



Tabled by Mr Tudhope  
23/6/2022

**STATE REVENUE LEGISLATION AMENDMENT BILL 2022  
STATEMENT OF PUBLIC INTEREST**

**Need: Why is the policy needed based on factual evidence and stakeholder input?**

***Point of Consumption Tax and Betting Tax Settings***

A 15 per cent Point of Consumption tax rate would align New South Wales's point of consumption tax with most other jurisdictions, while allowing the online betting market to continue to grow.

Adjusting the Point of Consumption tax rate to 15 per cent and the effective betting tax rates (including totalizator and fixed odds bets) charged under the *Betting Tax Act 2001* to 15 per cent will ensure all wagers placed in NSW are taxed at the same rate, regardless if the bet is placed online or offline, and no matter of the product or operator with whom the bet is placed, the tax rate will be the same. This is an important step towards competitive neutrality.

Additionally, the basis of industry funding provided under the *Betting Tax Act 2001* will change from being 2 per cent of net wagering revenue to 33 per cent of collected Point of Consumption tax. The Review of the Point of Consumption tax noted that, in 2020-21, the racing industry received \$52.9 million which is equivalent 33 per cent of Point of Consumption Tax revenues collected in NSW.

A uniform tax rate of 15 per cent applicable to all wagering operators and betting products would allow the Government to continue to support the racing industry over time. Setting the support at 33 per cent of Point of Consumption Tax collected maintain the same proportion of Point of Consumption revenue funding to the racing industry in the future and align the basis of the calculation with other States and Territories.

***Foreign Investor Surcharge Land Tax***

The Foreign Investor Surcharge land tax was introduced in 2017 to ensure that foreign investors contributed to the funding of essential services in NSW. Increasing the rate to 4 per cent will increase tax revenue by \$294 million and will ensure that foreign investors contribute to fiscal repair.

***Aged Care Workforce Bonus Payroll Tax Exemption***

Under current NSW payroll tax laws, payments under the Commonwealth's Aged Care Workforce Bonus Payment program would be regarded as wages when passed on to employees. This would mean aged service care providers would be required to pay payroll tax on the bonus payments, which may create a disincentive for those providers to participate in the program and is not the intention of the Commonwealth grant. The proposed payroll tax exemption will remove this disincentive for providers to pay these bonuses.

**Objectives: What is the policy's objective couched in terms of the public interest?**

***Point of Consumption Tax and Betting Tax settings***

The Review of the Point of Consumption tax found that the tax has been effective in closing the loophole in the pre-existing wagering tax laws by capturing tax on online bets placed in New South Wales and that online wagering operators have remained profitable and continued to grow their market share since the introduction of the tax.

This will ensure that the approximately \$1.8 billion NSW residents spend each year on wagering and betting - on cricket, football, basketball, horse and greyhound racing and other events – is subject to a tax regime that does not favour or penalise operators based on their location or the type of betting products they offer. Adopting a 15 per cent tax rate will also support the ongoing fiscal needs of government.

#### ***Foreign Investor Surcharge Land Tax***

The increase in the Foreign Investor Surcharge land tax is intended to support fiscal repair. There is a public interest in strong financial management and retaining the triple-A credit rating.

#### ***Aged Care Workforce Bonus Payroll Tax Exemption***

The amendments to the *Payroll Tax Act 2007* ensure that payments under the Commonwealth's program, which are paid to aged care service providers and passed onto employees, are exempt from payroll tax. This will remove the disincentive for aged care service providers to participate in the program, and help those providers retain and attract aged care workers both in the residential aged care and home care environments.

#### **Options: What alternative policies and mechanisms were considered in advance of the bill?**

##### ***Point of Consumption Tax and Betting Tax settings***

The NSW Government undertook a review of the Point of Consumption Tax after 18 months of operation. The purpose of the review was to consider:

- the Point of Consumption Tax rate and threshold
- existing wagering tax arrangements
- racing industry funding arrangements implemented at the time of the Point of Consumption Tax introduction
- impacts on the wagering and racing industries; and
- any other policy or administrative issues associated with the Point of Consumption Tax.

The Review included public consultation following the release of a consultation paper. The review of the Point of Consumption Tax considered potential changes to the tax rate and the impact on the industry in other jurisdictions after recent increases to the tax rate.

The review found that from 2010 to 2019 online wagering across racing and sports experienced significant growth, more than doubling in Australia and increasing by 10% in NSW. From 2019 to 2020, online wagering grew 64 per cent and a further 36 per cent in 2020 to 2021. As a result, the overall performance of the Point of Consumption Tax system was analysed and its findings noted that online gambling activity would likely see continued growth even if a higher tax rate were adopted in NSW.

State based taxes are important sources of revenue within the control of the NSW Government, to meet increasing demands for services and infrastructure. Despite the increase in the Point of Consumption Tax rate, the industry is expected to continue to grow.

#### ***Foreign Investor Surcharge Land Tax***

Alternative rate increases and retaining the surcharge rate at 2 per cent were considered in advance of the bill.

#### ***Aged Care Workforce Bonus Payroll Tax Exemption***

The removal of the disincentive to participate in the aged care bonus scheme can only be made by way of legislative amendment to the *Payroll Tax Act 2007* to fully exempt payments made to aged care workers under the Aged Care Workforce Bonus Payment program.

**Analysis: What were the pros/cons and benefits/costs of each option considered?**

***Point of Consumption Tax and Betting Tax settings***

The Point of Consumption Tax Review noted that most states with Point of Consumption Tax regimes have a rate of 15 per cent (rather than 10 per cent). Online gambling activity would likely see continued growth if a comparable higher tax rate were adopted in NSW.

Adjusting the Point of Consumption Tax and Betting Tax at 15 per cent will enhance competitive tax neutrality across comparable betting products (including totalizator licensee fixed odds and totalizator tax rates) to provide a uniform tax rate in NSW on all wagering products and for all operators.

***Foreign Investor Surcharge Land Tax***

Increasing the Foreign Investor Surcharge land tax will likely result in a fall in foreign investors as a share of property transactions, resulting in lower residential transfer duty and Foreign Investor Surcharge transfer duty. However, this is expected to be more than offset by the increase in Foreign Investor Surcharge land tax revenue from the higher surcharge rate.

Alternative rate increases were associated with different impacts on the number of foreign investor transactions and the corresponding revenue impact. The 4 per cent rate provided the highest revenue uplift without negatively impacting the number of foreign investor transactions too much to offset the increase in surcharge land tax.

***Aged Care Workforce Bonus Payroll Tax Exemption***

States and Territories are able to choose to exempt payments made under the Commonwealth's Aged Care Workforce Bonus Payment program under their respective payroll tax legislation. Failing to fully exempt the payments from payroll tax would risk creating a disincentive for aged care service providers to participate in the program, as providers would be liable for payroll tax on any non-exempt payments passed on to their employees under the program. At a time when aged care employees are in high demand, any disincentive that impacted provider participation was considered unacceptable.

**Pathway: What are the timetable and steps for the policy's rollout and who will administer it?**

***Point of Consumption Tax***

If passed by the Parliament, the changes to betting tax rates and industry payments will come into effect from 1 July 2022. Revenue NSW will administer the collection of Point of Consumption Tax revenues. Treasury will continue to administer quarterly payments to the racing industry.

***Foreign Investor Surcharge Land Tax***

The Foreign Investor Surcharge land tax is administered by Revenue NSW.

The Foreign Investor Surcharge land tax is paid annually on a calendar year basis. The higher surcharge rate will be applied to the value of a foreign person's aggregate landholdings as at midnight on 31<sup>st</sup> December 2022 for their liability in the 2023 land tax year. Liabilities are generally payable in either one payment - or by three-monthly instalments from February to April each year.

Revenue NSW will advise impacted land tax payers of the change to the surcharge rate ahead of the increase being applied from 1 January 2023. Revenue NSW will include information about the new rate on its website.

### ***Aged Care Workforce Bonus Payroll Tax Exemption***

The payroll tax exemption will apply to payroll tax liabilities for 2021-22. Aged care service providers will be able to exclude exempt wages as part of their 2021-22 annual reconciliation. If payroll tax payments over the financial year have exceeded the revised liability, providers will be able to access a refund. Revenue NSW will include information about the exemption on its website.

### **Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

#### ***Point of Consumption Tax***

The Point of Consumption Tax Review was subject to a public consultation process. A consultation paper was publicly released in February 2021 and included targeted questions to stakeholders.

Treasury extended invites to meet with stakeholders from the wagering and racing industries. Treasury, together with Liquor & Gaming NSW, met with three stakeholders from the wagering industry as part of the Review. These consultations resulted in a note that the impact of the Point of Consumption Tax has not reduced the amount of online gambling in NSW.

The government subsequently met with stakeholders from the wagering and racing industries to discuss potential changes to the Point of Consumption tax and betting tax settings, and racing industry funding.

Treasury engaged with relevant government departments and agencies, such as the Department of Customer Service, in particular, Liquor & Gaming NSW (now part of Department of Enterprise, Investment & Trade), the Department of Premier & Cabinet and Revenue NSW, to update on the proposed legislative changes.

#### ***Foreign Investor Surcharge Land Tax***

Stakeholders were not directly engaged in the development of this policy proposal. This is not unusual when considering taxation changes for revenue measures necessary to support budget outcomes.

### ***Aged Care Workforce Bonus Payroll Tax Exemption***

Proposed legislative amendments to lower the payroll tax liabilities of eligible aged care providers will help them to pass those bonuses on to their employees. Many of these providers would have already participated in earlier Commonwealth financial bonuses for employees. As the program is a Commonwealth grant program, NSW has no direct access to the providers that will apply for support under the Commonwealth grant program.