
IMPACT OF CASH TRANSACTIONS LEGISLATION

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LEGISLATIVE FRAMEWORK

Aim of the Act

The Cash Transaction Reports Act was initiated by the Federal Attorney-General to assist the Australian Tax Office and Federal and State law enforcement agencies in the detection of tax evasion and criminal activity, such as money laundering from drug trafficking. To achieve those aims, the Act places certain obligations on cash dealers (defined later) and on the public generally. The Act will create difficulties for those who seek to hide or launder illicit monies in Australia's financial system.

Obligations on cash dealers arising from the Act

There are three basic obligations on cash dealers:

- Firstly When opening new accounts and facilities such as safety deposit boxes, cash dealers will need verification of the identification of the person or firm opening the account or facility. Accounts not properly verified may be blocked from withdrawals.
- Secondly A cash dealer must notify the Cash Transaction Reports Agency of details of currency transactions involving \$10,000 or more, that the dealer has with its customers in Australia (unless those transactions are exempt - see later).
- Thirdly Cash dealers must also notify the Agency of suspect transactions (be they cash or otherwise), ie. where there are reasonable grounds to suspect the transaction involves evasion of tax, offences against the law or money from criminal activity. (The Agency will provide guidance on the meaning of "suspect transactions").

Obligations on the public generally

There are three basic obligations on all persons:

Firstly To produce adequate identification documents when opening a new account with a financial institution or other cash dealer; institutions and other cash dealers will be called upon to advise potential clients on the legal requirements; many institutions already have their own identification requirements.

Secondly Not to open a bank account or similar account in a false name.

Thirdly To report to the Agency or to Customs or the Police (for on-forwarding to the Agency) currency transfers to and from Australia (not less than \$5,000) that the person proposes to make (the Act sets out certain exceptions that apply to banks and carriers eg. airlines).

Penalties

Failure to carry out these various obligations can in some cases result in imprisonment and/or monetary penalties.

Exemptions from reporting

These exemptions only apply to banks, building societies and credit unions (ie. financial institutions).

In respect of cash transactions in excess of \$10,000, banks, building societies and credit unions need not notify the Agency of exempt transactions, which are:

- . certain transactions between financial institutions (or between such an institution and another type of case dealer as listed below);
- . transactions with certain established retail customers and with public authorities; and
- . routine payroll transactions.

A customer exemption register must be kept and this register can be audited by Agency examiners.

Exemption provisions also apply to: transactions by cash carriers approved by the Director of the Agency; and to transactions between futures brokers and the clearing house in their exchange.

Who are cash dealers?

Cash dealers include:

- . banks, building societies and credit unions (financial institutions);
- . insurance companies and insurance intermediaries;
- . securities dealers and futures brokers;
- . managers and trustees of unit trusts;
- . firms that deal in travellers cheques, money orders and the like;
- . currency and bullion dealers;
- . casinos and gambling houses;
- . TABs and bookmakers.

Currency

Currency is cash; it is defined by the Act as coin and paper money of Australia or of a foreign country.

OPENING OF CASH DEALER ACCOUNTS

A central feature of the Cash Transaction Reports Act 1988 is the provisions relating to the opening of cash dealer accounts.

When opening new accounts, a cash dealer must have verification of the identification of the person or firm opening the account. If accounts are not properly verified they may be blocked from withdrawals and other transactions.

There is also an offence in the Act that prohibits the opening of an account with a cash dealer in a false name.

Thus the provisions are geared to create a degree of integrity in account openings and to make it difficult for tax evasion monies and proceeds of crime to legitimately find their way into hidden bank accounts and the like.

Verification requirements

There is still controversy among cash dealers on the verification requirements. In the original legislation there were plans to have all accounts - existing and new - verified. The legislation finally passed only requires new accounts to be verified. Very broadly, the verification procedure is as follows:

The Act will require that new accounts with a cash dealer which are over the prescribed monetary thresholds, will need a verification statement. (s.18).

The statement is to contain basic (prescribed) details concerning the person/organisation opening the account. The statement must be accompanied by an identification reference, for each signatory. If the account is for a body corporate the statement must also be accompanied by the relevant certificate of incorporation, registration etc. (s.20(3)).

A statement need not be accompanied by an identification reference if the cash dealer already holds a reference for that signatory for another identifiable account.

The reference is:

- . a statutory declaration by an acceptable referee setting out the name to be used by the signatory, that the referee has known the identification for a stated period (by the name stated) and that the referee has examined:
 - a specified primary identification document; or
 - a secondary identification document. (s.21).

Where an account (covered by the provisions) is not verified by a verification statement (with the required reference), it is blocked by law and if the unverified signatory withdraws from the account while the account is blocked then the cash dealer and the signatory commit an offence.

The identification reference is not complete unless certain details are included in it. Details of the referee are also to be provided. The reference is to be signed by the person in the presence of the referee. (s.21(2)).

If only secondary identification is relied upon, then the Director is to be notified by the cash dealer.

"Acceptable" referees are yet to be gazetted. (s.3(1)).

Primary identification documents are:

- . birth certificate;
- . citizenship certificate;
- . passport.

The system can be characterised as having 2 elements -

1. Some responsible person (referee) has a duty (via Statutory Declaration) to inspect an identification document; in

effect the inspection of that document coupled with any knowledge the referee has of the person concerned enables the referee to state that the person proposing to open the account is who he/she says he/she is; and

2. The particular type of identification documents are laid down in law to attempt to ensure the integrity of the referee's statement.

REPORTING REQUIREMENTS

The Cash Transaction Reports Agency has been established to:

- . receive the reports of significant cash transactions and other transactions;
- . disseminate information from those reports to the taxation and law enforcement authorities;
- . analyse the report information for taxation and criminal intelligence purposes;
- . generally oversight the operation of and compliance with the Cash Transaction Reports Act.

The Agency consists of a Director (statutory appointee) and a staff of qualified professionals in banking, computing, tax and law enforcement. The Agency commenced operation in February 1989; it expects to commence receiving and disseminating data during 1990.

(i) Significant cash transactions

Banks and other cash dealers are required to notify the Cash Transaction Reports Agency of details of currency transactions (that are not less than \$10,000) that the bank has with its customers in Australia. Figures made available to the Agency by representatives of banks, building societies, credit unions and other groups, indicate that the number of such cash transactions in Australia in a year are of the order of two million; however, if exempt transactions involving transactions between financial institutions or transactions with certain established retail customers or routine payroll transactions, are excluded, the figure is of the order of 500,000 to 600,000 significant cash transactions required to be reported each year.

The principal providers of that data will be the four major banks and they are likely to account for some 80% (in numbers terms) of all such transactions reported.

Schedule 1 of the Act sets out the reportable details which interpreted into broad terms, cover:

- . who was at the counter making the transaction;

- . on whose behalf was the transaction conducted;
- . what bank accounts were involved;
- . the type of transaction including the amount involved and the date of the transaction; and
- . details of the cash dealer concerned.

The rationale of seeking that information becomes apparent if one considers that the Act is designed to follow money trails.

Obtaining the information could be complex. Adoption of the approach that has operated in the United States would suggest that the requirements of Schedule 1 of the Act are such that full reporting along the lines of Attachment "A" hereto would be necessary.

It is becoming apparent to the Agency that completion of all of the details in that form could well require the data capture to be done manually (on paper) as is the practice in the US (with some exceptions). There are cost implications in that:

- . For the Agency: it adds a major data processing cost in terms of the transfer of the data from hand written returns from the banks onto computer ready input; that includes verification of data.
- . Questions of accuracy raise issues of cost; the human input both in the banks and in the data preparation for the Agency, adds links to the chain; that calls for added resources including resources in audit and scrutiny or what is done.
- . Costs to the banks as well; banks would need to introduce manual reporting programs and allied to that compliance programs to ensure the integrity in what is done in terms of reporting.
- . The banks also will have to set up machinery to establish exemption programs including an exemption register, again this could require human resources and paper work.

The Agency has been working with the major banks to see whether some of the administrative burden implied by the above can be reduced by electronic transfer of the data from those banks to the Agency. Allied to that has been a preliminary, but fairly intensive, study of what the taxation and law enforcement authorities need in terms of essential information to enable them to utilise the data as was intended by the legislature (use of data is discussed later).

The question thus raised is whether some short form of electronic reporting could be devised which could still satisfy the taxation and law enforcement objectives of the Act and which would both:

- . significantly enhance the accuracy and speed by which the data is made available to the Agency; and
- . contain the costs of production of the data both for the Agency and for the providing banks and other institutions.

The benefits of data aggregation electronically are there to be realised provided the aims of the Agency can be met: Two examples: Firstly in the US which is predominantly a manual system, it takes 45 days for a significant transaction report to get on to the official data base; electronics might improve that. Secondly, banks in the US are required to "aggregate" their daily transactions to determine if a report must be completed; thus they must identify if a structured transaction has taken place; some do this automatically whilst others pour over print outs to compare and aggregate; one bank has eight full time staff doing the latter. Considering the labour intensive issues involved, such as maintenance of exemption registers, there is a positive incentive upon banks to work with us to achieve the reporting as efficiently as possible.

All the signs I have had from the banks show recognition of this and that gives me encouragement.

Pilot projects are on foot in the major banks to see whether what is needed to be reported can be obtained either now or in the near future from the banks' own data bases.

Our preliminary overview is that much of the data can be obtained that way; there are some sticking points and if we cannot meet these points at the end of the day then we will have to go back to a paper approach to preserve the usefulness and integrity of what the Act is designed to obtain for law enforcement and taxation authorities in Australia.

Smaller institutions will be more likely to report on paper; but the number of significant cash transactions there are much fewer and thus tend to be more manageable. Even so we would hope to encourage electronic transfer there too.

The approach of the Agency has been to work with the banks to find a way of facilitating this data transfer; to build on the systems that are there and hopefully not to create a new paper based system. An alternative approach espoused by some, would be to say the law is there "tell the banks to fill out the forms and if they don't then 'pot them'". I say the Agency will be continuing its approach of developing systems in co-operation with the banks to facilitate the Agency's aim of excellence and integrity in the data it collects. It will be working to achieve the best result it can so as to satisfy the taxation and law enforcement authorities' needs.

Of course if it felt that its requirements in pursuit of those aims were not being met by cash dealers, then, at the appropriate

stage, it would use all legal avenues available to it. But that is for another day.

The other means of cutting down the "paperwork", is the exemption process that is written into the law (which only applies to financial institutions).

It does not apply to other cash dealers.

Financial institutions can be exempt from reporting transactions which relate to -

- . their dealings with other cash dealers;
- . routine retail transactions.

As already noted there are one or two other exceptions as well.

The financial institution must keep a register of those exemptions and that register is to list -

- . who the exempt organisation is;
- . the type and amount of transactions involved;
- . the date or period during which the exemption applies; and
- . who authorises the exemption.

Thus the exemption register contains an abbreviated form of what might otherwise be reported to the Agency, "in house" in the financial institution.

The exemption can include a class of transactions for a particular retailer or other exempt organisation.

The whole purpose of the exemption register is to lessen the reporting burden but at the same time keep sufficient data within the financial institution so that if the Agency wishes to look inside that exemption register it can access that data.

As already noted the total number of significant cash transactions in Australia in a year is of the order of two million; the reportable transactions with the exempt transactions taken out will likely be of the order of 500,000 to 600,000 per annum. Thus most of the data will be in the exemption registers.

There have been criticisms of this procedure by some law enforcement authorities. The criticism is that the exemption register could be capable of being used to "hide" transactions that comprise money laundering.

It is true that the experience in the United States is that criminal organisations have laundered money through what appear

to be legitimate businesses. Some pizza parlours in the United States gained some notoriety in that context.

It is also true that Australian criminal intelligence suggests that there are classes of retail business that are suspected of money laundering. Those classes of retail business might find their way into the exemption system.

However, the Agency will have access to that register system and therefore could discover the data if need be.

(ii) Reporting of suspect transactions

Suspect transactions are, in law, those where there are reasonable grounds to suspect that information that the cash dealer has concerning the transaction may be relevant to evasion of tax, enforcement of the Proceeds of Crimes Act 1987 or investigation of or prosecution of a person for an offence against a Commonwealth law.

I expect that some States at least will ultimately buttress that emphasis on Commonwealth laws with complementary laws that will relate the notion of suspect transactions to State laws as well.

In a legal sense, reasonable grounds to suspect is examined as follows -

The Parliamentary draftsman's intention in using the language "reasonable grounds to suspect" rather than the words "reasonable grounds to believe" was to adopt a lower threshold so as to alleviate the need for cash dealers to undertake extensive investigations into a transaction before passing on details of that transaction to the Director of the Agency.

The definition of "suspect" in Black's Law Dictionary (5th Edition) indicates that to suspect is to have a slight or vague idea concerning a particular matter and that to suspect something does not necessarily involve knowledge or belief as to the likelihood of the matter in question.

"Suspicion" implies an opinion upon facts or circumstances which do not amount to proof. Mr Justice Kitto in the High Court decision of Queensland Bacon Proprietary Limited v. Rees (1966) 115 CLR 266 at 303 observed that :

"a suspicion that something exists is more than a mere idle wondering whether it exists or not; it is a positive feeling of actual apprehension or mistrust, amounting to a slight opinion, but without sufficient evidence. Consequently, a reason to suspect that a fact exists is more than a reason to consider or look into the possibility of its existence."

The Privy Council has noted in the case of Hussein v. Chong Fook Kam (1970) AC 942 at 948 that:

"suspicion in its ordinary meaning is a state of conjecture or surmise when proof is lacking: 'I suspect but I cannot prove'."

Whether or not somebody has reasonable grounds for a suspicion will be determined on an objective analysis of all the circumstances surrounding a transaction. The term "reasonable" has been repeatedly held in judicial authority to mean "reasonable in all circumstances of the case". Consequently, it will be necessary to determine which circumstances are relevant and this question in turn will require an examination of the nature of the transaction involved (see Opera House Investment Pty Limited v. Devon Buildings Pty Limited (1936) 55 CLR 110 at 116 per his Honour Chief Justice Latham).

From an Agency point of view suspect transactions, however, will be interpreted in a practical way relevant to law enforcement issues. The legal base will be there so that the Agency can withstand challenge on its approach to suspect transactions.

The Agency has retained a lawyer from Mallesons to advise it on that legal base; it will then prepare guidelines which will interpret that in a practical way from the experience of law enforcement and banking people. The ultimate ambition is to arm bank tellers with a short pithy guideline as to what to look for in respect of suspect transactions.

(iii) External transactions

As already noted all persons must report to the Agency, or to Customs or the Police (for on-forwarding to the Agency) currency transfers to and from Australia (not less than \$5,000) that the person proposes to make. This is pursuant to s.15 of the Act. In fact the Act only applies to the transfer of foreign currency out of Australia and applies to the transfer to Australian currency or foreign currency into Australia. The reason for that is that the Reserve Bank regulations already require a person to obtain permission to carry out more than \$5,000 of Australian currency.

As far as banks are concerned there is an exception in s.15, in that a bank need not make a report in respect of currency transferred, on behalf of the bank, by a commercial goods carrier.

The Agency in working with the Australian Customs Service to examine what additional checks might need to be made in terms of both -

- . informing persons as to their obligations in respect of currency transfers into and out of Australia; and
- . what further checks might be necessary at points of departure to detect illicit transfer of currency into and out of Australia.

There have been some notorious cases of persons who have been detected attempting to remove Australian currency through places such as Sydney airport. What is less discussed is the fact that a significant amount of currency may indeed come the other way, sometimes for the illicit purchase of Australian gemstones.

(iv) Details of account blocking and reliance on secondary identification for the opening of the accounts

Where an account is opened solely based on a secondary identification document ie. other than a birth certificate, a passport or a citizenship certificate, the fact that it has been based on identification reference that relies on the secondary identifier must be notified to the Director.

The purpose of this is to give the Director a database on accounts which are relying on "second class" references.

If an account is opened without a verification reference at all or on the basis of a completely inadequate verification reference it will ultimately be blocked in terms of s.18 (if it is over the thresholds that screen out very small accounts).

The fact that the account is blocked has also to be notified to the Director who will keep that fact in the Agency's databank; the Director will in effect check off if verification statements are subsequently provided, as the cash dealer must notify that fact to the Director as well.

If the account remains blocked for 12 months, then the Director in effect gains control of the account and ultimately if it is not released it will be forfeited to the Commonwealth.

Thus there is a reporting requirement on cash dealers relating to

- . reliance on second class identification documentation; and
- . nil or inadequate verification.

In terms of the latter the cash dealer must notify of the accounts blocked and in due course if adequate verification is provided.

(v) Summary of reporting requirements

The reporting requirements therefore focus on major cash flows, suspect transactions (these are not limited to cash), major external cash flows and account blockings and inadequate account verifications.

There are check points that the Act establishes to try and filter out transactions which can indicate tax evasion and criminal activity such as money laundering.

THE IMPACT OF THE ACT ON BANKS

The impact of the Act on banks is several fold.

Firstly, the Act seeks to upgrade the integrity and status of bank accounts by prohibiting the opening of a bank account in a false name; and by seeking some underpinning verification as to new account holders before an account can be operated.

Thus banks will have to set and train procedures, or modify existing procedures, to obtain the necessary verification statement to achieve acceptable verification for the purposes of the Act.

The Act requires that an acceptable referee make a Statutory Declaration that the referee has known the person for a certain time and has sighted a basic identifier as well. This was described earlier.

The Agency has been informed particularly by the smaller banks, that there are market place and competition problems in such a routine which requires a customer to come forward with a referee statement that has been sworn in front of a JP as a statutory declaration. The smaller banks fear that their major competitors will be able to provide an "in house" service to achieve this identification system because those larger banks have a substantial branch network which would facilitate them to do so. The smaller banks do not have those networks and fear that customers would prefer to go where they can obtain the service of opening accounts on a "one stop" basis.

These fears and other submissions in respect of the account opening procedures have been subject to recent discussion between the banking industry and the Agency to enable the Agency to report to the Attorney-General should it become apparent that there are unintended effects from the verifications procedures.

Be that as it may it is clear that there will in future be legislative controls to ensure that the basic integrity of account verification prior to the accounts being opened, no matter what the details are.

Thus a principal impact of the legislation on the banks will be to have fairly stringent procedures in relation to account openings.

The second impact on the banks is in respect of the reporting requirements, principally that in respect of significant cash transactions. Considerable clerical effort could be necessary here unless a satisfactory data flow system can be developed between the Agency and the major banks. As already indicated I am confident that can be attained. However, there will nevertheless have to be a resource commitment from the banks to deliver this intelligence to the Agency either clerically or through computer systems.

Thirdly, the banks will need to encourage a culture through their networks which is supportive of the objectives of the Act; put simply that means to train their staff in terms of what constitutes suspect transactions and to train the staff and the organisation as a whole to recognise the social obligation that the Act has placed on the banks (and other institutions) to deliver data to law enforcement and taxation authorities. Certainly the Act puts the "acid" on banks to do this by its very proscriptions; but as with all laws and legal administration it is dependent on those in the industry to make it work in practice. But the Agency and banks will have to deliver a bank culture in favour of the legislation.

USES OF INFORMATION GATHERED UNDER THE ACT

In summary

The Australian Taxation Office can automatically access all the information collected by the Agency; the Taxation Office is likely to use the information in respect of:

- . regular checks to detect cash income not being declared for taxation purposes;
- . suspicious financial dealings that point to tax evasion;
- . financial dealings that indicate illegal activity that results in tax evasion.

Other authorities that can use the information held by the Agency are:

- . the Australian Customs Service;
- . the National Crime Authority;
- . the Australian Federal Police;
- . State Police.

Access in these cases is subject to the approval of the Director of the Agency as to the type of information that can be accessed; subject to basic agreements on points of access and controls, the data will be widely used by these authorities.

The information is likely to be used by law enforcement authorities as:

- . a source of intelligence on areas that may deserve enquiry;
- . an aid to evidence gathering in particular matters; and
- . part of the general armoury to facilitate bringing criminals to justice.

Implications for law enforcement

The Cash Transaction Reports Act will have a greater impact than some commentators would indicate. There is a view that drug dealers and major tax evaders do not deal in cash and therefore the Act will not provide a weapon against them. I say that view will be proved wrong. I can assure you that we will leave no stone unturned in making it work. If there are shortcomings we will go to the Attorney-General and point them out. We will work with all concerned to achieve success.

The Act will be administered in conjunction with the banks and other cash dealers (to the extent possible), so as to cast a net in and around the cash dealers. The objective of that net is two-fold -

- . to catch within that net, cash transactions that are reported to the system or suspect transactions that become evident to the system; and
- . to create difficulty, a barrier, in the movement of black cash; to block the major outlets for cash from those who are laundering money from criminal activity.

Thus within Australia the main avenues for cash redemption will be barred or at least 'on guard'; to take the cash out of Australia will require going through the barriers that will be set up in terms of exit controls both within the Cash Transaction Reports Act and the Reserve Bank regulations.

Those in the know say that in the first instance drugs are sold for cash. Those in the know also tell you that a lot of tax evasion is within the cash economy. If the net is spread wide enough; the cash must end up somewhere; the net must ultimately locate it.

As to the cash that is not forced out of the system, we believe that the Act will provide a major tool for the Commissioner of Taxation and law enforcers.

Typically the material will likely focus in 3 ways for users -

- (i) Firstly, where a particular person or organisation is under investigation for tax evasion or criminal investigation, the data will be searched in relation to that person; thus the data may become a point of disclosure of undeclared income, a point of evidence in an evidence chain that might lead to prosecution, or a general aid in facilitating investigation of that person's or organisation's offences or taxation affairs.
- (ii) In a wider enquiry, say typically a criminal enquiry into a particular organisation, the data might become a

checkpoint over a long period leading investigators from point to point as cash flows are discovered; filling in gaps of cash flows and suspicious transactions that might occur as a particular longer term enquiry proceeds.

- (iii) The data might also typically provide a basis of instituting an enquiry against particular organisations or criminal activities or areas. For example it might indicate abnormal trends in particular bank transactions of a certain suspicious kind; it might indicate particular retail outlets that are transacting in cash above industry norms; it might indicate patterns of behaviour in terms of deposits by certain people into accounts. This is in effect intelligence information that is now routinely engaged in the United States law enforcement community using the equivalent data that is generated under the US Bank Secrecy Act.

There has been some degree of scepticism about the usefulness of the US data. The earlier lack of success in the US system was largely due to the fact that in the early days the authorities were faced with a mountain of paper and in effect got lost within the data. That is no longer the situation and our recent intensive study of the US usage of the data has once again verified that it can provide a very powerful tool to investigators along the lines of what I have indicated above. But one thing is clear, and that is that it is only a tool; as all people who have been involved in investigative work will tell you, it does not remove the need for basic "leg work".

The Agency is working with the Australian Taxation Office and with the law enforcement community to better define the areas of their operations as to who should have access to the CTRA data. A senior tax officer was seconded to the Agency for a period of 2 months to formulate a plan for the use of data in the Tax Office; this plan is to be discussed by the Director of the Agency with the relevant managers in the Tax Office. A similar project is under way in relation to the law enforcement community. The idea is to set an agenda and to develop a constituency of law enforcement in Taxation Offices to ensure that the data becomes part of their working tool.

The Agency has also been working with the relevant authorities to increase the awareness of law enforcement and taxation officers of CTRA data in a more general way and this will accelerate as time goes on. So that by 1990 when the system comes into operation and data is available for these authorities, steps will have been taken to place the data in amongst those who are most likely to use it.

CONCLUSION

In broad therefore, the impact of the Cash Transaction Reports Act will be -

- . to place obligations on the banking sector (and other cash dealers) and on the community at large to provide intelligence to the Agency that will facilitate the knowledge of the law enforcement community and the Australian Tax Office as to movements of cash within the economy; and to facilitate a better standard over accounts;
- . to provide those responsible for administering tax laws and other laws with an extra tool to assist them in their functions; and
- . by virtue of the above to improve the armoury that will lead to criminal and tax evaders being brought to justice.

Multiple Transactions

(Complete applicable parts below if box 1, 14, or 35a on page 1 is checked)

Part I Continued—Complete if box 1 on page 1 is checked

2 Last name	3 First name	4 Middle initial	5 Social security number
6 Address (number and street)		7 Occupation, profession, or business	
8 City	9 State	10 ZIP code	11 Country (if not U.S.)
12 Method used to verify identity:		a Describe ▶	c Number ▶
b Issued by ▶			

2 Last name	3 First name	4 Middle initial	5 Social security number
6 Address (number and street)		7 Occupation, profession, or business	
8 City	9 State	10 ZIP code	11 Country (if not U.S.)
12 Method used to verify identity:		a Describe ▶	c Number ▶
b Issued by ▶			

Part II Continued—Complete if box 14 on page 1 is checked

15 Individual's last name	16 First name	17 Middle initial	18 Social security number
19 a Name of organization		b Check if: (1) <input type="checkbox"/> broker/dealer in securities, or (2) <input type="checkbox"/> financial institution (see instructions)	
20 Employer identification number			
21 Address (number and street)		22 Occupation, profession, or business	
23 City	24 State	25 ZIP code	26 Country (if not U.S.)

15 Individual's last name	16 First name	17 Middle initial	18 Social security number
19 a Name of organization		b Check if: (1) <input type="checkbox"/> broker/dealer in securities, or (2) <input type="checkbox"/> financial institution (see instructions)	
20 Employer identification number			
21 Address (number and street)		22 Occupation, profession, or business	
23 City	24 State	25 ZIP code	26 Country (if not U.S.)

Part IV Continued—Complete if box 35a on page 1 is checked

35 b Date of check or wire transfer	c Amount of check or wire transfer (in U.S. dollars) \$	d Payee
e Drawer of check		f Drawee bank and MICR number

35 b Date of check or wire transfer	c Amount of check or wire transfer (in U.S. dollars) \$	d Payee
e Drawer of check		f Drawee bank and MICR number

General Instructions

Paperwork Reduction Act Notice.—The Paperwork Reduction Act of 1980 says we must tell taxpayers why we are collecting this information, how we will use it, and whether you have to give it to us.

The requested information is useful in criminal, tax, and regulatory investigations. In addition to directing the Federal Government's attention to unusual or questionable transactions, the reporting requirement discourages the use of currency in illegal transactions. Financial institutions are required to provide the information under 31 CFR 103.22, 103.26, and 103.27.

The estimated average time needed to complete this form, depending on individual circumstances, is 26 minutes. If you have comments concerning the accuracy of this time estimate or suggestions for making this form more simple, we would be happy to hear from you. You can write to the **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer TR:FP; or the **Office of Management and Budget**, Paperwork Reduction Project, Washington, DC 20503.

Who Must File.—Each financial institution other than a casino must file a Form 4789 for each deposit, withdrawal, exchange of currency, or other payment or transfer, by, through, or to the financial institution, which involves a transaction in currency of more than \$10,000. Multiple transactions by or for any person which in any one day total more than \$10,000 should be treated as a single transaction, if the financial institution is aware of them.

Exemptions.—See 31 CFR 103.22(b) for exemptions from the filing requirements by banks on certain customers.

When and Where to File.—File this form by the 15th day after the date of the transaction with the Internal Revenue Service Data Center, P.O. Box 32621, Detroit, MI 48232 ATTN: CTR, or hand carry it to your local IRS office. Keep a copy of each Form 4789 for 5 years from the date you file it.

Penalties.—Civil and criminal penalties (up to \$500,000) are provided for failure to file a report or to supply information, and for filing a false or fraudulent report. See 31 CFR, sections 103.47 and 103.49.

Definitions

Bank.—See 31 CFR 103.11 for the definition of a bank.

Currency.—The coin and currency of the United States or of any other country, which circulate in and are customarily used and accepted as money in the country in which issued. It includes United States silver certificates, United States notes, and Federal Reserve notes, but does not include bank checks or other negotiable instruments not customarily accepted as money.

Financial institution.—Each agency, branch, or office in the United States of any person doing business in one or more of the capacities following:

- (1) a bank;
- (2) a broker or dealer in securities, registered or required to be registered with SEC under the Securities Exchange Act of 1934;

- (3) a person who engages as a business in dealing in or exchanging currency (for example, a dealer in foreign exchange or a person engaged primarily in the cashing of checks);
- (4) a person who engages as a business in issuing, selling, or redeeming traveler's checks, money orders, or similar instruments, except one who does so as a selling agent exclusively, or as an incidental part of another business;
- (5) a licensed transmitter of funds, or other person engaged in the business of transmitting funds abroad for others.

Person.—An individual, corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, and all entities treated as legal personalities.

Transaction in Currency.—A transaction involving the physical transfer of currency from one person to another. A transaction in currency does not include a transfer of funds by means of bank check, bank draft, wire transfer, or other written order that does not include the physical transfer of currency.

Specific Instructions

Amended report.—If this amends a previously filed report, check the box in the upper right corner. Staple a copy of the previously filed report to this amended report and complete only those entries which you are correcting on the amended report.

Part I—Identity of individual who conducted the transaction.—This part must always be completed. If the individual conducts the transaction for another person, be sure to complete Part II also.

Box 1—Multiple individuals.—If two or more individuals conduct a transaction, check Box 1. All individuals must be positively identified. Enter information in Part I for one of the individuals. Complete the entry spaces on the back of the form for the other individuals. For example, a check made out to John Doe and Thomas Smith may be presented for payment at a financial institution. Both of the joint payees are present. Complete Part I on the front of the form for John Doe, and complete Part I on the back for Thomas Smith.

Items 2, 3, and 4—Name of person conducting transaction.—Enter the last name in Item 2, the first name in Item 3, and the middle initial in Item 4.

Item 5—Social security number.—A social security number must be provided if an individual is conducting the transaction for himself or herself. If the individual is conducting a transaction for another person or is a nonresident alien who does not have a social security number, write NONE in the space and complete Item 12.

Items 6, 8, 9, 10, and 11—Address.—Enter the permanent address, including ZIP code, of the individual who entered the financial institution to conduct the transaction. A P.O. Box number is not a street address.

Item 7—Occupation, profession, or business.—Fully identify the occupation, profession or business of the individual conducting the transaction; for example, secretary, carpenter, attorney, etc. Do not use nondescriptive terms such as merchant, self-employed, businessman, etc.

Item 12—Method used to verify identity.—All individuals (except employees of armored car services) conducting a currency transaction for themselves or for another person must be positively identified. For individuals who are established customers, identifying information previously obtained from the customer and in the financial institution's records may be provided. Statements such as "known customer" are not sufficient as identifying information. For U.S. citizens, ask to see and inspect a driver's permit or any other written identification document acceptable to the financial institution in normal check cashing operations. For an alien, ask to see and inspect his or her passport, alien ID card, or other official document showing nationality or residence. Enter the type of document in Item a, such as driver's license, signature card, charge card, passport, etc. Enter in Item b, the name of the state issuing the driver's permit, the name of the bank or store issuing the charge card, etc. Enter the number of the license, account, card, etc., in Item c.

Item 13—Reason Items 2-12 not completed; armored car service, mail, night deposit, or ATM transaction.—Check Box a if the transaction was a delivery by an armored car service licensed by a state or local government. Enter the name of the armored car service in the space provided.

Check Box b if the currency was received or shipped through the U.S. Postal Service.

Check Box c if the transaction was a night deposit or an ATM (automated teller machine) transaction.

Check Box d if this report involves multiple transactions that when totalled became a reportable transaction and the individual(s) who conducted the transactions cannot be identified.

If you check Box a, b, c, or d, you do not have to complete any other entries in Part I. However, be sure to complete Parts II, III, IV, and V.

Part II—Individual or organization for whom transaction was completed.—If the individual in Part I is conducting the transaction for himself or herself, do not complete Part II. In all other cases, including armored car service, mail, night deposit, or ATM transactions, complete Part II.

Box 14—Multiple individuals or organizations.—If this transaction is being conducted for more than one individual or organization, check Box 14, and complete the applicable entries on the back of the form. Do this also if the individual in Part I conducts a transaction that involves both himself or herself and another individual or organization.

Items 15, 16, and 17—Name of individual.—Enter the last name in Item 15, first name in Item 16, and middle initial in Item 17, of the individual for whom the transaction was completed.

Item 18—Social security number.—Enter the social security number of the individual for whom the transaction was completed. You will have this in your records. If the individual is a nonresident alien and does not have a social security number, write NONE in the space for the number.

Items 19 and 20—Organization's name and EIN.—If the transaction involves a business, show the business name in Item 19a, and the employer identification number (EIN) in Item 20. This is a 9-digit number shown as 00-0000000. If the organization does not have an EIN, write NONE in Item 20.

Check Box 19b(1) if the individual or organization is a broker or dealer in securities. Check Box 19b(2) if the individual or organization is a financial institution described in item (3), (4), or (5) under the *Definitions of a Financial Institution* on page 3.

Items 21, 23, 24, 25, and 26—Address.—Enter the permanent address including the ZIP code of the individual or organization for whom the transaction is completed in the appropriate boxes. If the address is outside the U.S., be sure to show the country in Item 26. A P.O. Box number is not a street address.

Item 22—Occupation, profession, or business.—Fully identify the occupation, profession, or business of the individual or organization for whom the transaction was completed. Use descriptive terms, such as securities broker, attorney, auto dealer, etc. Do not use nondescriptive terms, such as self-employed, merchant, businessman, etc.

Part III—Customer's account number affected by the transaction.

Box 27—Type of account and account number.—Check the boxes and enter the account numbers of the accounts affected by the transaction. If a deposit or withdrawal is made from a savings, checking, share, or other account, check the appropriate box and enter the account number. Other accounts would include all accounts with broker-dealers. If the transaction does not affect any account, make no entry in this part. For example, a cashier's check purchased with cash may not affect any account and does not require any entry in this part. Please note that the code letters before the boxes are for IRS processing purposes.

Part IV—Type of transaction.—Check the boxes that describe the transaction. For international transactions with foreign financial agencies (banks, currency exchange dealers, securities dealers, etc.) involving receipts of currency for deposit, purchases of currency, withdrawal, shipments of currency for deposit, or sales

of currency, check the appropriate box "Receipts from abroad" or "Shipments abroad" in Item 29 or 30.

Box 28—Currency exchange.—Check this box if currency was exchanged for currency. This includes exchanging U.S. currency for foreign currency (be sure to complete Item 34) and vice versa. It also includes exchanging small denomination bills of U.S. currency for large denomination bills of U.S. currency, or vice versa.

Box 29—Cash in.—Check the appropriate box(es) when currency is received by the financial institution as part of a transaction.

Box 30—Cash out.—Check the appropriate box(es) when the financial institution pays out currency as part of a transaction.

Item 31—Total amount of currency.—Enter the total amount of currency in the transaction. If a transaction involves both currency and checks, such as a deposit transaction, enter only the amount of the currency.

Item 32—Amount in \$100 bills or higher.—Enter the amount of the total currency transaction reported in Item 31 that is in denominations of U.S. currency of \$100 or higher. For example, if the total currency transaction is \$100,000 and \$50,000 is in U.S. currency of \$100 or higher denominations, enter \$100,000 in Item 31 and \$50,000 in Item 32.

Item 33—Date.—Enter the month, day, and year of the currency transaction. Use the actual calendar date, not the banking day date.

Item 34—Foreign currency.—If the currency transaction involves a foreign currency, enter the information in the appropriate spaces. Enter the name of the currency in Item b, the country in Item c, and the total amount of the foreign currency in U.S. dollars in Item d. Check the appropriate box in Item a, if foreign currency was exchanged for U.S. currency or U.S. currency was exchanged for foreign currency. For example, a currency transaction involving Italian lira being deposited would have lira entered in Item b, Italy entered in Item c, and the amount, converted into U.S. dollars, entered in Item d. Since currency was not exchanged, no entry is made in Item a. If currency of two or more foreign countries is involved in the transaction, attach a separate sheet of paper that clearly identifies the individual or organization for whom the transaction was completed (Items 15 through 20) and report the information for each foreign currency required by Item 34.

Item 35—Check or wire transfer.—If multiple checks or wire transfers are involved in the transaction, check Box a and furnish the information for one of the instruments on the front of the form and for the other instruments on the back of the form in the spaces provided. If you have to report more instruments than there are entry spaces, attach a sheet of paper that

clearly identifies the individual or organization for whom the transaction is completed (Items 15 through 20) and furnish the information for Items b through f for each check or wire transfer.

Date.—Enter the date shown on the check or the wire transfer of funds in Item b.

Amount.—Enter the amount of the check or wire transfer in Item c. Show the amount in U.S. dollars only.

Payee.—Enter the name of the individual or organization to whom the check or wire transfer of funds is made payable in Item d.

Drawer.—Enter the name of the individual or organization that wrote the check or who wire transferred funds in Item e.

Drawer bank and MICR number.—Enter the name of the bank and MICR number on which the check or wire transfer of funds is drawn in Item f.

Part V.—Financial institution where transaction took place.

Box 36—Type of financial institution.—Check the box that describes the type of financial institution you are.

Box 36a—Banks.—Enter the appropriate code number for the Federal agency that performs examinations for compliance with the Bank Secrecy Act regulations:

- Code 1—Comptroller of the Currency
- Code 2—FDIC
- Code 3—Federal Reserve System
- Code 4—None of the above

Items 37, 39, 41, 42, 43, and 44—Name, address, and MICR number.—Enter the full legal name, street address, city, State, ZIP code, and MICR number of the financial institution where the transaction occurred. *If the transaction occurred at a branch office, enter the complete street address and MICR number of the branch, not the headquarter's address and MICR number.* A P.O. Box number is not a street address. Enter the MICR number in Item 44.

Item 38—EIN.—Enter the financial institution's employer identification number (EIN).

Item 40—SSN.—If the financial institution does not have an EIN, enter the financial institution owner's social security number.

Items 45, 46, 47, and 48—Preparer's signature, title, and date.—Form 4789 must be signed in Item 45 by an individual authorized or designated by the financial institution to sign it. His or her title should be shown in Item 46 and the date of signature entered in Item 47. This signer's name should be typed or printed legibly in Item 48.

Items 49 and 50—Approving official's signature and date.—The official who reviews and approves the information on the form must sign in Item 49 and enter the date of signing in Item 50.