the due making of the assessment; and
- (b) the production of a document certified by instrument under his hand as a copy of, or extract from, a return or notice of assessment is evidence of the matter set out in the document to the same extent as the original return or notice would be if it were produced.

PART VI.—RECOVERY OF DUTY AND TAX.

Recovery of duty or tax.

80. Duty or tax is, upon becoming due and payable under this Act, a debt due to the Commonwealth and recoverable in a court of competent jurisdiction.

Additional penalty for failure to pay duty or tax on time.

81.—(1.) Where a person liable to duty or tax fails to pay the duty or tax on or before the day on which it becomes due and payable under this Act, that person is liable to pay, by way of penalty, in addition to the amount of the duty or tax that he has failed to pay or any other amount payable by way of penalty under this Act, an amount calculated at the

rate of ten per centum per annum upon the amount of that duty or tax computed from and including the day on which the duty or tax became due and payable.

(2.) The Commissioner of Taxation may, in a particular case, for such reasons as in his discretion he thinks sufficient, remit the whole or a part of an additional amount payable by way of penalty under this section.

82.—(1.) An additional amount payable by way of penalty under section 70 of this Act or the last preceding section is a debt due to the Commonwealth and is recoverable in the same way as duty or tax. Recovery of additional penalty.

(2.) Where a person is liable to pay such an additional amount and a prosecution for an offence against this Act is instituted in respect of the same subject matter, the additional amount is not payable unless the prosecution is withdrawn.

83.—(1.) The Commissioner of Taxation has the same powers and remedies for the recovery of duty or tax from a trustee of a deceased person as he would have had against that person if he were still living. Recovery of duty or tax from trustees of deceased persons.

(2.) A trustee of a deceased person is subject to any additional amount payable under this Act to the same extent as the deceased person would be if he were still living.

84.—(1.) A person indebted, either alone or jointly with another person, to a person liable to duty or tax shall, when required by the Commissioner of Taxation by instrument served on the person indebted, pay to the Commissioner of Taxation the amount of the debt owing or accruing to the person so liable or so much of it as is sufficient to pay that duty or tax. Collection of duty or tax from person indebted to person liable to duty or tax.

(2.) Upon the service of an instrument under this section, the amount of the debt owing or accruing to the person liable to duty or tax, or so much of it as is sufficient to pay the duty or tax, becomes a debt due to the Commonwealth and recoverable in a court of competent jurisdiction.

(3.) The Commissioner of Taxation shall, in an instrument under subsection (1.) of this section, specify the time within which the debt owing or accruing shall be paid, not being a time before the debt becomes due.

(4.) The Commissioner of Taxation may, in an instrument under subsection (1.) of this section, specify an amount to be paid out of each payment of the debt as it becomes due from time to time to the person liable to duty or tax until the amount of duty or tax is paid.

(5.) The Commissioner of Taxation shall cause an instrument under this section to be served on the person indebted and a copy of the instrument to be served on the person liable to pay the duty or tax.

(6.) An instrument to be served under this section on the Commonwealth or a State may be served upon a person employed by the Commonwealth or by that State, as the case may be, who, by or under a law of the

Commonwealth or of that State, is charged with a duty of disbursing public moneys, and an instrument so served shall be deemed, for the purposes of this section, to have been served on the Commonwealth or that State, as the case may be.

(7.) A payment in pursuance of an instrument served under this section shall be deemed to have been made with the authority of the person liable to duty or tax and of all other persons served with the instrument or copy of the instrument.

(8.) In this section—

“debt”, in relation to a person liable to duty or tax, means—

- (a) money that is due or accruing, or that may become due, to that person;
- (b) money that is held or is subsequently held for or on account of that person, or for or on account of another person for payment to that person; or
- (c) money authorized by another person to be paid to that person;

“duty or tax” includes an additional amount payable by way of penalty under this Act, a judgment debt or costs in respect of duty or tax or of such an additional amount, and a fine or costs imposed by a court in respect of an offence against this Act;

“person indebted”, in relation to a person liable to duty or tax, means a person, the Commonwealth, a State, or an authority or institution constituted by or under a law of the Commonwealth, a State or Territory of the Commonwealth, by whom or which a debt is owing or accruing to the person liable to duty or tax.

Person in receipt, &c., of money for non-resident.

85.—(1.) A person resident in Australia who has authority to receive, control or dispose of money belonging to a non-resident who is liable to duty or tax shall, when required to do so by the Commissioner of Taxation by instrument served on the person resident in Australia, pay that duty or tax.

(2.) When so required by the Commissioner of Taxation, the person resident in Australia is, by force of this section—

- (a) authorized and required to retain from time to time any money that comes to him on behalf of the non-resident or so much of it as is sufficient to pay the duty or tax payable by the non-resident;
- (b) made personally liable for that duty or tax after it becomes due and payable to the extent of any amount that he is required to retain under the last preceding paragraph; and
- (c) indemnified for all payments that he makes in pursuance of this Act.

(3.) For the purposes of this section, a person who is liable to pay money to a non-resident shall be deemed to be a person who has the control of money belonging to the non-resident, and all moneys due by him to the non-resident shall be deemed to be money that comes to him on behalf of the non-resident.

86. In proceedings for the recovery of duty or tax—

Evidence.

- (a) the production of an instrument under the hand of the Commissioner of Taxation purporting to be a copy of a notice of assessment is evidence of the due making of the assessment and that the amount and particulars of the assessment are correct;
- (b) the production of an instrument under his hand purporting to be a copy of an instrument issued or given by him under this Act is evidence that the instrument was so issued or given; and
- (c) the production of a document certified by instrument under his hand as a copy of, or extract from, a return or notice of assessment is evidence of the matter set out in the document to the same extent as the original return or notice would be if it were produced.

PART VII.—PROSECUTIONS.

87.—(1.) A prosecution in respect of an offence against section 10 of this Act shall not be instituted later than three years after the commission of the offence.

Time for bringing prosecutions.

(2.) A prosecution in respect of any other offence against this Act may be instituted at any time.

88. A witness appearing on behalf of the Commonwealth in a prosecution under this Act shall not be compelled to disclose the fact that he received any information, the nature of the information or the name of the person who gave the information, and a person who is or has been employed by the Commonwealth appearing as a witness shall not be compelled to produce a report made or received by him in his official capacity and containing confidential information.

Protection of witnesses.

89.—(1.) In a prosecution under this Act, an averment of the prosecutor contained in the information, complaint, declaration or claim is evidence of the matter averred.

Averment of prosecutor.

(2.) Where the matter averred is a mixed question of law and fact, the averment is evidence of the fact only.

(3.) This section does not apply to—

- (a) an averment of the intent of the defendant; or
- (b) a prosecution for an indictable offence.

Certain prosecutions by the Commissioner of Taxation or an appointed person.

90. A prosecution for an offence against this Act punishable on summary conviction shall not be instituted except by the Commissioner of Taxation or by a person appointed by him in that behalf.

PART VIII.—MISCELLANEOUS.

Extensions of time, &c.

91. Where a person is required by or under this Act to do an act or thing in respect of a specified period or within a specified time, the Commissioner of Taxation may, by instrument served on that person—

- (a) allow a further period or extend the time for the doing of the act or thing, notwithstanding that the specified period has expired; or
- (b) vary the specified period in respect of which or the time within which that person is required to do that act or thing,

and that person shall do that act or thing accordingly.

Refunds and remissions of duty or tax.

92. A refund or remission shall not be made of an amount of duty or tax under this Act to a person who has recovered it from another person and has not since repaid it to that other person.

Continuing offences.

93. Where an offence is committed by a person by reason of a failure to comply with a provision of this Act by or under which he is required to do anything within a particular period, that person commits an additional offence on each day on which the failure to do that thing continues, notwithstanding that that period has expired.

Service of documents.

94.—(1.) A notice or other instrument that is required by this Act to be given or served on a person other than a company shall be given or served—

- (a) by delivering the notice or instrument to that person personally;
- (b) by prepaying and posting the notice or instrument as a letter addressed to that person at his last-known place of residence or business or, if he is carrying on business at two or more places, at one of those places;
- (c) by leaving the notice or instrument at the last-known place of residence of that person with some person apparently an inmate of that place and apparently not less than sixteen years of age; or
- (d) by leaving the notice or instrument at the last-known place of business of that person or, if he is carrying on business at two or more places, at one of those places with some person apparently in the service of that person and apparently not less than sixteen years of age.

(2.) A notice or other instrument that is required by this Act to be given or served on a person, being a company, shall be given or served—

- (a) by prepaying and posting the notice or instrument as a letter to the company at its last-known place of business or, if the company is carrying on business at two or more places, at one of those places; or
- (b) by leaving it at that place or at one of those places with some person apparently in the service of the company and apparently not less than sixteen years of age.

95. For the purposes of this Act, all courts and tribunals and all judges and persons acting judicially or authorized by law to hear, receive and examine evidence shall take judicial notice of the signature of a person who holds or has held the office of Commissioner of Taxation, Second Commissioner of Taxation, Acting Commissioner of Taxation, Acting Second Commissioner of Taxation or Deputy Commissioner of Taxation. Judicial notice.

96.—(1.) For the purposes of this Act, a broker, or a person registered under Division 4 or 6 of Part III., shall— Books, accounts, &c.

- (a) keep proper books and accounts in the English language recording full particulars of all matters in relation to which tax is imposed;
- (b) preserve those books and accounts for a period of three years after the completion of those matters; and
- (c) preserve any documents or papers relating to those matters, including copies of instruments, for a period of three years after the completion of those matters.

Penalty: Five hundred dollars.

(2.) This section does not require the preservation by a person of books, accounts, documents, papers or copies of instruments—

- (a) in respect of which the Commissioner of Taxation has notified the person that their preservation is not required; or
- (b) of a company that has been wound-up.

97.—(1.) For the purposes of this Act, an officer authorized by the Commissioner of Taxation to exercise powers under this section— Entry on land, &c.

- (a) may, at all reasonable times, enter upon any land;
- (b) shall have full and free access at all reasonable times to all books, documents and other papers; and
- (c) may, for those purposes, take extracts from and make copies of any books, documents or papers.

(2.) An officer who enters upon land in pursuance of this section is not authorized to remain on the land if, on request by the occupier of the land, he does not produce a certificate in writing under the hand of the Commissioner of Taxation certifying that he is an officer authorized to exercise the powers under this section.

(3.) A person shall not, without reasonable excuse, obstruct or hinder an officer in the exercise of his powers under this Act.

Penalty: Five hundred dollars.

Appearances by
Commissioner
of Taxation.

98.—(1.) In an action, prosecution or other proceeding under this Act in a court or Board of Review, the Commissioner of Taxation may appear either personally or by a barrister or solicitor, or by an officer appointed by him.

(2.) The appearance of such an officer, and his statement that he appears by authority of the Commissioner of Taxation, are sufficient evidence of that authority.

Regulations.

99. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular—

- (a) providing for the payment of fees and expenses to witnesses required under this Act to attend and give evidence before the Commissioner of Taxation or another person;
- (b) prescribing the fees or other payments to be charged in respect of registration, proceedings under this Act or otherwise for the purposes of this Act, and prescribing the manner in which those fees or payments shall be paid;
- (c) providing for the inspection of a register kept under this Act; and
- (d) prescribing penalties, not exceeding a fine of One hundred dollars, for offences against the regulations.