



New South Wales

Betting Tax Amendment (Point of Consumption) Bill 2018

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to provide for the imposition of a point of consumption betting tax, being a tax imposed on the wagering revenue of betting operators calculated by reference to bets placed by persons who are located in NSW.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on 1 January 2019.

Schedule 1 Amendment of Betting Tax Act 2001 No 43

Schedule 1 [4] inserts proposed Part 4 (proposed sections 13–13S) into the *Betting Tax Act 2001* (the *principal Act*) to impose the proposed point of consumption betting tax (*point of consumption tax*).

Division 1 of the proposed Part (proposed sections 13–13B) contains certain preliminary and interpretative provisions. The Division, amongst others, contains definitions for the following terms:

- (a) *bet*,
- (b) *betting operator*,
- (c) *net NSW wagering revenue*,
- (d) *NSW bet*.

Division 2 of the proposed Part (proposed sections 13C–13E) deals with the imposition of the point of consumption tax. Proposed section 13C provides that a betting operator is liable to pay point of consumption tax on the operator’s net NSW wagering revenue for a financial year. The tax is payable at the rate of 10% of the amount by which the net NSW wagering revenue exceeds \$1,000,000. The tax is to be paid monthly with a reconciliation after the end of the financial year concerned.

Division 3 of the proposed Part (proposed sections 13F–13I) deals with the registration of betting operators.

Division 4 of the proposed Part (proposed sections 13J and 13K) deals with the lodging of monthly returns by betting operators.

Division 5 of the proposed Part (proposed section 13L) provides that a betting operator must, when receiving a bet, take reasonable steps to identify the location of the person making the bet. Failure to do so is an offence carrying a maximum penalty of 100 penalty units. A betting operator may rely on the following as being the location of a person making a bet with the betting operator:

- (a) for an individual—an address given to the betting operator by the individual as the individual’s residential address,
- (b) for a corporation—an address given to the betting operator by or for the corporation as the corporation’s principal place of business.

However, that provision will not apply if the betting operator knows, or has reasonable grounds to suspect, that the address is not the location of the person when the bet is made.

Division 6 of the proposed Part (proposed sections 13M–13O) provides for the payment of amounts of money to certain bodies and funds. Proposed section 13M provides that an amount equal to 2% of taxable net NSW wagering revenue generated during each financial year is to be paid to Racing New South Wales, Harness Racing New South Wales and Greyhound Racing New South Wales. Proposed section 13N provides that, for the period from 1 January 2019 to 30 June 2019, \$2,500,000 is to be paid to the Responsible Gambling Fund established under section 115 of the *Casino Control Act 1992* and dealt with under a trust deed dealing with purposes relating to responsible gambling. Further appropriations may be made for subsequent financial years for similar payments to the Responsible Gambling Fund. Proposed section 13O provides that, for the period from 1 January 2019 to 30 June 2019, \$2,000,000 is appropriated for payment to the Greyhound Welfare and Integrity Commission.

Division 7 of the proposed Part (proposed section 13P) provides that a holder of a licence under the *Totalizator Act 1997* (a **totalizator licensee**) is entitled, for a financial year, to an offset against the point of consumption tax payable by the licensee in an amount equal to the sum of the following:

- (a) the amount of betting tax under Part 2 of the principal Act paid by the licensee for that financial year less any offset for the financial year under proposed substituted section 11 (see below),
- (b) the tax reduction amount for that financial year paid by the licensee under section 70 of the *Totalizator Act 1997*.

Division 8 of the proposed Part (proposed section 13Q) deals with multi-jurisdictional agreements for the collection of point of consumption tax.

Division 9 of the proposed Part (proposed sections 13R and 13S) deals with miscellaneous matters, including regulation-making powers and a provision dealing with avoidance of point of consumption tax (including an offence of avoiding or attempting to avoid point of consumption tax).

Schedule 1 [1] provides that it is the intention of Parliament that the principal Act should, as far as possible, have extraterritorial operation.

Schedule 1 [2] and [3] replace the refund of current betting taxes to which the holder of a totalizator licence is entitled with an offset against those current betting taxes. The new offset is calculated by reference to certain excluded commissions, excluded net earnings and other revenue of the totalizator licensee.

Schedule 1 [5] omits section 18 (Proportion of tax paid in respect of totalizator on non-racing events to be paid into Sport and Recreation Fund) from the principal Act.

Schedule 1 [6]–[8] make amendments of a savings and transitional nature.