

## State Revenue Legislation Amendment Bill 2003

### Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.  
This Bill is cognate with the *Appropriation Bill 2003*.

### Overview of Bill

The objects of this Bill are as follows:

- (a) to remove the concessional rate of duty that is currently payable on mortgages associated with debenture issues,
- (b) to change the tax payable on gaming machines by hoteliers and registered clubs and to change the tax year in respect of which gaming machine taxes are payable,
- (c) to increase the parking space levy payable for 2003 and to provide for the automatic annual indexation of that levy,
- (d) to impose pay-roll tax on employer contributions to employee share schemes and on any similar contribution provided by way of remuneration to a company director or member of the governing body of a company,
- (e) to impose pay-roll tax on any amount payable to a director or member of the governing body of a company (or a former director or member), as a consequence of a termination of services or office, that would be an eligible termination payment under the relevant Commonwealth legislation had it been paid as a consequence of termination of employment,
- (f) to exempt from pay-roll tax wages paid or payable to certain trainees,
- (g) to make other consequential and ancillary amendments.

### 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.

**Clause 3** is a formal provision that gives effect to the amendments to the Acts specified in Schedules 1–4.

### Schedule 1 Amendment of Duties Act 1997

At present, mortgage duty on certain mortgages that are associated with the issue of debentures by a corporation is charged at a concessional rate under section 226 of the *Duties Act 1997*. The amendments put an end to that concession, with effect on the date this Bill is introduced in the Legislative Assembly (***the cut-off date***). The concession will not apply in respect of mortgages executed, and debentures subscribed for, on or after the cut-off date. If a further advance is made after the cut-off date, secured by a mortgage executed before the cut-off date, ordinary mortgage duty will be chargeable in respect of the advance.

The other amendments set out in Schedule 1 are consequential or ancillary amendments, including provisions of a savings and transitional nature.

### Schedule 2 Amendment of Gaming Machine Tax

#### Act 2001

The amendments change the gaming machine tax payable by hoteliers and registered clubs with effect on the following dates:

- (a) in the case of the gaming machine tax payable by hoteliers—1 July 2004,
- (b) in the case of the gaming machine tax payable by registered clubs—1 September 2004.

The new rates will continue to change annually until 2010. The relevant rates are set out in **Schedule 2 [4]**.

Under the *Gaming Machine Tax Act 2001*, gaming machine taxes are assessed on the basis of a tax year. At present, that tax year commences on 1 October for

hoteliers and 1 December for registered clubs. As the new tax rates take effect on 1 July 2004 and 1 September 2004 respectively, it is necessary to bring forward the commencement of the 2004 tax year for both hoteliers and registered clubs. Consequently, the tax year commencing in 2003 will be a period of 9 months only and special arrangements will apply to the payment of tax in that tax year. In particular, all annual tax thresholds will be reduced by 25%, to allow for the shorter tax year. However, the amounts required to be paid in each 3-month instalment period will remain unchanged until the new rates take effect in 2004. See **Schedule 2 [1] and [9]**.

The other amendments set out in Schedule 2 are consequential and ancillary amendments, including provisions of a savings and transitional nature.

### **Schedule 3 Amendment of Parking Space Levy**

#### **Act 1992**

The amendments increase the parking space levy payable in 2003, so as to account for changes in the consumer price index since September 2000. The new rates (set out in **Schedule 3 [4]**) are as follows:

(a) in the case of a parking space in a Category 1 area (the City of Sydney and any other area prescribed by the regulations as a Category 1 area)—\$840 (currently \$800),

(b) in the case of a parking space in a Category 2 area (any area prescribed by the regulations as a Category 2 area)—\$420 (currently \$400).

The amendments also provide for the automatic annual indexation of the parking space levy. This replaces a current provision that allows CPI adjustments to the levy to be made on a discretionary basis. See **Schedule 3 [5]**.

The other amendments set out in Schedule 3 are consequential and ancillary amendments, including provisions of a savings and transitional nature.

### **Schedule 4 Amendment of Pay-roll Tax Act 1971**

#### **Contributions to share schemes**

Under the amendments, the value of any contribution to a share scheme that is provided or liable to be provided to or in relation to an employee will constitute wages for the purposes of the *Pay-roll Tax Act 1971*, and be taxable accordingly.

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 such units, whether directly or indirectly, to or in relation to an employee in respect of services performed or rendered by the employee. See **Schedule 4 [5]**.

The amendments provide for the method of determining the value of such a contribution. In particular, if the contribution is a share, unit in a unit trust scheme or right to acquire a share or unit, provision is made for calculating the market value of that share, unit or right, based on the quoted price of the share, unit or right, an independent valuation or another approved method. See

**Schedule 4 [5] and [9]**.

Similar provisions will apply in respect of any contribution made to a share scheme by a company, by way of remuneration, to a director or member of the governing body of the company (or a former director or member). The value of any such contribution will constitute wages for the purposes of the *Pay-roll Tax Act 1971* and be taxable accordingly. See **Schedule 4 [5]**. (Amounts actually paid or payable by way of remuneration to a director or a member of the governing body of a company are already taxable as wages under section 3AA of the *Pay-roll Tax Act 1971*.)

In addition, similar provisions will apply in respect of contributions made to a share scheme by employers of contract workers. The *Pay-roll Tax Act 1971* treats persons who supply services under certain contracts as employees for the purposes of the Act, and any person to whom services are supplied under the contract is treated as an employer. Amounts paid under the contract are taxable

as wages accordingly. The amendments make it clear that the provisions relating to contributions to share schemes also apply in respect of such contract workers. That is, any such share scheme contributions will also constitute wages and be taxable accordingly. See **Schedule 4 [6]**.

#### **Termination payments**

At present, the *Pay-roll Tax Act 1971* provides that an amount that constitutes an eligible termination payment under the *Income Tax Assessment Act 1936* of the Commonwealth is wages for the purposes of the Act and is taxable accordingly.

The amendments make similar provision in respect of termination payments paid to directors or members of the governing body of a company. Any payment made to or in relation to a director or member of the governing body (or a former director or member) as a consequence of the termination of the services or office of the director or member, that would be an eligible termination payment under the Commonwealth legislation if it had been made as a consequence of termination of employment, will be taken to constitute wages and be taxable accordingly. See **Schedule 4 [2]**.

#### **Exemption for trainees**

The amendments exempt from pay-roll tax, with effect from 1 January 2004, wages paid or payable to persons who are trainees under the *Apprenticeship and Traineeship Act 2001*. Wages paid or payable to apprentices are already exempt from pay-roll tax. The exemption will not apply in respect of trainees who are registered as existing worker trainees under that Act. See **Schedule 4 [7] and [8]**.

#### **Consequential and ancillary amendments**

The other amendments set out in Schedule 4 are consequential and ancillary amendments, including provisions of a savings and transitional nature.