

**State Revenue and Other Legislation
Amendment (Budget Measures)
Bill 2006**

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.
This Bill is cognate with the *Appropriation Bill 2006*.

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Gaming Machine Tax Act 2001* to change the gaming machine taxes payable by registered clubs,
- (b) to repeal the *Appropriation (Health Super-Growth Fund) Act 2003*, close the Fund under that Act and transfer its contents to the General Government Liability Management Fund established under the *General Government Liability Management Fund Act 2002*,
- (c) to amend the *Land Tax Management Act 1956* to enable land tax to be assessed on the basis of an average valuation of land, and to make further provision for the calculation of the tax free threshold,
- (d) to amend the *NSW Self Insurance Corporation Act 2004* to allow the Treasurer to direct that funds that are surplus to the requirements of the Self Insurance Fund be paid out of that Fund and used and applied for the purposes of the Crown Finance Entity,
- (e) to amend the *Taxation Administration Act 1996* for statute law revision purposes, and to make it clear that persons who overpay land tax on the basis of a land value that is later changed are entitled to a refund, and interest, on the overpayment,
- (f) to make amendments to the *Pay-roll Tax Act 1971* and the *Public Finance and Audit Act 1983* that are mainly consequential on the enactment of the *Public Sector Employment Legislation Amendment Act 2006* (which, among other things, removed the employment powers of certain statutory corporations and provided instead for the staff concerned to be employed by the Crown in Divisions of the Government Service),
- (g) to provide for certain cultural institutions to be subject to Ministerial control as is the case at present with other similar institutions,
- (h) to expand the membership of Tourism New South Wales.

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 giving effect to the amendments set out in Schedules 1–6.

Clause 4 repeals the *Appropriation (Health Super-Growth Fund) Act 2003*. The Fund under that Act is closed and the contents transferred to the General Government Liability Management Fund. (See further Schedule 2.)

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

**Schedule 1 Amendment of Gaming Machine Tax Act
2001 No 72**

Schedule 1 [1] changes the tax payable by registered clubs on profits from gaming machines, with effect on 1 September 2006 (the beginning of the next tax year for registered clubs). At present, the tax rates payable for the 2006 tax year range from 10.5% of gaming machine profits to 26.9% of gaming machine profits, with the first

\$200,000 of profits being tax free. But for this Bill, those tax rates (other than the first tax rate) would increase slightly in subsequent tax years.

The amendments provide for tax rates in the 2006 tax year ranging from 10% of gaming machine profits to 27.7% of gaming machine profits. The lowest rate applies to clubs with gaming machine profits not exceeding \$1 million, while the highest rate applies to clubs with gaming machine profits of or exceeding \$10 million. The first \$200,000 of profits remains tax free.

In the 2007 tax year and subsequent tax years, clubs with gaming machine profits not exceeding \$1 million will pay no tax. Clubs with gaming machine profits exceeding \$1 million but not exceeding \$1,800,000 will pay tax on the basis of a sliding tax free threshold. The first \$200,000 is tax free for all clubs. The tax rates will range from 10% to 30.9% of gaming machine profits.

Quarterly instalments of tax are to be based on a notional calculation of annual profits, making allowance for any rebate (of up to 1.5%) that may be available for spending on community development and support by the registered club.

Schedule 1 [2] is a consequential amendment.

Schedule 1 [3] provides for the making of savings and transitional regulations as a consequence of the amendments.

The gaming machine changes will have effect in respect of the 2006 tax year and subsequent tax years. **Schedule 1 [4]** makes it clear that the amendments do not affect any liability for tax in respect of the 2005 tax year and previous tax years.

Schedule 2 Amendment of General Government

Liability Management Fund Act 2002

No 60

Schedule 2 [2] makes provision for the closure of the Health Super-Growth Fund.

The assets and liabilities of the Fund are transferred to the General Government Liability Management Fund and may be used as authorised by the *General Government Liability Management Fund Act 2002*. That Fund is used to meet superannuation liabilities of Crown employers.

Schedule 2 [2] also enables the making of savings and transitional regulations as a consequence of the amendments.

Schedule 2 [1] is a consequential amendment.

Schedule 3 Amendment of Land Tax Management

Act 1956 No 26

Schedule 3 [1], [2] and [3] make provision for the assessment of land tax liability on the basis of an average valuation of land. At present, liability is based on the land value of land in any particular year (as calculated by the Valuer-General). The new provisions provide for liability to be based on an average valuation, being an average of the land value of the parcel in the land tax year for which the tax is being levied, and the land value of the parcel in the previous 2 land tax years (to calculate the average, the 3 land values would be added together then divided by 3).

Special provision is made for the calculation of the average value of land where a land value adjustment would be required under the *Land Tax Management Act 1956*, the *Valuation of Land Act 1916* or the *Heritage Act 1977*. In such a case, the average value is to be calculated on the basis of the land value of the parcel in the relevant land tax years before that adjustment, and the adjustment is then applied to the average value. For example, for land tax purposes an allowance for profitable expenditure or subdivision under the *Valuation of Land Act 1916* would be applied to the average value of the land in the year to which the allowance applies, rather than to the land value.

The amendments also make special provision for the calculation of average value where a parcel did not exist in a previous land tax year (because of a recent subdivision). In such a case, the average value is calculated on the basis of the land value figures available since the parcel came into existence.

Schedule 3 [4], [5], [6], [8], [11] and [12] make consequential amendments.

Schedule 3 [7] re-instates a land tax reduction in respect of colliery holdings that is removed from section 9 of the Act as a consequence of the amendments set out in Schedule 3 [2].

Schedule 3 [9] makes a consequential change to the way that land tax liability is calculated when Crown land is leased (in such a case the lessee carries the land tax liability). **Schedule 3 [10]** is a consequential amendment.

Schedule 3 [13] changes the way in which the tax free threshold for land tax is calculated. At present, the tax free threshold is indexed each year on the basis of average changes in property values, as calculated by the Valuer-General. The indexed amount is the tax free threshold. Under the amendments, the tax free threshold will be based on an average of the most recent indexed amount and the indexed amount for the 2 previous land tax years. Accordingly, in the 2007 land tax year, the average of the indexed amounts will be the average of \$342,000 (which is a notional tax free threshold for the 2005 land tax year because there was no tax free threshold in that year), \$352,000 (the tax free threshold for the 2006 land tax year) and the indexed amount for the 2007 land tax year (yet to be calculated by the Valuer-General). However, if the average of the indexed amounts is less than the tax free threshold for the previous land tax year, the tax free threshold will remain as the same amount as the tax free threshold for the previous land tax year.

Schedule 3 [14] enables savings and transitional regulations to be made as a consequence of the amendments.

The land tax changes will have effect in respect of the 2007 land tax year and subsequent land tax years. **Schedule 3 [15]** makes it clear that the amendments do not affect any liability for land tax in respect of the 2006 land tax year or previous land tax years.

Schedule 4 Amendment of NSW Self Insurance Corporation Act 2004 No 106

Schedule 4 [1] allows the Treasurer to direct that any amounts the Treasurer considers to be surplus to the requirements of the Self Insurance Fund be paid out of the Fund. Any such amounts are taken to be appropriated to the Treasurer and may be issued and applied for or towards the recurrent services, or capital works and services, of the Crown Finance Entity (the entity responsible for the assets, liabilities and transactions that are the overall responsibility of the Government).

Schedule 4 [2] enables savings and transitional regulations to be made as a consequence of the amendments.

Schedule 5 Amendment of Taxation Administration Act 1996 No 97

Schedule 5 [1] makes a statute law revision amendment to remove a note that has become outdated by subsequent changes to the Act.

Schedule 5 [2] makes it clear that if an objection to a land valuation is allowed by the Valuer-General under the *Valuation of Land Act 1916*, and the valuation was used as a basis for the assessment of tax liability (such as land tax liability), the provisions of the *Taxation Administration Act 1996* that require the refund of overpaid amounts and the payment of interest on overpaid amounts apply.

Schedule 6 Miscellaneous amendments to other legislation

Amendments relating to cultural institutions

Schedule 6.1, 6.2 and 6.3 provide for several cultural institutions constituted under legislation administered by the Minister for the Arts to be subject to the control and direction of the Minister. The institutions concerned are the Art Gallery of New South Wales Trust, the Australian Museum Trust and the Library Council of New South Wales. At present, other similar cultural institutions such as the Historic Houses Trust, the Sydney Opera House Trust and the Trustees of the Museum of

Applied Arts and Sciences are subject to Ministerial control.

Amendment of Pay-roll Tax Act 1971

As a result of the *Public Sector Employment Legislation Amendment Act 2006*, the staff of a number of statutory corporations became employees of the Crown in Divisions of the Government Service assigned to those statutory corporations. In order to maintain the pay-roll tax base that previously applied in relation these statutory corporations, **Schedule 6.4** amends the *Pay-roll Tax Act 1971* to ensure that each Division of the Government Service that is assigned to a statutory corporation (or each relevant part of a Division in the case where it is assigned to more than one statutory corporation) is, for pay-roll tax purposes, to be treated as a separate employer for not only the wages of the staff but also for any board fees or relevant contracts that relate to the statutory corporation concerned.

Amendment of Public Finance and Audit Act 1983 and Public Finance and Audit Regulation 2005

Schedule 6.5 [1]–[4] specifically apply the provisions of the *Public Finance and Audit Act 1983* that relate to the administration of public finances (including authorised expenditure and banking arrangements) to all Divisions of the Government Service (and not just Public Service Departments) and to the persons employed in those Divisions. The amendments also bring NSW Police under the definition of **authority** in the Act (removing the need for NSW Police to be prescribed as an authority by the regulations).

Schedule 6.5 [5] and [6], along with the deletion of clause 14 of the *Public Finance and Audit Regulation 2005* by **Schedule 6.6**, clarify the circumstances in which an officer of an authority may incur or commit expenditure or authorise payments for any authority. The amendments remove any uncertainty as to whether an officer of an authority can, within the limits of a delegation conferred on the officer by a person entitled to make the delegation, be authorised to incur or commit expenditure and approve payments for an authority other than the authority in which the officer is employed.

Schedule 6.5 [7] enables savings and transitional regulations to be made as a consequence of the proposed amendments.

Amendments relating to Tourism New South Wales

Schedule 6.7 [1] expands the membership of Tourism New South Wales to include an additional appointed member as well as the person who holds office as the Director-General of the Department of State and Regional Development (or that person's nominee). **Schedule 6.7 [2], [3] and [5]–[7]** are consequential amendments.

Schedule 6.7 [4] makes it clear that the annual report of Tourism New South Wales can be included in the annual report of any Department that is responsible to the Minister for Tourism and Sport and Recreation.

Schedule 6.7 [8] and [9] enable savings and transitional regulations to be made as a consequence of the proposed amendments.