

## REVENUE RULING NO. SD 239

### FINANCIAL INSTITUTIONS DUTY - WHETHER FINANCIAL ACCOMMODATION BY A LOAN OR BORROWING IS A SHORT TERM DEALING

#### PREAMBLE

1. A ruling has been sought as to whether a financial accommodation by loan or borrowing can be considered to be a short term dealing.

2. The circumstances for consideration are as follows:-

Company B, a motor vehicle wholesale company, purchases vehicles from the manufacturer for bailment to motor vehicle dealers. The company is not a registered financial institution nor is it a certified short term dealer. It is a wholly owned subsidiary of company A and it does not have a bank account.

Company A, a general purpose finance company, is a registered financial institution and a certified short term dealer. A funds the operations of B by paying cash for the purchase of motor vehicles directly to the manufacturer. The amounts are paid at the request and direction of B and in all cases are in excess of \$50,000.

The effect of the transaction is that an indebtedness arises between the lender (A) and the borrower (B) and is accounted for in the books of the respective companies through "at call" loan accounts.

Upon sale of the vehicles, the motor vehicle dealer repays B and as the company does not have a bank account, it endorses these receipts directly to A.

Company A claimed that the payment to the manufacturer created a short term dealing in favour of B and that it was the intention of both parties (A and B) that the transaction be of a short term nature. A sought to exempt the receipt of the endorsed funds in terms of section 985(c) of the Act, i.e. "the repayment or redemption of an amount deposited or invested in a short term dealing".

3. Section 98(1) defines "short term dealing" as meaning -

(a) the making or receiving of a deposit (other than a deposit to the credit of an account with a bank which is repayable on demand or to the credit of a current account, in either case, kept by the bank for another person); or

(b) a dealing in:-

(i) securities;

(ii) bills of exchange;

(iii) promissory notes;

(iv) certificates of deposits;

(v) interest-bearing deposits; or

(vi) any matter or thing prescribed for the purpose of this definition,

where:-

(c) the amount of the deposit or the amount involved in the dealing is not less than \$50,000 . . . ">

(d) the amount of the deposit or the amount involved in the dealing . . . is deposited or invested -

(i) at call;

(ii) for a term not exceeding 185 days;

(iii) for a term not exceeding 185 days and thereafter at call; or

(iv) in respect of a dealing referred to in paragraph (b) . . . having a term exceeding 185 days, but the dealing is completed not less than 185 days after the date of deposit or investment of the amount.

#### **RULING**

4. In the present case, even though the dollar and time requirements of the definition are satisfied, the transaction is not a "short term dealing". The definition by its terms effectively limits itself to two kinds of transaction, namely,

(a) a "deposit"; or

(b) an "investment" of the amount involved in a "dealing".

5. The journalised debt falls in neither of these categories. The extending of financial accommodation by a loan or borrowing and repayments received in respect thereof are outside "short term dealing.">

6. Thus, the receipt of the endorsed funds by Company A cannot be exempted under section 985 and is liable for duty at normal rates.

B Buchanan  
for CHIEF COMMISSIONER OF STAMP DUTIES  
6 July 1993.

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