



Departure Tax Collection Amendment Act 1986

No. 38 of 1986

An Act to amend the *Departure Tax Collection Act 1978*, and for related purposes

[Assented to 24 June 1986]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

1. (1) This Act may be cited as the *Departure Tax Collection Amendment Act 1986*.

(2) The *Departure Tax Collection Act 1978*¹ is in this Act referred to as the Principal Act.

Commencement

2. (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Section 5 shall come into operation on 1 July 1986.

Interpretation

3. Section 3 of the Principal Act is amended—

- (a) by inserting before the definition of “authorized officer” the following definition:

“‘aerial work operation’ means an aerial work operation of a kind referred to in paragraph 191 (b) of the *Air Navigation Regulations* as in force from time to time;”;

- (b) by omitting “is an officer as defined by sub-section 5 (1) of the *Migration Act 1958* and” from the definition of “authorized officer”;

- (c) by inserting after the definition of “authorized officer” the following definitions:

“‘charter operation’ means a charter operation of a kind referred to in paragraph 191 (c) of the *Air Navigation Regulations* as in force from time to time;

‘exemption stamp’ means a stamp issued under this Act for denoting exemption from liability to tax;

‘exempt passenger’, in relation to an international flight, means a passenger on the flight in respect of the departure of whom from Australia on the flight tax would be payable but for the operation of sub-section 5 (1);

‘international flight’ means a flight that passes through the air space over the territory of more than one country;

‘international air operator’ means a person, organisation or enterprise operating, or offering to operate, an international flight on which passengers are, or are to be, carried;

‘international airport’ means an aerodrome that is designated as an international airport under section 9 of the *Air Navigation Act 1920*;

‘private operation’ means a private operation of a kind referred to in paragraph 191 (a) of the *Air Navigation Regulations* as in force from time to time;” and

- (d) by inserting after the definition of “tax” the following definition:

“‘tax stamp’ means a tax stamp issued under this Act;”.

Tax stamps and exemption stamps

4. (1) Section 11 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “and the sale of tax stamps by the Commonwealth and other bodies or persons”;

- (b) by omitting from paragraph (1) (a) “and” (last occurring);

- (c) by inserting after paragraph (1) (a) the following paragraphs:

“(aa) the supply (whether by way of sale or otherwise) of tax stamps by the Commonwealth to international air operators or other bodies or persons;

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- (ab) the terms and conditions upon which tax stamps may be supplied by the Commonwealth to international air operators or other bodies or persons;
- (ac) the sale of tax stamps by international air operators or other bodies or persons;
- (ad) the terms and conditions upon which tax stamps may be sold by international air operators or other bodies or persons;”;
- (d) by inserting in paragraph (1) (b) “, by the Commonwealth or international air operators or by other bodies or persons specified in the regulations,” after “refunds”;
- (e) by omitting from paragraph (1) (b) “regulations.” and substituting “regulations; and”;
- (f) by adding at the end of sub-section (1) the following paragraph:
 - “(c) the reimbursement of international air operators or other bodies or persons who pay refunds in accordance with regulations made for the purposes of paragraph (b).”;
- (g) by adding at the end the following sub-section:
 - “(3) Without limiting the generality of sub-section (2), the regulations may make provision for and in relation to—
 - (a) the supply of exemption stamps by the Commonwealth to international air operators or other bodies or persons;
 - (b) the terms and conditions upon which exemption stamps may be supplied by the Commonwealth to international air operators or other bodies or persons;
 - (c) the supply of exemption stamps by international air operators or other bodies or persons; and
 - (d) the terms and conditions upon which exemption stamps may be supplied by international air operators or other bodies or persons.”.

(2) Regulations made for the purposes of sub-section 11 (1) of the Principal Act and in force immediately before the commencement of this section continue in force, after the commencement of this section, as if they had been made for the purposes of sub-section 11 (1) of the Principal Act as amended by this Act.

5. After section 11 of the Principal Act the following sections are inserted:

International air operators to make tax stamps available for sale to passengers

“11A. (1) An international air operator who operates, or offers to operate, an international flight from an international airport shall make tax stamps available, in accordance with the regulations, for sale to passengers on that flight unless—

- (a) the flight is a private operation or an aerial work operation; or
- (b) the flight is a charter operation and the international air operator is, in accordance with section 11C, exempted from the operation of this section in relation to the flight.

“(2) An international air operator who fails, without reasonable excuse, to comply with sub-section (1) is guilty of an offence against this Act punishable, upon conviction, by—

- (a) if the offender is a natural person—a fine not exceeding \$2,000; or
- (b) if the offender is a body corporate—a fine not exceeding \$10,000.

“(3) Without limiting the generality of sub-section (1), regulations made for the purposes of that sub-section may specify the places at which, the manner in which and the times during which an international air operator is to make tax stamps available for sale to passengers.

International air operators to make exemption stamps available for supply to exempt passengers

“11B. (1) An international air operator who operates, or offers to operate, an international flight from an international airport shall make exemption stamps available, in accordance with the regulations, for supply to exempt passengers on that flight unless—

- (a) the flight is a private operation or an aerial work operation; or
- (b) the flight is a charter operation and the international air operator is, in accordance with section 11C, exempted from the operation of this section in relation to the flight.

“(2) An international air operator who fails, without reasonable excuse, to comply with sub-section (1) is guilty of an offence against this Act punishable, upon conviction, by—

- (a) if the offender is a natural person—a fine not exceeding \$2,000; or
- (b) if the offender is a body corporate—a fine not exceeding \$10,000.

“(3) Without limiting the generality of sub-section (1), regulations made for the purposes of that sub-section may specify the places at which, the manner in which and the times during which an international air operator is to make exemption stamps available for supply to exempt passengers.

Exemption of certain charter operations

“11C. (1) The Minister may, in writing, exempt an international air operator from the operation of sections 11A and 11B in relation to—

- (a) all international flights that are charter operations;
- (b) an international flight, being a charter operation, that is specified in the exemption; or
- (c) international flights, being charter operations, of a kind specified in the exemption.

“(2) Where the Minister exempts an international air operator from the operation of sections 11A and 11B in relation to a flight or flights of a

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particular kind, those sections do not apply in relation to the international air operator in relation to that flight or flights of that kind, as the case may be.

“(3) In deciding whether to exempt an international air operator, under sub-section (1), from the operation of sections 11A and 11B in relation to a flight or flights of a particular kind, the Minister shall have regard to—

- (a) the scale of operations involved in the flight or flights of that kind; and
- (b) such other matters as the Minister considers relevant.”.

Delegation

6. Section 14 of the Principal Act is amended by omitting from sub-section (1) “that deals with matters arising under this Act”.

NOTE

1. No. 119, 1978. For previous amendment, see No. 132, 1981.

[*Minister's second reading speech made in—
House of Representatives on 16 April 1986
Senate on 28 May 1986*]