

REVENUE RULING NO. SD 039

FINANCIAL INSTITUTIONS DUTY - FOREIGN EXCHANGE

PREAMBLE

In relation to foreign exchange settlements, the Stamp Duties Act 1920, contains the following provisions:

S.98U "(1) On receipt of an application under section 98T, the Chief Commissioner, if he is satisfied that the account is -

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(g) an account kept with a bank which is a registered person, being a foreign exchange clearing account or foreign exchange settlement account;

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may issue to the applicant a certificate of approval of the account as an exempt account and specify, in the certificate, the receipts, or the receipts of a class or description of receipts, which may be deposited to the credit of the account.">

International accounting procedures between Australian banks and overseas principals often involve the use of "nostro" and "vostro"> accounts.

A "nostro" account is an account maintained by an Australian bank with a foreign bank overseas, and allows the Australian bank to buy foreign currency.

A "vostro" account is an account maintained by an overseas bank with an Australian bank here, and allows overseas banks to purchase Australian currency.

The system of "nostro" and "vostro" accounts facilitates foreign exchange dealings and settlements and allows for the marshalling of currency transactions for settlement with Australian and overseas residents.

RULING

Questions have arisen about the implications for financial institutions

duty in relation to these accounts. In January 1983 the Secretary and Comptroller of Accounts of the Treasury indicated that receipts into "vostro" accounts of overseas principals in the foreign exchange and money markets were not liable to financial institutions duty, provided the accounts were conducted solely for foreign exchange settlement purposes.

Similarly, advice was given that "nostro" accounts conducted solely for foreign exchange settlements did not attract financial institutions duty. Since both types of accounts are merely records of foreign currency transactions conducted off-shore by Australian banks with similar organisations domiciled overseas (and do not reflect in any way a deposit to and/or the crediting of a customer's account in New South Wales), they are not within the provisions of the Stamp Duties Act and no exemption is required.

Instances have come to notice where accounts have been opened in New South Wales in Australian currency in the name of a subsidiary bank, the parent bank of which is domiciled overseas. On instructions from a client, also domiciled overseas, the parent bank sells the client Australian dollars and transmits the funds to the Australian account of the subsidiary here. The funds entering this account are then used to pay for shares purchased by the overseas client of the parent bank. In these cases, the New South Wales account of the subsidiary bank is not being conducted solely for foreign exchange settlement purposes and, accordingly, financial institutions duty is attracted, at the rate of .03%, on all deposits thereto.

In the event that accounts are being used for purposes other than foreign exchange settlements following the issue of certificates in terms of section 98U(1)(g) of the Act, the "exempt account" status of these accounts will be lost. Department of Finance investigating officers will be conducting regular audits of financial institutions and, during the course of enquiries, will be looking at the transactions occurring in so-called "nostro" and "vostro" accounts.

This ruling, which is effective immediately, will apply in relation to all future non-exempt usage of "nostro" and "vostro" accounts.

A. D. CLYNE,
Chief Commissioner of Stamp Duties.
12 September 1986.

Last Updated: 20-Sep-2001