



Queensland

Debits Tax Repeal Act 2005

Reprinted as in force on 1 December 2009

Reprint No. 1A

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

NOT FURTHER AMENDED
LAST REPRINT BEFORE REPEAL
See 2011 Act No. 8 s 121

Information about this reprint

This Act is reprinted as at 1 December 2009. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprint.**

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

Debits Tax Repeal Act 2005

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Debits Tax Repeal Act 2005

[as amended by all amendments that commenced on or before 1 December 2009]

An Act to repeal the *Debits Tax Act 1990*, and for related matters

1 Short title

This Act may be cited as the *Debits Tax Repeal Act 2005*.

2 Commencement

This Act commences on 1 July 2005.

3 Interpretation

(1) In this Act—

pre-repeal debit means a debit made to an account before 1 July 2005.

(2) If the context permits, a term used in this Act and defined in the repealed *Debits Tax Act 1990* or the applied provisions has the meaning given under that Act or the applied provisions.

4 Repeal of Debits Tax Act 1990

The Debits Tax Act 1990 No. 97 is repealed.

5 Saving provision for pre-repeal debits

(1) The repealed *Debits Tax Act 1990* continues to apply for rights, privileges and liabilities that would have been acquired, accrued or incurred on or after 1 July 2005 in relation to a pre-repeal debit if that Act had not been repealed.

Examples of how the repealed Debits Tax Act 1990 continues to apply under this section—

- a person may be required to lodge a return or pay tax, including additional tax, on or after 1 July 2005 in relation to a pre-repeal debit
 - a financial institution may recover from an account holder tax paid on or after 1 July 2005 in relation to a pre-repeal debit
 - a person may apply, on or after 1 July 2005, for a certificate of exemption, or an account certificate, for an account or class of accounts to which a pre-repeal debit was made
 - a person may seek a refund of tax paid on or after 1 July 2005 in relation to a pre-repeal debit
 - a financial institution may ask the commissioner to make an assessment in relation to a return lodged on or after 1 July 2005 for a pre-repeal debit
 - a person may lodge an objection, or request that a decision on the objection be referred to the Supreme Court, in relation to a decision or assessment made on or after 1 July 2005 in relation to a pre-repeal debit
- (2) Without limiting subsection (1), a person who, under the repealed *Debits Tax Act 1990*, had a right to request the commissioner to refer the commissioner's decision relating to an objection to the Supreme Court may—
- (a) request the commissioner to refer the commissioner's decision relating to the objection to the Supreme Court; or
 - (b) apply, within 60 days after the person is given notice of the commissioner's decision relating to the objection and as otherwise provided under the QCAT Act, to QCAT for a review of the decision of the commissioner relating to the objection.
- (3) A person may only apply to QCAT under subsection (2)(b) if the person has paid the amount of the tax payable under the assessment to which the objection relates.

6 Commissioner's power to delegate for administration of repealed Act

(1) For the purposes of administering the repealed Act in relation to pre-repeal debits, the commissioner may delegate the commissioner's powers under the repealed Act to a person engaged in the administration of the repealed Act.

(2) In this section—

repealed Act means the repealed *Debits Tax Act 1990* as in force from time to time before its repeal under section 4.

7 Validation and continuation of particular delegations

(1) A delegation made by the commissioner under the repealed Act and in force immediately before 1 March 2002 is taken to have continued in force from 1 March 2002.

(2) A delegation, or an amendment of a delegation mentioned in subsection (1), purportedly made by the commissioner on or after 1 March 2002 but before 1 July 2005 for the purposes of the repealed Act is taken to have been validly made.

(3) Subsections (1) and (2) apply despite the repeal on 1 March 2002 of schedule 2, section 5 (to the extent it substituted section 4A for section 4 of the Commonwealth Act) of the repealed Act.

(4) If a delegation mentioned in subsection (1) or (2) is in force on 30 June 2005, it continues in force to the extent necessary for the repealed Act to be administered in relation to pre-repeal debits.

(5) However, the commissioner may revoke a delegation mentioned in subsection (1) or (2).

(6) In this section—

repealed Act means the repealed *Debits Tax Act 1990* as in force from time to time before its repeal under section 4.

8 Effect of making reassessment after review started

- (1) This section applies if—
 - (a) a person applies to QCAT for a review of the decision of the commissioner relating to an objection against an assessment of the taxpayer's liability for tax (the *QCAT review*); and
 - (b) the commissioner makes a reassessment relevant to the assessment of the taxpayer's liability for tax.
- (2) On receiving the assessment notice for the reassessment, the person to whom the reassessment applies may—
 - (a) continue or withdraw the person's application for review; or
 - (b) instead of objecting to the reassessment, change the grounds of the review by filing notice of the change with the principal registrar of QCAT.
- (3) However, the person may change the grounds of the review only to the extent that the person would have a right of objection to the reassessment.

9 Proceedings for a review by QCAT

- (1) This section applies to a proceeding for a review by QCAT of a decision of the commissioner relating to an objection.
- (2) QCAT may not, under the QCAT Act, section 61(1), extend the period within which a person may apply to QCAT under section 5(2)(b).
- (3) QCAT must—
 - (a) hear and decide the review of the decision by way of a reconsideration of the evidence before the commissioner when the decision was made, unless QCAT considers it necessary in the interests of justice to allow new evidence; and
 - (b) decide the review of the decision in accordance with the same law that applied to the making of the original decision.

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- (4) The grounds on which the application for review is made are limited to the grounds of the relevant objection, unless QCAT otherwise orders.
 - (5) The applicant for the proceeding has the onus of proving the applicant's case.
 - (6) If QCAT decides, under the QCAT Act, section 139, that the proceeding should be reopened, the issues in the proceeding that are reheard must be—
 - (a) heard and decided by way of a reconsideration of the evidence given in the proceeding for the review of the decision; and
 - (b) decided in accordance with the same law that applied to the making of the original decision.
 - (7) A party to the proceeding may be represented by a lawyer.
 - (8) In this section—

new evidence means evidence that was not before the commissioner when the decision was made.

original decision means assessment, of the taxpayer's liability for tax, that was the subject of the relevant objection.

relevant objection means the objection to which the commissioner's decision relates.

10 Transfer of appeals from Supreme Court only with consent

- (1) Despite the QCAT Act, section 268(4) the court may not transfer a proceeding to QCAT without the consent of the applicant for the proceeding.
- (2) The QCAT Act, section 268(7) does not apply to a final decision of the court in a proceeding relating to the commissioner's decision on an objection.

Endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 December 2009. Future amendments of the Debits Tax Repeal Act 2005 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1 rv	none	1 July 2005	Revision notice issued for R1
1A	2009 Act No. 24 (amd 2009 Act No. 48)	1 December 2009	

5 List of legislation

Debits Tax Repeal Act 2005 No. 25

date of assent 31 May 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2005 (see s 2)

amending legislation—

Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 14 pt 2 (this Act amended, see amending legislation below)

date of assent 26 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2009 (2009 SL No. 252)

amending legislation—

State Penalties Enforcement and Other Legislation Amendment Act 2009 No. 48 ss 1, 111 (amends 2009 No. 24 above)

date of assent 19 November 2009

commenced on date of assent

6 List of annotations

Saving provision for pre-repeal debits

s 5 amd 2009 No. 24 s 1843

Effect of making reassessment after review started

s 8 prev s 8 om R1 (see RA s 40)

pres s 8 ins 2009 No. 24 s 1844

Proceedings for a review by QCAT

s 9 ins 2009 No. 24 s 1844

Transfer of appeals from Supreme Court only with consent
s 10 ins 2009 No. 24 s 1844 (amd 2009 No. 48 s 111)

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