

# Gaming Machine Tax Act 2001 No 72

[2001-72]



New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **See also**  
[Statute Law \(Miscellaneous Provisions\) Bill 2004](#)

### Authorisation

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# Gaming Machine Tax Act 2001 No 72



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# Gaming Machine Tax Act 2001 No 72



New South Wales

An Act to consolidate existing provisions of the *Liquor Act 1982* and the *Registered Clubs Act 1976* with respect to the imposition of tax on profits from poker machines and other gaming devices; to make consequential amendments to those Acts and to the *Taxation Administration Act 1996*; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Gaming Machine Tax Act 2001*.

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions

(1) In this Act:

**authorised CMS** has the same meaning as in the *Gaming Machines Act 2001*.

**Board** means the Liquor Administration Board constituted by section 72 of the *Liquor Act 1982*.

**cancelled credits payment** means payment of an amount by way of redemption of credits accumulated by a gaming machine player in the course of play.

**Chief Commissioner** means the Chief Commissioner of State Revenue referred to in section 60 of the *Taxation Administration Act 1996*.

**CMS licensee** means the holder of a CMS licence within the meaning of the *Gaming Machines Act 2001*.

**gaming machine** means an approved gaming machine within the meaning of the *Gaming Machines Act 2001*.

**hotel, hotelier** and **hotelier's licence** have the same meanings as they have in the *Liquor Act 1982*.

**instalment period** means a period prescribed by section 7.

**outgoings**, in relation to a gaming machine, means:

- (a) cancelled credits payments, or
- (b) progressive jackpot payments, or
- (c) the monetary value of the credits accumulated by a gaming machine player in the course of play that are redeemed by the award of a non-monetary prize, or
- (d) in the case of a gaming machine that is a part of an authorised linked gaming system operating under Part 12 of the [Liquor Act 1982](#) or under Part 10 of the [Gaming Machines Act 2001](#)—the amount that is deducted from the gaming machine in order to build a prize for the authorised linked gaming system concerned.

**profits**, in relation to a gaming machine, means the excess of revenue from the machine over outgoings in relation to the machine.

**progressive jackpot payment** means payment of an amount to which a gaming machine player is entitled:

- (a) for the achievement by the player, at the end of a play, of a combination of symbols that is designated, in the original design of the gaming machine or in a subsequent modification approved by the Board as a progressive jackpot combination, or
- (b) on the happening of any other event or contingency which the Board, by instrument in writing, approves as being a due occasion of a progressive jackpot payment for the purposes of this definition.

**registered club** has the same meaning as it has in the [Registered Clubs Act 1976](#).

**revenue from a gaming machine** means money invested by players of the gaming machine in order to play it.

**tax** means tax imposed by this Act on profits from gaming machines.

**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) For the purposes of the definition of **cancelled credits payment** in subsection (1):
- (a) credits accumulated by a gaming machine player in the course of play include

credits accumulated as a result of the investment of money by the player before proceeding to play the gaming machine or while playing it, and

(b) a player's credits are completely redeemed on payment to the player of an amount equal to the amount that a player would have to invest in the gaming machine concerned, when showing a nil credit balance, in order (without playing it) to be credited with that number of credits.

(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).

#### **4 Relationship with [Taxation Administration Act 1996](#)**

This Act is to be read together with the [Taxation Administration Act 1996](#), which makes provision for the administration and enforcement of this Act and other taxation laws.

**Note—**

This Act amends the [Taxation Administration Act 1996](#)—see section 30 and Schedule 5.

#### **5 Notes**

Notes included in this Act do not form part of this Act.

## **Part 2 Gaming machine tax**

### **6 Tax on gaming machines**

(1) A tax is payable on profits from gaming machines kept in a hotel or on the premises of a registered club.

(2) The tax is payable by the hotelier or registered club concerned.

(3) In the event of a tax default (within the meaning of the [Taxation Administration Act 1996](#)) in respect of an amount of tax for which a hotelier is liable:

(a) the hotelier, and

(b) any person who, at the time the amount became due, was directly interested in the business, or the profits of the business, carried on under the hotelier's licence,

are jointly and severally liable to pay the amount concerned, and section 45 of that Act applies accordingly.

**Note—**

Section 45 of the [Taxation Administration Act 1996](#) provides for recovery of tax where two or more persons are jointly liable to pay it.

## **7 Payment by instalments**

- (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.
- (2) Quarterly instalments of tax are payable by a hotelier or registered club to the Chief Commissioner within 21 days after the end of each instalment period.
- (3) A hotelier or registered club must:
  - (a) before the end of each such 21-day period, deposit the amount payable in a bank or financial institution, and
  - (b) make such arrangements with the Chief Commissioner as enable the Chief Commissioner to access or appropriate that amount (such as by way of direct debit from the account of the hotelier or registered club concerned).

Maximum penalty: 20 penalty units.
- (4) In the case of hoteliers, the liability to pay such an instalment lies with the hotelier who holds the relevant hotelier's licence at the time the instalment is due.

## **8 Returns**

- (1) The Board may from time to time, by notice published in the Gazette, require:
  - (a) all hoteliers and registered clubs that keep gaming machines, or
  - (b) specified hoteliers or registered clubs that keep gaming machines, or
  - (c) specified classes of hoteliers or registered clubs that keep gaming machines,to lodge with the CMS licensee a return, in a form approved by the Board, in relation to the performance of those gaming machines and the tax payable under this Act in relation to those gaming machines.
- (2) A hotelier or registered club must comply with the requirements of such a notice within the time specified by the notice.
- (3) A hotelier or registered club must not, in purported compliance with this section, lodge with the CMS licensee a return that is false or misleading in a material particular.
- (4) Proceedings for an offence under subsection (3) may be commenced at any time within the period of 3 years that next succeeds commission of the offence.

- (5) The hotelier or registered club is to retain a copy of each return lodged under this section for a period of not less than 3 years after the date on which it was lodged.

Maximum penalty: 20 penalty units.

## 9 Calculation and assessment of tax

- (1) As soon as practicable after receipt of a return from a hotelier or registered club in relation to a quarterly instalment period, a CMS licensee must:
  - (a) calculate the amount of each quarterly instalment of tax payable by the hotelier or club, and
  - (b) advise the Chief Commissioner of the calculated amount.
- (2) The Board may from time to time:
  - (a) where it is of the opinion that the information provided in a return might be incorrect, or
  - (b) for such other reason as seems sufficient to the Board,and after making such inquiries as it thinks fit and taking into account such information as may be available to it, recalculate the amount of any quarterly instalment of tax payable by a hotelier or registered club, and advise the Chief Commissioner accordingly.
- (3) The Chief Commissioner is to assess or reassess, under Part 3 of the *Taxation Administration Act 1996*, tax liabilities according to calculations, and any recalculations, made under this section and any rebate available under Part 4.

## 10 Adjustments

- (1) Following the end of a tax year and after payment by a hotelier or registered club of the instalment payable in respect of the last of the instalment periods for the tax year, the Board must, on application by the hotelier (or any relevant previous hotelier) or by the club concerned, make a comparison of the tax payable in respect of that tax year and the total of the relevant 4 quarterly instalments made, and advise the Chief Commissioner of the result of that comparison.
- (2) If the amount of tax assessed to be payable is less than the amount paid by the hotelier or registered club for the tax year concerned, the Chief Commissioner may:
  - (a) hold the difference in credit for the hotelier or club, or
  - (b) refund the difference in accordance with Part 4 of the *Taxation Administration Act 1996*.

**Note—**



Part 4 of the [Taxation Administration Act 1996](#) provides for refunds of tax overpayments.

- (3) In a case where the tax for the tax year concerned was paid by more than one hotelier, any credit or refund of tax may be apportioned among those hoteliers in such proportions as the Chief Commissioner considers appropriate.

### **11 Apportionment of liability for tax in certain circumstances**

- (1) The Chief Commissioner may, in such manner as the Chief Commissioner considers appropriate:
  - (a) apportion the liability for tax as between hoteliers:
    - (i) in any case where there has been a change in the ownership of a hotelier's licence, or
    - (ii) in such other circumstances as the Chief Commissioner considers appropriate, and
  - (b) apportion the liability for tax as between registered clubs:
    - (i) in the event of an amalgamation of a registered club under the [Registered Clubs Act 1976](#), or
    - (ii) in such other circumstances as the Chief Commissioner considers appropriate.
- (2) Subsection (1) (a) does not affect the operation of section 7 (4).

## **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.

- (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,

(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.
- (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.
- (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.

## Part 4 Rebate of tax levied on registered clubs

### 16 Community development and support expenditure (CDSE) scheme

- (1) The Minister administering the *Registered Clubs Act 1976* may from time to time, after consultation with Clubs NSW, publish guidelines (the **CDSE guidelines**) that determine what constitutes the **application of profits to community**



**development and support** for the purposes of this Part.

- (2) The CDSE guidelines must provide for the matters mentioned in Schedule 1.
- (3) Provisions of the CDSE guidelines that from time to time define the terms **Category 1 projects and services** and **Category 2 projects and services** for the purposes of Schedule 1 are to be settled in consultation with Clubs NSW and the Council of Social Service of New South Wales.
- (4) Part 6 of the *Interpretation Act 1987* (sections 39, 42 and 43 excepted) applies to the CDSE guidelines.

#### **17 Tax rebate for community development and support expenditure**

- (1) If the Board is satisfied, on such evidence as the Board may require, that a proportion of prescribed profits has been applied by a registered club to community development and support, the amount of tax payable by the club under section 14 (3), (4) or (5) is by this section reduced by an amount equal to the amount so applied, except as provided by subsection (2).
- (2) The amount by which tax payable under section 14 (3), (4) or (5) is reduced by this section cannot exceed an amount equal to 1.5% of the prescribed profits.
- (3) However, the amount of tax payable under section 14 (3), (4) or (5) is not to be reduced by this section if the Board is satisfied, on the information provided by a CDSE Local Committee in accordance with the CDSE guidelines, that the registered club claiming the reduction has not complied with the CDSE guidelines.
- (4) In this section:

**CDSE Local Committee** means a committee established under the CDSE guidelines.

**prescribed profits** means so much of the profits from gaming machines kept on the premises of a registered club during a tax year as exceeds \$1,000,000.

### **Part 5 Exemption from or deferral of tax**

#### **Division 1 Hardship Review Board**

##### **18 Waiver, deferral and writing off of tax in hardship cases**

The Hardship Review Board constituted under Division 5 of Part 10 of the *Taxation Administration Act 1996* may exercise its functions in relation to tax payable under this Act.

## **Division 2 Exemption from tax liability of certain registered clubs**

### **19 Constitution of Committee**

- (1) There is to be a Committee for the purposes of this Division comprising the following members:
  - (a) the Auditor-General (or a senior officer of the Auditor-General's Office appointed by the Auditor-General),
  - (b) the Secretary of the Treasury (or a senior officer of the Treasury appointed by the Secretary),
  - (c) the Director-General of the Department of Gaming and Racing (or a senior officer of the Department appointed by the Director-General),
  - (d) a person appointed by the Club Industry Advisory Council established by the Minister for Gaming and Racing.
- (2) If a person is not appointed for the purposes of subsection (1) (d), the Minister for Gaming and Racing may appoint a person to be a member of the Committee for the purposes of that paragraph.
- (3) A member of the Committee may appoint a person to act in the place of that member at meetings of the Committee.
- (4) Each member of the Committee has a deliberative vote and, in the event of an equality of votes, the member referred to in subsection (1) (a) has a second or casting vote.
- (5) The procedure for the calling of meetings of the Committee and the conduct of business at those meetings is to be determined by the Committee.
- (6) The Committee is a continuation of the Committee constituted under Division 3 of Part 4 of the *Registered Clubs Regulation 1996* immediately before the commencement of this section.

### **20 Exemption from tax liability in certain cases of hardship**

- (1) The Committee may, by order in writing, exempt a registered club from its liability to pay the whole or part of an instalment of tax if the Committee is satisfied that:
  - (a) a casino was in operation (under the *Casino Control Act 1992*) during the whole or part of the instalment period concerned, and
  - (b) the whole or any part of that casino was within 10 kilometres of any part of the premises of the registered club, and
  - (c) the club first became registered under the *Registered Clubs Act 1976* before 23

April 1993, and

- (d) the club is suffering serious financial hardship as a result of a reduction in the profits from approved gaming machines kept by the club during that instalment period, and
  - (e) the reduction in profits is reasonably attributable to the availability of poker machines in the casino during that instalment period, and
  - (f) the exemption is necessary to alleviate or assist in the alleviation of that hardship.
- (2) The Chief Commissioner is to be notified of, and is to give effect to, any order by the Committee under this section.
- (3) Notice of the order is also to be given to the registered club to which the order relates.

## **21 Application for exemption**

- (1) An exemption under this Division may be granted on application by the registered club concerned.
- (2) An application (and any exemption granted on the application) can relate to one instalment of tax only. Further applications in respect of an instalment period can be made.
- (3) An application must be in writing and be accompanied by:
  - (a) a copy of the income and expenditure statement and balance sheet for the registered club in respect of the 3 financial years immediately preceding the application, and
  - (b) such other information and documentation as the Committee may request, being information and documentation that it reasonably requires to determine the application.
- (4) The Committee may require an application and the details and information accompanying an application to be verified by statutory declaration.

## **22 Effect of previous refusal by Hardship Review Board**

The Committee cannot grant an exemption under this Division in respect of the liability of a registered club to pay an instalment of tax if:

- (a) the registered club has made an application to the Hardship Review Board for that Board to waive, defer or write off the tax concerned, and
- (b) the Hardship Review Board has refused the application.

## **Part 6 Miscellaneous**

### **23 Registered clubs with distinct premises**

In respect of a registered club whose premises include two or more areas that are determined by the Board to be separate and distinct premises, the provisions of this Act apply as though each of those premises were a separate registered club, and a reference in those provisions to a gaming machine kept on the premises of the club is to be construed accordingly.

### **24 Proceedings for offences**

Proceedings for an offence under this Act or the regulations may be dealt with summarily before a Local Court constituted by a Magistrate sitting alone or before the Licensing Court constituted in accordance with section 9 of the *Liquor Act 1982*.

### **25 Regulations**

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

### **26 Review of Act**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

### **27 Savings and transitional provisions**

Schedule 2 has effect.

### **27A Arrangements for 2003 tax year**

Schedule 2A has effect.

### **28-30 (Repealed)**

## **Schedule 1 Mandatory provisions for guidelines on Community Development and Support Expenditure (CDSE) Scheme**

(Section 16)

### **1 Minimum proportion of profits to be expended on Category 1 projects and services**

Of the funds claimed by a registered club to have been applied to community development and support:

- (a) amounts of not less than 0.75% of prescribed profits (within the meaning of section 17) must have been applied to Category 1 projects and services that comprise community welfare and social services, community development, community health services and employment assistance activities, and
- (b) the balance may be applied to Category 2 projects and services.

### **2 (Repealed)**

### **3 Community priorities identified by CDSE Local Committees**

The CDSE Local Committee for each area of the State in which such a committee is established is to identify the community social expenditure priorities for that area and make the information available to registered clubs (either directly or by furnishing it to Clubs NSW) so that clubs may determine their expenditure with respect to Category 1 projects and services.

### **4 Availability of registered clubs' assistance to be published**

Clubs NSW is to be required to advertise, at times to be prescribed by the CDSE guidelines, in a newspaper circulating throughout the State and in newspapers circulating in regions of the State, that registered clubs are seeking applications for community development and support projects.

### **5 Grants to be accounted for**

A registered club claiming a reduction under Part 4 must:

- (a) take such steps as the CDSE guidelines may prescribe to ascertain, from the recipients of any money applied by the club to community development and support projects, the manner in which the money was applied, and
- (b) verify, by statutory declaration of some appropriate person or in such other manner as the CDSE guidelines may prescribe, all information supporting its claim and the measures taken by it in compliance with paragraph (a).

## **Schedule 2 Savings and transitional provisions**

(Section 27)

### **Part 1 Preliminary**

#### **1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent

on the enactment of the following Acts:

this Act

*Gaming Machines Act 2001*

*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**

### **2 Existing liability to pay duty in respect of gaming machines**

- (1) The repeal by this Act of the provisions of Division 4 of Part 5 of the *Liquor Act 1982* and of Division 2 of Part 10 of the *Registered Clubs Act 1976* does not affect any liability to pay duty, or any entitlement to a rebate of duty, under those provisions that existed immediately before their repeal took effect.
- (2) The repealed provisions are taken to continue to apply to and in respect of:
  - (a) the payment and collection of the duty, and
  - (b) the imposition, payment and collection of any penalty or interest in respect of the duty, and
  - (c) any refund in respect of the duty,as if those provisions had not been repealed.

### **3 Obligation to prepare returns**

The repeal by this Act of any provision of the *Liquor Act 1982* or the *Registered Clubs Act 1976* does not affect the liability of a hotelier or registered club under the provision to compile, lodge or retain copies of a record or return in relation to any thing done or occurring during a period of time that commenced before the repeal took effect, and any such liability is taken to continue as though the provision had not been repealed.

#### 4 Arrangements for collection of tax

(1) In this clause:

**duty** means duty payable under the repealed provisions.

**repealed provisions** means:

- (a) Division 4 of Part 5 of the *Liquor Act 1982*, and
- (b) Division 2 of Part 10 of the *Registered Clubs Act 1976*.

(2) An authorisation in writing, executed by or on behalf of a hotelier or registered club, that was effective to permit the Board to appropriate, by automatic debit from the accounts of the hotelier or club at a bank or financial institution, amounts payable as or in respect of duty under the repealed provisions, by force of this clause has effect to permit similar appropriations by the Chief Commissioner for the purpose of collecting tax.

#### 5 Expenditure guidelines in connection with rebate

Guidelines published under section 87 of the *Registered Clubs Act 1976*, as in force immediately before the repeal of that section took effect, are taken to be the CDSE guidelines published under section 16 of this Act and may, under that section, be varied or replaced by subsequent publications.

### 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.

## 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%.

(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.

#### **Schedules 3-5 (Repealed)**