

A special report from
Policy and Strategy, Inland Revenue

Cheque duty repeal

This special report provides early information on the impending abolition of cheque duty. The repeal of cheque duty is provided for by the Cheque Duty Repeal Act 2014, which received Royal assent on 19 May 2014. Information in this special report precedes coverage of the new legislation that will be published in the July 2014 edition of the *Tax Information Bulletin*.

Sections 1 to 5 of the Cheque Duty Repeal Act 2014; sections 2, 76 to 86 and 86F of the Stamp and Cheque Duties Act 1971; sections 144 and 184A(5)(d) of the Tax Administration Act 1994

From 1 July 2014, cheque duty will no longer be payable on cheques printed or supplied by a bank to its customers. Additionally, from 1 July 2014, cheque duty will not be payable on bills of exchange for which cheque duty has not been prepaid.

Background

Cheque duty applies to bills of exchange (most commonly cheques) at a rate of 5 cents per bill of exchange. The Government recently decided that cheque duty should be repealed, as:

- the duty no longer raises substantial revenue and the revenue raised is in decline; and
- cheque duty is easy to avoid, since closely substitutable transaction types (such as cash, EFTPOS, internet banking and credit card transactions) are not subject to any duty. It is therefore inefficient and has a small distortionary effect.

The Government decided that it wanted to relieve cheque users of the duty as soon as practicable. The application date of 1 July 2014 was chosen for the repeal because it tied into the return cycle for cheque duty purposes.

Repealing legislation was included as Part 1 of the Budget Measures (Miscellaneous Fiscal Matters) Bill, introduced on 15 May 2014. This bill was divided at the committee of the whole House stage, with Part 1 becoming the Cheque Duty Repeal Bill. The Cheque Duty Repeal Bill received Royal assent on 19 May 2014.

Key features

- Cheque duty will not be payable on a bill of exchange drawn or made on or after 1 July 2014.
- Cheque duty will not be payable by banks on cheques supplied to their customers on or after 1 July 2014.
- Cheque duty will not be payable on cheques printed on or after 1 July 2014.
- Banks and printers of cheques, which were licensed under the Stamp and Cheque Duties Act 1971 for the quarter or month ended 30 June 2014, will be required to file a final cheque duty return and make a final payment of cheque duty for that period by 21 July 2014.
- Licensed printers of cheques or temporary licensees who apply in writing to Inland Revenue by 21 July 2014 for a refund of cheque duty they have paid within the last eight years may be refunded in relation to cheques that have not been printed, or unused cheques that have been destroyed before 1 July 2014.
- Banks that were licensed under section 81 of the Stamp and Cheque Duties Act 1971 during the quarter ended 30 June 2014 will be able to claim, as a deduction from their final payment of cheque duty, an effective refund of cheque duty they have paid within the last eight years in relation to cheques that have not been used and have been destroyed by the bank during the quarter ended 30 June 2014. This includes any cheques they have sent to their customers but were defaced or spoiled before the customer used them.

Application dates

Cheque duty is repealed from 1 July 2014.

Some provisions will remain in force until 21 July 2014, the due date for final cheque duty returns, payments and refund applications. These provisions are necessary to ensure that banks and printers of cheques file their final cheque duty return and make payment for the period ending 30 June 2014, and will enable applications for refunds of cheque duty to be made.

Detailed analysis

Removal of liability to pay cheque duty

There are three categories of persons that currently pay cheque duty to Inland Revenue:

- Licensed banks;
- Licensed printers of cheques; and
- Temporary licensees.

The effect of the provisions of the Cheque Duty Repeal Act 2014 on each of these categories is explained below.

Licensed banks

A bank that is licensed under section 81 of the Stamp and Cheque Duties Act 1971 will have its licence cancelled on 1 July 2014. From 1 July 2014, cheque duty will not be payable on cheques the bank supplies to its customers or procures on its own behalf.

A bank that was licensed under section 81 of the Stamp and Cheque Duties Act 1971 during the quarter ended 30 June 2014 will be required to file a final cheque duty return (IR 193) and make a final payment of cheque duty for that quarter by 21 July 2014.

Licensed printers of cheques

A printer that is licensed under section 82 of the Stamp and Cheque Duties Act 1971 will have its licence cancelled on 1 July 2014. From 1 July 2014, cheque duty will not be payable on cheques a printer prints for the use of its customers or on its own behalf.

A printer that was licensed under section 82 of the Stamp and Cheque Duties Act 1971 during the month ended 30 June 2014 will be required to file a final cheque duty return (IR 191) and make a final payment of cheque duty (if any is payable) for that month by 21 July 2014.

Temporary licensees

A person who has a temporary licence granted under section 83 of the Stamp and Cheque Duties Act 1971 authorising the printing and use of cheques prepaid with cheque duty will have their licence cancelled on 1 July 2014. A printer that has an authority to print the prepaid cheques to which such a licence relates will also have its authority cancelled on 1 July 2014.

Removal of liability when cheque duty has not been prepaid

Currently, if cheque duty has not been prepaid on a bill of exchange, the bill of exchange must be duly stamped (by affixing a postage stamp or stamps for the amount of cheque duty payable on the bill, cancelling each stamp, and stating on the bill the true date of cancellation) by:

- the drawer or maker of the bill, if the bill of exchange is drawn or made in New Zealand; or
- the first holder of the bill in New Zealand, for a bill of exchange drawn or made outside New Zealand.

Cheque duty will not be payable on a bill of exchange drawn or made in New Zealand from 1 July 2014. Additionally, from 1 July 2014, for a bill of exchange drawn or made outside New Zealand, cheque duty will not be payable by the first holder of the bill in New Zealand before the holder further acts on the bill.

Termination of agreements for exemption from cheque duty

Currently, Inland Revenue has the power, under section 80 of the Stamp and Cheque Duties Act 1971, to enter into a written agreement with specified bodies exempting them from paying cheque duty. Instead, a sum equivalent to the cheque duty that otherwise would have been payable must be paid to Inland Revenue on dates specified in the agreement.

All agreements under section 80 of the Stamp and Cheque Duties Act 1971 will be terminated on 1 July 2014. Any sum accrued (but not yet paid) under the agreement by the date of termination will remain payable by the date specified in the agreement.

Refunds of cheque duty

Cheque duty may be refunded to those that paid cheque duty as a licensed printer of cheques or as a temporary licensee, upon application. Application must be made in writing to Inland Revenue's Duties Unit by 21 July 2014 for a refund of cheque duty paid within the last eight years in relation to cheques that have not been printed, or unused cheques that have been destroyed before 1 July 2014. The minimum refund is \$1.

Licensed banks cannot make an application to Inland Revenue for a refund of cheque duty. Instead, when banks that were licensed during the quarter ended 30 June 2014 file their final cheque duty return by 21 July 2014, they will be able to deduct (from the amount of cheque duty payable for the quarter) the cheque duty they have paid (within the last eight years) on cheques that have not been used and have been destroyed by the bank during the quarter ended 30 June 2014. This includes any cheques they have sent to their customers that were defaced or spoiled before the customer used them.

Offences specific to cheque duty

There are several criminal offences (and associated penalties) under section 144 of the Tax Administration Act 1994 that relate specifically to the Stamp and Cheque Duties Act 1971.

The following offences, which will become redundant upon the repeal of cheque duty, will be repealed on 1 July 2014:

- failure to comply with a provision of section 84 of the Stamp and Cheque Duties Act 1971;
- being licensed under section 83 of the Stamp and Cheque Duties Act 1971, or being a printer authorised under that section, and failing to comply with a provision of that section, or of a licence or authority granted under that section; and
- without first being licensed or authorised under Part 6 of the Stamp and Cheque Duties Act 1971 to do so, printing on a bill of exchange or bill of exchange form an inscription indicating that the cheque duty for the bill or form has been paid.

The following offences will remain in force from 1 July 2014:

- being a bank licensed under section 81 of the Stamp and Cheque Duties Act 1971, failing to comply with a provision of that section or of any licence granted under that section; and
- being a printer licensed under section 82 of the Stamp and Cheque Duties Act 1971, failing to comply with a provision of that section or of a licence granted under that section.

However, from 1 July 2014, a bank or printer that has had its licence cancelled on 1 July 2014 because of the repealing legislation will be treated as being licensed (under the applicable section), for the purposes of these two offences. This ensures that these two existing offences continue to apply in respect of non-compliance with the requirement for these banks and printers to file a final cheque duty return and make a final payment of cheque duty by 21 July 2014.

The two remaining offences will be repealed on 22 July 2014 following the 21 July 2014 due date for final cheque duty returns to be filed and payments of cheque duty made.

Cheque duty repeal – questions we’ve been asked

Q: Can cheques printed/issued after 30 June 2014 continue to say “Cheque duty paid” on them for some time until the pre-printed base stock is exhausted and printers have made the necessary changes?

A: Yes. After cheque duty has been repealed, it will not be an offence to print or issue cheques indicating that cheque duty has been paid. These cheques will still be able to be used.

Q: Will Inland Revenue continue to administer a licensing regime for printers of cheques after cheque duty has been repealed?

A: No. The purpose of the requirement for printers to be licensed by Inland Revenue in order for them to be allowed to print cheques prepaid with cheque duty is to protect the integrity of the collection of cheque duty. Once cheque duty is repealed, this need for Inland Revenue to administer a licensing regime for printers of cheques will no longer exist. If the licensing regime provided any other benefits, these were purely incidental.