



New South Wales

State Revenue Legislation Amendment Act 2003 No 34

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New South Wales

State Revenue Legislation Amendment Act 2003 No 34

Act No 34, 2003

An Act to make miscellaneous amendments to certain State revenue legislation;
and for other purposes. [Assented to 22 July 2003]

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *State Revenue Legislation Amendment Act 2003*.

2 Commencement

(1) This Act commences on the date of assent, except as provided by this section.

(2) The following provisions commence, or are taken to have commenced, on the dates indicated:

Schedule 1 on the date on which the Bill for this Act is introduced in the Legislative Assembly,

Schedule 2 on 1 October 2003,

Schedule 3 on 1 July 2003,

Schedule 4 (except Schedule 4 [7] and [8]) on 1 July 2003,

Schedule 4 [7] and [8] on 1 January 2004.

3 Amendment of Acts

The Acts specified in Schedules 1–4 are amended as set out in those Schedules.

Schedule 1 Amendment of Duties Act 1997 No 123

(Section 3)

[1] Section 226 Payment of duty on mortgages associated with debenture issues

Insert “first executed before the cut-off date” after “mortgage” in section 226 (1) (b).

[2] Section 226 (2)

Omit the subsection. Insert instead:

- (2) If the corporation and the trustee for the debenture holders give a written undertaking in the approved form to the Chief Commissioner:
 - (a) a mortgage first executed by the corporation before the cut-off date and solely securing the repayment of money received or to be received by the corporation in respect of its debentures is not liable to mortgage duty in respect of advances arising from debentures subscribed for before the cut-off date, and
 - (b) a mortgage, not executed by the corporation, and first executed before the cut-off date, solely securing the repayment of such money is liable to duty of \$10 in respect of advances arising from debentures subscribed for before the cut-off date, and
 - (c) a mortgage, whether executed by the corporation or by another party, and first executed before the cut-off date, and securing in part the repayment of such money is not liable to mortgage duty in respect of advances arising from debentures subscribed for before the cut-off date.

Note. The *State Revenue Legislation Amendment Act 2003* terminated the concession provided for by this section in respect of mortgages executed, or debentures subscribed for, on or after the cut-off date.

[3] Section 226 (3)

Insert “before the cut-off date” after “the total amount subscribed for in New South Wales”.

[4] Section 226 (3A)–(3D)

Insert after section 226 (3):

- (3A) The obligation to lodge a statutory declaration in July each year ceases after July 2003.
- (3B) Section 208 (2) applies in respect of a mortgage referred to in subsection (2), first executed on or after 1 January 1999, if an advance or further advance is made on or after the cut-off date (other than an advance arising from debentures subscribed for before the cut-off date) as if the reference to the amount secured by the mortgage at the time a liability to duty last arose were a reference to the disclosed debenture amount.
- (3C) For the purposes of the application of section 213 (2) to such a mortgage, the mortgage is taken to have been duly stamped for the disclosed debenture amount.
- (3D) For the purposes of this section, the *disclosed debenture amount* is the total amount of debentures subscribed for in New South Wales before the cut-off date and disclosed to the Chief Commissioner in a statutory declaration referred to in subsection (3).

[5] Section 226 (5)

Insert after section 226 (4):

- (5) In this section:
 - cut-off date* means the date of commencement of Schedule 1 to the *State Revenue Legislation Amendment Act 2003*.

[6] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue Legislation Amendment Act 2003

[7] Schedule 1, Part 12

Insert after Part 11:

**Part 12 Provisions consequent on enactment of
State Revenue Legislation Amendment
Act 2003**

33 Changes to section 226

The imposition, payment and recovery of duty under this Act before the date of assent to the *State Revenue Legislation Amendment Act 2003* is taken to have been validly done to the extent that it would have been validly done had that Act been in force at the time that it was done.

Schedule 2 Amendment of Gaming Machine Tax Act 2001 No 72

(Section 3)

[1] Section 3 Definitions

Omit the definition of *tax year* from section 3 (1). Insert instead:

tax year means:

- (a) in relation to a hotelier—the period of 12 months commencing on 1 July, and
- (b) in relation to a registered club—the period of 12 months commencing on 1 September.

[2] Section 3 (3)

Insert after section 3 (2):

- (3) A reference in this Act to a tax year of a specified year is a reference to the tax year that commences in that specified year. For example, a reference to the 2004 tax year is a reference to the tax year that commences on 1 July 2004 (in relation to a hotelier) or 1 September 2004 (in relation to a registered club).

[3] Section 7 Payment by instalments

Omit section 7 (1). Insert instead:

- (1) For the purposes of this Act:
 - (a) each tax year of a hotelier is divided into 4 periods of 3 months commencing on 1 July, 1 October, 1 January and 1 April, and
 - (b) each tax year of a registered club is divided into 4 periods of 3 months commencing on 1 September, 1 December, 1 March and 1 June.

[4] Part 3

Omit the Part. Insert instead:

Part 3 Rates of tax

Division 1 Hoteliers

12 Annual rate for hoteliers

- (1) If the profits from all gaming machines kept in a hotel in a tax year do not exceed \$25,000, tax is payable on the profits at the rate of tax rate 1 for the tax year.
- (2) If the profits from all gaming machines kept in a hotel in a tax year exceed \$25,000, but do not exceed \$200,000, tax is payable:
 - (a) on \$25,000 of those profits at the rate of tax rate 1 for the tax year, and
 - (b) on so much of those profits as exceeds \$25,000 at the rate of tax rate 2 for the tax year.
- (3) If the profits from all gaming machines kept in a hotel in a tax year exceed \$200,000, but do not exceed \$400,000, tax is payable:
 - (a) on \$25,000 of those profits at the rate of tax rate 1 for the tax year, and
 - (b) on \$175,000 of those profits at the rate of tax rate 2 for the tax year, and
 - (c) on so much of those profits as exceeds \$200,000 at the rate of tax rate 3 for the tax year.
- (4) If the profits from all gaming machines kept in a hotel in a tax year exceed \$400,000, but do not exceed \$1,000,000, tax is payable:
 - (a) on \$25,000 of those profits at the rate of tax rate 1 for the tax year, and
 - (b) on \$175,000 of those profits at the rate of tax rate 2 for the tax year, and
 - (c) on \$200,000 of those profits at the rate of tax rate 3 for the tax year, and

- (d) on so much of those profits as exceeds \$400,000 at the rate of tax rate 4 for the tax year.
- (5) If the profits from all gaming machines kept in a hotel in a tax year exceed \$1,000,000, but do not exceed \$5,000,000, tax is payable:
 - (a) on \$25,000 of those profits at the rate of tax rate 1 for the tax year, and
 - (b) on \$175,000 of those profits at the rate of tax rate 2 for the tax year, and
 - (c) on \$200,000 of those profits at the rate of tax rate 3 for the tax year, and
 - (d) on \$600,000 of those profits at the rate of tax rate 4 for the tax year, and
 - (e) on so much of those profits as exceeds \$1,000,000 at the rate of tax rate 5 for the tax year.
- (6) If the profits from all gaming machines kept in a hotel in a tax year exceed \$5,000,000, tax is payable:
 - (a) on \$25,000 of those profits at the rate of tax rate 1 for the tax year, and
 - (b) on \$175,000 of those profits at the rate of tax rate 2 for the tax year, and
 - (c) on \$200,000 of those profits at the rate of tax rate 3 for the tax year, and
 - (d) on \$600,000 of those profits at the rate of tax rate 4 for the tax year, and
 - (e) on \$4,000,000 of those profits at the rate of tax rate 5 for the tax year, and
 - (f) on so much of those profits as exceeds \$5,000,000 at the rate of tax rate 6 for the tax year.

13 Instalment rate for hoteliers

- (1) If the profits from all gaming machines kept in a hotel in an instalment period do not exceed \$6,250, the instalment payable is the amount determined by multiplying those profits by tax rate 1 for the tax year in which the instalment period commences.

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- (2) If the profits from all gaming machines kept in a hotel in an instalment period exceed \$6,250, but do not exceed \$50,000, the instalment payable is the sum of the following amounts:
 - (a) the amount determined by multiplying \$6,250 by tax rate 1 for the tax year in which the instalment period commences,
 - (b) the amount determined by multiplying the amount by which those profits exceed \$6,250 by tax rate 2 for the tax year in which the instalment period commences.
 - (3) If the profits from all gaming machines kept in a hotel in an instalment period exceed \$50,000, but do not exceed \$100,000, the instalment payable is the sum of the following amounts:
 - (a) the amount determined by multiplying \$6,250 by tax rate 1 for the tax year in which the instalment period commences,
 - (b) the amount determined by multiplying \$43,750 by tax rate 2 for the tax year in which the instalment period commences,
 - (c) the amount determined by multiplying the amount by which those profits exceed \$50,000 by tax rate 3 for the tax year in which the instalment period commences.
 - (4) If the profits from all gaming machines kept in a hotel in an instalment period exceed \$100,000, but do not exceed \$250,000, the instalment payable is the sum of the following amounts:
 - (a) the amount determined by multiplying \$6,250 by tax rate 1 for the tax year in which the instalment period commences,
 - (b) the amount determined by multiplying \$43,750 by tax rate 2 for the tax year in which the instalment period commences,
 - (c) the amount determined by multiplying \$50,000 by tax rate 3 for the tax year in which the instalment period commences,
 - (d) the amount determined by multiplying the amount by which those profits exceed \$100,000 by tax rate 4 for the tax year in which the instalment period commences.

- (5) If the profits from all gaming machines kept in a hotel in an instalment period exceed \$250,000, but do not exceed \$1,250,000, the instalment payable is the sum of the following amounts:
- (a) the amount determined by multiplying \$6,250 by tax rate 1 for the tax year in which the instalment period commences,
 - (b) the amount determined by multiplying \$43,750 by tax rate 2 for the tax year in which the instalment period commences,
 - (c) the amount determined by multiplying \$50,000 by tax rate 3 for the tax year in which the instalment period commences,
 - (d) the amount determined by multiplying \$150,000 by tax rate 4 for the tax year in which the instalment period commences,
 - (e) the amount determined by multiplying the amount by which those profits exceed \$250,000 by tax rate 5 for the tax year in which the instalment period commences.
- (6) If the profits from all gaming machines kept in a hotel in an instalment period exceed \$1,250,000, the instalment payable is the sum of the following amounts:
- (a) the amount determined by multiplying \$6,250 by tax rate 1 for the tax year in which the instalment period commences,
 - (b) the amount determined by multiplying \$43,750 by tax rate 2 for the tax year in which the instalment period commences,
 - (c) the amount determined by multiplying \$50,000 by tax rate 3 for the tax year in which the instalment period commences,
 - (d) the amount determined by multiplying \$150,000 by tax rate 4 for the tax year in which the instalment period commences,
 - (e) the amount determined by multiplying \$1,000,000 by tax rate 5 for the tax year in which the instalment period commences,

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- (f) the amount determined by multiplying the amount by which those profits exceed \$1,250,000 by tax rate 6 for the tax year in which the instalment period commences.

13A Tax rates for hoteliers

In this Division:

tax rate 1 for a tax year means the rate (expressed as a percentage) specified in column 1 of Table 1 next to the tax year concerned.

tax rate 2 for a tax year means the rate (expressed as a percentage) specified in column 2 of Table 1 next to the tax year concerned.

tax rate 3 for a tax year means the rate (expressed as a percentage) specified in column 3 of Table 1 next to the tax year concerned.

tax rate 4 for a tax year means the rate (expressed as a percentage) specified in column 4 of Table 1 next to the tax year concerned.

tax rate 5 for a tax year means the rate (expressed as a percentage) specified in column 5 of Table 1 next to the tax year concerned.

tax rate 6 for a tax year means the rate (expressed as a percentage) specified in column 6 of Table 1 next to the tax year concerned.

Table 1: Tax rates—hoteliers

	Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Tax year	Tax rate 1 (%) (\$0– \$25K)	Tax rate 2 (%) (exceeds \$25K but not \$200K)	Tax rate 3 (%) (exceeds \$200K but not \$400K)	Tax rate 4 (%) (exceeds \$400K but not \$1M)	Tax rate 5 (%) (exceeds \$1M but not \$5M)	Tax rate 6 (%) (exceeds \$5M)
2004	5.8	15.8	17.2	26.5	31.5	33.6
2005	5.7	15.7	18.5	27.1	32.1	36.4
2006	5.5	15.5	19.8	27.7	32.7	39.1
2007	5.4	15.4	21.1	28.2	33.2	41.8
2008	5.3	15.3	22.4	28.8	33.8	44.5
2009	5.1	15.1	23.7	29.4	34.4	47.3
2010 and subsequent tax years	5.0	15.0	25.0	30.0	35.0	50.0

Note. See Schedule 2A for arrangements for the 2003 tax year.

Division 2 Registered clubs

14 Annual rate for registered clubs

- (1) If the profits from all gaming machines kept on the premises of a registered club in a tax year do not exceed \$200,000, no tax is payable on the profits.
- (2) If the profits from all gaming machines kept on the premises of a registered club in a tax year exceed \$200,000, but do not exceed \$1,000,000, tax is payable on so much of those profits as exceeds \$200,000 at the rate of tax rate 1 for the tax year.
- (3) If the profits from all gaming machines kept on the premises of a registered club in a tax year exceed \$1,000,000, but do not exceed \$5,000,000, tax is payable:
 - (a) on \$800,000 of those profits at the rate of tax rate 1 for the tax year, and
 - (b) on so much of those profits as exceeds \$1,000,000 at the rate of tax rate 2 for the tax year.

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- (4) If the profits from all gaming machines kept on the premises of a registered club in a tax year exceed \$5,000,000, but do not exceed \$10,000,000, tax is payable:
- (a) on \$800,000 of those profits at the rate of tax rate 1 for the tax year, and
 - (b) on \$4,000,000 of those profits at the rate of tax rate 2 for the tax year, and
 - (c) on so much of those profits as exceeds \$5,000,000 at the rate of tax rate 3 for the tax year.
- (5) If the profits from all gaming machines kept on the premises of a registered club in a tax year exceed \$10,000,000, tax is payable:
- (a) on \$800,000 of those profits at the rate of tax rate 1 for the tax year, and
 - (b) on \$4,000,000 of those profits at the rate of tax rate 2 for the tax year, and
 - (c) on \$5,000,000 of those profits at the rate of tax rate 3 for the tax year, and
 - (d) on so much of those profits as exceeds \$10,000,000 at the rate of tax rate 4 for the tax year.
- (6) This section is subject to Part 4.

15 Instalment rate for registered clubs

- (1) If the profits from all gaming machines kept on the premises of a registered club in an instalment period do not exceed \$50,000, no instalment is payable.
- (2) If the profits from all gaming machines kept on the premises of a registered club in an instalment period exceed \$50,000, but do not exceed \$250,000, the instalment payable is the amount determined by multiplying the amount by which those profits exceed \$50,000 by tax rate 1 for the tax year in which the instalment period commences.
- (3) If the profits from all gaming machines kept on the premises of a registered club in an instalment period exceed \$250,000, but do not exceed \$1,250,000, the instalment payable is the sum of the following amounts:

- (a) the amount determined by multiplying \$200,000 by tax rate 1 for the tax year in which the instalment period commences,
 - (b) the amount determined by multiplying the amount by which those profits exceed \$250,000 by tax rate 2 for the tax year in which the instalment period commences.
- (4) If the profits from all gaming machines kept on the premises of a registered club in an instalment period exceed \$1,250,000, but do not exceed \$2,500,000, the instalment payable is the sum of the following amounts:
- (a) the amount determined by multiplying \$200,000 by tax rate 1 for the tax year in which the instalment period commences,
 - (b) the amount determined by multiplying \$1,000,000 by tax rate 2 for the tax year in which the instalment period commences,
 - (c) the amount determined by multiplying the amount by which those profits exceed \$1,250,000 by tax rate 3 for the tax year in which the instalment period commences.
- (5) If the profits from all gaming machines kept on the premises of a registered club in an instalment period exceed \$2,500,000, the instalment payable is the sum of the following amounts:
- (a) the amount determined by multiplying \$200,000 by tax rate 1 for the tax year in which the instalment period commences,
 - (b) the amount determined by multiplying \$1,000,000 by tax rate 2 for the tax year in which the instalment period commences,
 - (c) the amount determined by multiplying \$1,250,000 by tax rate 3 for the tax year in which the instalment period commences,
 - (d) the amount determined by multiplying the amount by which those profits exceed \$2,500,000 by tax rate 4 for the tax year in which the instalment period commences.

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- (6) For the purposes of this section, *tax rate 2, 3 or 4* for a tax year is the rate that results from reducing by 1.5 the number specified as the tax rate concerned for that year in Table 2.
- Note.** For example, tax rate 2 for an instalment in the 2004 tax year is 16.8 (18.3 minus 1.5). The purpose of the reduction under subsection (6) is to take account of any rebate that may be available under Part 4.
- (7) Despite anything to the contrary in this section, the remainder of any tax that, under this Division, remains payable in respect of the whole of a tax year is payable at the time of payment of the last instalment for the year.
- (8) Subsection (7) does not affect any provision of the *Taxation Administration Act 1996* or any arrangement that may be entered into under that Act for the payment or compromise of any debt.

15A Tax rates for registered clubs

In this Division:

tax rate 1 for a tax year means the rate (expressed as a percentage) specified in column 1 of Table 2 next to the tax year concerned.

tax rate 2 for a tax year means the rate (expressed as a percentage) specified in column 2 of Table 2 next to the tax year concerned.

tax rate 3 for a tax year means the rate (expressed as a percentage) specified in column 3 of Table 2 next to the tax year concerned.

tax rate 4 for a tax year means the rate (expressed as a percentage) specified in column 4 of Table 2 next to the tax year concerned.

Table 2: Tax rates—registered clubs

	Column 1	Column 2	Column 3	Column 4
Tax year	Tax rate 1 (%) (exceeds \$200K but not \$1M)	Tax rate 2 (%) (exceeds \$1M but not \$5M)	Tax rate 3 (%) (exceeds \$5M but not \$10M)	Tax rate 4 (%) (exceeds \$10M)
2004	10.8	18.3	19.7	20.4
2005	10.7	19.4	22.3	23.7
2006	10.5	20.5	24.8	26.9
2007	10.4	21.6	27.4	30.2
2008	10.3	22.8	29.9	33.5
2009	10.1	23.9	32.5	36.7
2010 and subsequent tax years	10.0	25.0	35.0	40.0

Note. See Schedule 2A for arrangements for the 2003 tax year.

[5] Section 17 Tax rebate for community development and support expenditure

Omit “section 14 (3) (b)” wherever occurring.

Insert instead “section 14 (3), (4) or (5)”.

[6] Section 27A

Insert after section 27:

27A Arrangements for 2003 tax year

Schedule 2A has effect.

[7] Schedule 2 Savings and transitional provisions

Insert at the end of clause 1 (1):

State Revenue Legislation Amendment Act 2003

[8] Schedule 2, Part 3

Insert after Part 2:

**Part 3 Provisions consequent on enactment of
State Revenue Legislation Amendment
Act 2003**

6 Changes to tax year

- (1) The amendment made to this Act by Schedule 2 [1] to the *State Revenue Legislation Amendment Act 2003* applies in respect of a tax year commencing on or after:
 - (a) in the case of a hotelier—1 July 2004, and
 - (b) in the case of a registered club—1 September 2004.
- (2) The amendments made to this Act by Schedule 2 to the *State Revenue Legislation Amendment Act 2003* do not affect any liability for tax in respect of a tax year that commenced before the commencement of that Schedule and this Act continues to apply in respect of such a tax year, as if the amendments had not been made.

Note. Special arrangements apply to the 2003 tax year. See Schedule 2A.

[9] Schedule 2A

Insert after Schedule 2:

Schedule 2A Arrangements for 2003 tax year

(Section 27A)

1 2003 tax year—definition

- (1) This Schedule applies in respect of the period of 9 months commencing on:
 - (a) in the case of a hotelier—1 October 2003, or
 - (b) in the case of a registered club—1 December 2003.

- (2) The period to which this Schedule applies is taken, for the purposes of this Act, to be a tax year (referred to in this Schedule as the **2003 tax year**).

2 Instalment periods for 2003 tax year

- (1) The 2003 tax year is taken, for the purposes of this Act, to be divided into 3 periods of 3 months:
- (a) in the case of a hotelier—commencing on 1 October 2003, 1 January 2004 and 1 April 2004, and
 - (b) in the case of a registered club—commencing on 1 December 2003, 1 March 2004 and 1 June 2004.
- (2) Each of those periods (referred to in this Schedule as a **2003 instalment period**) is taken to be an instalment period for the purposes of this Act in respect of the 2003 tax year and section 7 applies accordingly.
- (3) Section 10 applies in respect of the 2003 tax year as if a reference to the relevant 4 quarterly instalments were a reference to the 3 instalments payable for the 2003 tax year.

3 Part 3 does not apply to 2003 tax year

Part 3 does not apply in respect of the 2003 tax year.

4 Annual rate for hoteliers—2003 tax year

- (1) If the profits from all gaming machines kept in a hotel in the 2003 tax year do not exceed \$18,750, tax is payable on the profits at the rate of 5.91%.
- (2) If the profits from all gaming machines kept in a hotel in the 2003 tax year exceed \$18,750 but do not exceed \$300,000, tax is payable:
- (a) in the sum of \$1,108.13, and
 - (b) on so much of the profits as exceeds \$18,750, at the rate of 15.91%.
- (3) If the profits from all gaming machines kept in a hotel in the 2003 tax year exceed \$300,000 but do not exceed \$750,000, tax is payable:
- (a) in the sum of \$45,855, and
 - (b) on so much of the profits as exceeds \$300,000, at the rate of 25.91%.

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- (4) If the profits from all gaming machines kept in a hotel in the 2003 tax year exceed \$750,000, tax is payable:
- (a) in the sum of \$162,450, and
 - (b) on so much of the profits as exceeds \$750,000, at the rate of 30.91%.

5 Instalment rate for hoteliers

- (1) If the profits from all gaming machines kept in a hotel in a 2003 instalment period do not exceed \$6,250, the instalment payable is an amount equal to 5.91% of those profits.
- (2) If the profits from all gaming machines kept in a hotel in a 2003 instalment period exceed \$6,250 but do not exceed \$100,000, the instalment payable is:
 - (a) the sum of \$369.38, and
 - (b) an amount equal to 15.91% of the amount by which the profits exceed \$6,250.
- (3) If the profits from all gaming machines kept in a hotel in a 2003 instalment period exceed \$100,000 but do not exceed \$250,000, the instalment payable is:
 - (a) the sum of \$15,285, and
 - (b) an amount equal to 25.91% of the amount by which the profits exceed \$100,000.
- (4) If the profits from all gaming machines kept in a hotel in a 2003 instalment period exceed \$250,000, the instalment payable is:
 - (a) the sum of \$54,150, and
 - (b) an amount equal to 30.91% of the amount by which the profits exceed \$250,000.

6 Annual rate for registered clubs—2003 tax year

- (1) If the profits from all gaming machines kept on the premises of a registered club in the 2003 tax year do not exceed \$150,000, no tax is payable on the profits.
- (2) If the profits from all gaming machines kept on the premises of a registered club in the 2003 tax year exceed \$150,000 but do not exceed \$750,000, tax is payable on so much of the profits as exceeds \$150,000 at the rate of 10.91%.

- (3) If the profits from all gaming machines kept on the premises of a registered club in the 2003 tax year exceed \$750,000, tax is payable:
 - (a) in the sum of \$65,460, and
 - (b) on so much of the profits as exceeds \$750,000, at the rate of 17.16%, except as provided by Part 4.

7 Instalment rate for registered clubs

- (1) If the profits from all gaming machines kept on the premises of a registered club in a 2003 instalment period do not exceed \$50,000, no instalment is payable.
- (2) If the profits from all gaming machines kept on the premises of a registered club in a 2003 instalment period exceed \$50,000 but do not exceed \$250,000, the instalment payable is an amount equal to 10.91% of the amount by which the profits exceed \$50,000.
- (3) If the profits from all gaming machines kept on the premises of a registered club in a 2003 instalment period exceed \$250,000, the instalment payable is:
 - (a) the sum of \$21,820, and
 - (b) an amount equal to 15.66% of the amount by which the profits exceed \$250,000.
- (4) Despite anything to the contrary in this clause, the remainder of any tax that, under this Schedule, remains payable in respect of the whole of the 2003 tax year is payable at the time of payment of the last instalment for the year.
- (5) Subclause (4) does not affect any provision of the *Taxation Administration Act 1996* or any arrangement that may be entered into under that Act for the payment or compromise of any debt.

8 Application of Part 4

Part 4 applies in respect of the 2003 tax year as if a reference in section 17 to section 14 (3), (4) or (5) included a reference to clause 6 (3) (b) and as if the reference in section 17 (4) to \$1,000,000 were a reference to \$750,000.

Schedule 3 Amendment of Parking Space Levy Act 1992 No 32

(Section 3)

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

CPI adjusted levy for a Category 1 area or a Category 2 area for a particular financial year means the amount determined in accordance with section 12.

[2] Section 4 (6)

Insert after section 4 (5):

(6) Notes included in this Act do not form part of this Act.

[3] Section 11 Amount of levy

Omit “in the 2000 financial year and on 1 September in each financial year after 2000” from section 11 (3).

Insert instead “in each of the financial years from 2000 to 2002 (both years inclusive)”.

[4] Section 11 (4) and (5)

Insert after section 11 (3):

(4) The amount of the levy that is payable on 1 September in the 2003 financial year is:

(a) \$840 for each parking space within a Category 1 area for which the levy is payable, or

(b) \$420 for each parking space within a Category 2 area for which the levy is payable.

Note. The levy payable for the 2003 financial year (\$840 for a Category 1 area and \$420 for a Category 2 area) was calculated by adjusting the previous levy (\$800 and \$400 respectively) in accordance with the cumulative percentage increase in the consumer price index for the period from 30 September 2000 to 31 March 2003, with a discount for the impact of the Goods and Services Tax.

(5) The amount of the levy that is payable on 1 September in the 2004 financial year and on 1 September in each subsequent financial year is:

- (a) for each parking space within a Category 1 area—the CPI adjusted levy for a Category 1 area for the particular financial year concerned, and
- (b) for each parking space within a Category 2 area—the CPI adjusted levy for a Category 2 area for the particular financial year concerned.

[5] Sections 12 and 12A

Omit section 12. Insert instead:

12 CPI adjusted levy

- (1) The CPI adjusted levy for a Category 1 area or a Category 2 area for a particular financial year is to be determined in accordance with the following formula:

$$C = \frac{L \times A}{B}$$

where:

C is the CPI adjusted levy being determined, rounded down to the nearest 2 decimal points.

L is:

- (a) in the case of a determination of the CPI adjusted levy for a Category 1 area for a particular financial year—the amount of the levy payable on 1 September in the previous financial year in respect of a parking space within a Category 1 area, or
- (b) in the case of a determination of the CPI adjusted levy for a Category 2 area for a particular financial year—the amount of the levy payable on 1 September in the previous financial year in respect of a parking space within a Category 2 area.

A is the sum of the consumer price index numbers for the 4 consecutive quarters of June, September, December and March with the September quarter being the September quarter of the financial year previous to the financial year for which the CPI adjusted levy is being determined.

Note. For example, in the case of a determination of the CPI adjusted levy for the 2004 financial year, “A” is the sum of the consumer price index numbers for June 2003, September 2003, December 2003 and March 2004.

B is the sum of the consumer price index numbers for the 4 consecutive quarters of June, September, December and March with the September quarter being the September quarter of the financial year that is 2 years previous to the financial year for which the CPI adjusted levy is being determined.

Note. For example, in the case of a determination of the CPI adjusted levy for the 2004 financial year, "B" is the sum of the consumer price index numbers for June 2002, September 2002, December 2002 and March 2003.

- (2) The CPI adjusted levy determined under subsection (1) is to be rounded up or down to the nearest \$10 (and, if the amount by which the levy is to be rounded is \$5, is to be rounded up).
- (3) In this section:

consumer price index means the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician (or such other economic index as the regulations prescribe).

12A Notice of CPI adjusted levy

- (1) By the beginning of each financial year, the Minister is to cause a notice to be published in the Gazette specifying the amount of the levy payable on 1 September in that financial year:
 - (a) for each parking space within a Category 1 area for which the levy is payable, and
 - (b) for each parking space within a Category 2 area for which the levy is payable,as determined in accordance with section 12.
- (2) A failure to publish such a notice for a financial year does not have any effect on the operation of section 12 in respect of the levy payable in that financial year.

[6] Schedule 1 Savings, transitional and other provisions

Insert before clause 1:

Part 1 Regulations

1A Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

State Revenue Legislation Amendment Act 2003

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of this Act

[7] Schedule 1, Part 3, heading

Insert before clause 3:

Part 3 Provisions consequent on enactment of Parking Space Levy Amendment Act 2000

[8] Schedule 1, Part 4

Insert after clause 3:

**Part 4 Provisions consequent on enactment of
State Revenue Legislation Amendment
Act 2003**

4 Increase in levy for 2003 financial year

The imposition, payment and recovery of a levy under this Act on or after 1 July 2003 and before the date of assent to the *State Revenue Legislation Amendment Act 2003* is taken to have been validly done to the extent that it would have been validly done had that Act been in force at the time that it was done.

5 Notice of levy amount

Section 12A, as inserted by the *State Revenue Legislation Amendment Act 2003*, does not apply in respect of the 2003 financial year.

Schedule 4 Amendment of Pay-roll Tax Act 1971 No 22
(Section 3)

[1] Section 3AA Wages

Insert after section 3AA (2):

- (2A) Wages includes the value of any contribution that is taken to constitute wages under section 3AD or 3AE.

[2] Section 3AA (6BA)

Insert after section 3AA (6B):

- (6BA) Wages includes an amount paid or payable by a company as a consequence of the termination of the services or office of a director or member of the governing body of the company, whether or not paid to the director or member or to any other person or body, that would be an eligible termination payment (within the meaning of section 27A of the *Income Tax Assessment Act 1936* of the Commonwealth) if the amount had been paid or payable as a consequence of termination of employment.

[3] Section 3AA (6C)

Insert “or (6BA)” after “(6B)”.

[4] Section 3AA (9A)

Insert after section 3AA (9):

- (9A) A reference in this section to a director or member of the governing body of a company includes a reference to a former director or former member of the governing body of a company.

[5] Sections 3AD and 3AE

Insert after section 3AC:

3AD Inclusion of employee share scheme contributions as wages

- (1) The value of any contribution (other than anything that is otherwise wages under this Act) to a share scheme that is provided or liable to be provided to or in relation to an

employee is taken, for the purposes of section 3AA, to constitute wages paid or payable (as the case requires) to the employee.

- (2) For the purposes of this section, a *share scheme* is a scheme by which an employer provides shares, rights to acquire shares, units in a unit trust scheme or rights to acquire units in a unit trust scheme, whether directly or indirectly, to or in relation to an employee in respect of services performed or rendered by the employee.
- (3) The value of a contribution to a share scheme is:
- (a) if the contribution is a share, unit in a unit trust scheme or right to acquire a share or unit in a unit trust scheme—the market value of the contribution, determined in accordance with Schedule 1A, on the day that the share, unit or right is contributed, less any consideration for the acquisition of the share, unit or right paid or given by the employee, or
 - (b) if the contribution is money—the amount of money provided, or
 - (c) if the contribution is property (other than property referred to in paragraph (a) or money) that is worth money—the amount of money that it is worth at the time the property is contributed.
- (4) A contribution to a share scheme that is provided or liable to be provided to or in relation to an employee by a person acting for, or in concert with, or under an arrangement or undertaking (whether formal or informal and whether express or implied) with, the employer is taken to be provided by the employer.
- (5) In this section:

provided includes paid, given, conferred or granted and, in relation to a contribution to a share scheme that is property, includes a reference to the conferral or disposal of any right, title or interest in the property, whether legal or beneficial, by sale, gift, declaration of trust or otherwise.

right to acquire a share or unit includes any right, or option, whether actual, prospective or contingent, of a person to have a share or unit issued or transferred to the person.

unit in a unit trust scheme means a right or interest (whether described as a unit or a sub-unit or otherwise) of a beneficiary under the scheme.

unit trust scheme means any arrangements made for the purpose, or having the effect, of providing, for persons having funds available for investment, facilities for the participation by them, as beneficiaries under a trust, in any profits, income or distribution of assets arising from the acquisition, holding, management or disposal of any property whatever pursuant to the trust.

3AE Inclusion of share scheme contributions made to directors and members of governing bodies of companies as wages

- (1) The value of any contribution (other than anything that is otherwise wages under this Act) provided or liable to be provided to or in relation to a director or member of the governing body of a company by way of remuneration to the director or member that would be a contribution to a share scheme under section 3AD if the director or member were an employee of the company is taken, for the purposes of section 3AA, to constitute wages paid or payable (as the case requires) to the director or member.
- (2) Section 3AD, and Schedule 1A, apply in respect of any such contribution as if a reference to the employer were a reference to the company and a reference to the employee were a reference to the director or member of the governing body of the company.
- (3) In this section, a reference to a director or member of the governing body of a company includes a reference to a former director or former member of the governing body of a company.
- (4) In this section:
provided has the meaning given by section 3AD.

[6] Section 3A Application of this Act to certain contracts

Insert after section 3A (2) (e):

, and

- (f) an amount paid or payable for or in relation to the performance of work under a relevant contract is taken

to include the value of any contribution to a share scheme (not otherwise included as wages under this Act) provided or liable to be provided by the employer that is taken to constitute wages under section 3AD.

[7] Section 10 Exemption from pay-roll tax

Insert after section 10 (1) (l):

- (ll) to a trainee within the meaning of the *Apprenticeship and Traineeship Act 2001*, other than an existing worker trainee within the meaning of that Act,

[8] Section 10 (2B)

Insert after section 10 (2A):

- (2B) Paragraph (1l) of subsection (1) only operates to exclude from wages liable to pay-roll tax under this Act wages that are paid or payable under a traineeship contract (within the meaning of the *Apprenticeship and Traineeship Act 2001*) but, if an application for approval of the traineeship to which the contract relates is dismissed by the Commissioner for Vocational Training (referred to in section 56 of that Act) or the Vocational Training Tribunal of New South Wales (constituted by section 59 of that Act), the exclusion ceases when the application is dismissed.

[9] Schedule 1A

Insert before Schedule 1:

Schedule 1A Calculation of market value of contribution to share scheme

(Sections 3AD and 3AE)

1 Market value of shares, units or rights quoted on recognised stock exchange

- (1) The market value of a share, unit or right to acquire a share or unit that is quoted on a recognised stock exchange on the relevant day is:
- (a) if there was at least one transaction on that stock exchange in shares, units or rights of that class during the one week period before that day—the weighted

average of the prices at which those shares, units or rights were traded on that stock exchange during the one week period before that day, or

- (b) if there were no transactions on that stock exchange in that one week period in such shares, units or rights—the last price at which an offer was made on that stock exchange in that period to buy such a share, unit or right.
- (2) If a share, unit or right is quoted on a day on 2 or more recognised stock exchanges, the price on that day is the price on whichever of those stock exchanges is nominated by the employer, but if one or more of the stock exchanges on which the share, unit or right is quoted is an Australian stock exchange, the employer must nominate one of the Australian stock exchanges.

2 Market value of shares, units and rights not quoted on recognised stock exchange

- (1) The market value of a share or unit (other than a unit in an unlisted public unit trust scheme) not quoted on a recognised stock exchange on the relevant day is the arm's length value of the share or unit:
- (a) as specified in a written report given to the employer by a person who is a qualified person in relation to valuing the share or unit, or
 - (b) as calculated in accordance with any other method approved in writing by the Chief Commissioner, either generally or in a particular case, as a reasonable method of calculating the arm's length value of unlisted shares or units.
- (2) The market value of a unit in an unlisted public unit trust scheme is the weighted average of the issue prices for the units during the one week period before the relevant day or, if there are no issue prices for the units during that period, the arm's length value of the unit:
- (a) as specified in a written report given to the employer by a person who is a qualified person in relation to valuing the unit, or

-
- (b) as calculated in accordance with any other method approved in writing by the Chief Commissioner, either generally or in a particular case, as a reasonable method of calculating the arm's length value of units in unlisted public unit trust schemes.
- (3) The market value of a right not quoted on a recognised stock exchange on the relevant day is the market value on that day of the share or unit that may be acquired by exercising the right, determined in accordance with this Schedule, less the lowest amount that must be paid to exercise the right to acquire the share or unit.
- (4) In determining the market value of a share, unit or right under this clause, the share, unit or right and any share or unit that may be acquired as a consequence of the exercise or operation of the right, is taken not to be subject to any conditions or restrictions.
- (5) If the lowest amount that must be paid to exercise a right to acquire a share or unit is nil or cannot be determined, the market value of the right on a particular day is the same as the market value of the share or unit on that day (determined in accordance with this Schedule).

3 Value to be expressed in Australian currency

The market value of a share, unit or right wherever determined is to be expressed in Australian currency.

4 Definitions

- (1) In this Schedule:
- qualified person***, in relation to valuing a share in a company or a unit in a unit trust scheme, means a person who is a registered company auditor under the *Corporations Act 2001* of the Commonwealth other than:
- (a) a trustee of the unit trust scheme, or
 - (b) a director, secretary or employee of the company or of the trustee of the unit trust scheme, or
 - (c) a partner, employer or employee of a person referred to in paragraph (a) or (b), or
 - (d) a partner or employee of a person referred to in paragraph (c).

recognised stock exchange has the meaning given by the *Duties Act 1997*.

relevant day means, in relation to the contribution of a share, unit or right, the day the share, unit or right was contributed.

unlisted public unit trust scheme means a unit trust scheme the units in which are not quoted on a recognised stock exchange and in respect of which either of the following applies:

- (a) units in the unit trust scheme were offered to the public,
- (b) at all times during the previous 12 months, the units in the unit trust scheme were held by at least 50 unit holders.

- (2) Expressions used in this Schedule have the same meaning as they have in section 3AD.

[10] Schedule 6 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Revenue Legislation Amendment Act 2003

[11] Schedule 6, Part 9

Insert after Part 8:

**Part 9 Provisions consequent on enactment of
State Revenue Legislation Amendment
Act 2003**

16 Exemption for trainees

Section 10 (1) (11), as inserted by the *State Revenue Legislation Amendment Act 2003*, does not operate to exclude from wages liable to pay-roll tax under this Act any wages paid or payable to a trainee before 1 January 2004.

[Second reading speech made in—

Legislative Assembly on 24 June 2003

Legislative Council on 3 July 2003]

BY AUTHORITY