

Australian Capital Territory

Taxation Administration Amendment Regulation 2024 (No 1)

Subordinate law SL2024–32

made under the

Taxation Administration Act 1999, s 97 (1) (e) (xix) (Other permitted disclosures)

EXPLANATORY STATEMENT

This explanatory statement relates to the *Taxation Administration Amendment Regulation 2024 (No 1)* (**the Regulation**) as made by the Executive. It has been prepared to assist the reader of the regulation. It does not form part of the Regulation and has not been endorsed by the Legislative Assembly.

This statement must be read in conjunction with the Regulation. It is not, and is not meant to be, a comprehensive description of the Regulation. What is said about a provision is not taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

BACKGROUND

The Regulation amends the information-sharing provisions in the *Taxation Administration Regulation 2004* to support the administration of the offsets under Part 2A of the *Gaming Machine Act 2004* in light of the expansion of offset amounts made under the *Gaming Machine (Offset Amounts) Amendment Regulation 2024 (No 1)*.

In the *Parliamentary Agreement for the 9th Legislative Assembly*, the ACT Government committed to reducing the number of gaming machine authorisations to 4,000 by 1 July 2020 as part of a range of measures intended to reduce gambling harm.

The ACT Government introduced incentives for gaming machine licensees that voluntarily surrender gaming machine authorisations by establishing a legislative framework through the *Gaming Legislation Amendment Act 2018* (the Amendment Act). The Amendment Act inserted Part 2A into the *Gaming Machine Act 2004*, providing for a financial incentive for clubs that voluntarily surrender authorisations by allowing clubs to exchange their surrenders with offset amounts. The offset amounts could be applied against amounts payable to the Territory relating to a range of government land, lease and planning and development charges.

Section 10H of the *Gaming Machine Act 2004*, together with the *Gaming Machine (Offset Amounts) Regulation 2018*, provide for the fees, charges and other amounts

against which clubs are able to apply offset amounts. Section 10H allows for a regulation to prescribe further amounts. The *Gaming Machine (Offset Amounts) Amendment Regulation 2024 (No 1)* expands offset amounts to include duties payable on dutiable transactions under Chapters 2 and 3 of the *Duties Act 1999*. The Regulation will support the information-sharing arrangements between a tax officer and other prescribed persons to support administration of the expanded offset amounts.

OVERVIEW OF THE REGULATION

The Regulation amends the *Taxation Administration Regulation 2004* to prescribe the Gambling and Racing Commission, gaming officers, and the director-general of the administrative unit responsible for the *Gambling and Racing Control Act 1999* (currently the Justice and Community Safety Directorate) as persons prescribed under section 97 (1) (e) (xix). This amendment is made in connection with the *Gaming Machine (Offset Amounts) Amendment Regulation 2024 (No 1)* to enable a tax officer to disclose to these prescribed persons information obtained in relation to the administration of the *Duties Act 1999* for the purpose of administering Part 2A of the *Gaming Machine Act 2004*.

The *Gaming Machine (Offset Amounts) Amendment Regulation 2024 (No 1)* prescribes duties payable on dutiable transactions under Chapters 2 and 3 of the *Duties Act 1999* as offset amounts under section 10H of the *Gaming Machine Act 2004*. As a result of this Regulation, clubs which obtained offset amounts from surrendering gaming machine authorisations under Part 2A of the *Gaming Machine Act 2004* are now able to offset duties that become payable when directly or indirectly acquiring dutiable property (or other dutiable transactions) or acquiring an interest in a landholder that owns land in the ACT.

The *Duties Act 1999* is a ‘tax law’ as defined under section 4 of the *Taxation Administration Act 1999*. The *Duties Act 1999* imposes duties on transfers of dutiable property which can include land or other dutiable transactions such as a declaration of trust. Dutiable property includes land which includes residential, primary production or commercial properties. Duty is imposed on relevant acquisitions in landholders because ownership of land in the ACT is indirectly transferred. The Regulation will support information-sharing arrangements to allow a tax officer to disclose relevant information to prescribed persons to support the administration of offsets against duties under the *Duties Act 1999* by clubs using offset amounts under a voluntary surrender agreement entered into with the Territory under the Part 2A of the *Gaming Machine Act 2004*.

REGULATORY IMPACT STATEMENT

Section 34 of the *Legislation Act 2001* requires the preparation of a regulatory impact statement where a subordinate law is likely to impose appreciable costs on the community, or a part of the community.

The Regulation supports support information-sharing arrangements to allow a tax officer to disclose relevant information to prescribed persons to support the administration of offsets against duties under the *Duties Act 1999* and does not

impose an appreciable cost on the community or part of the community. Therefore, a regulatory impact statement has not been prepared in this instance.

CLIMATE IMPACT

The Regulation will not have an impact on emissions production or abatement.

CONSISTENCY WITH HUMAN RIGHTS

The Regulation does not engage any human rights set out in the *Human Rights Act 2004* as the offset amounts are only accessible under a voluntary surrender agreement entered into by a gaming machine licensee and the Territory. Eligibility for offset amounts is restricted to gaming machine licensees that are clubs, and all club licensees operate within a corporate or incorporated association structure.

CLAUSE NOTES

Clause 1 Name of regulation

Clause 1 names the Regulation as the *Taxation Administration Amendment Regulation 2024 (No 1)*.

Clause 2 Commencement

Clause 2 provides for the commencement of the Regulation on the day after its notification day.

Clause 3 Legislation amended

Clause 3 provides that the Regulation amends the *Taxation Administration Regulation 2004*.

Clause 4 New section 4 (5A)

Clause 4 inserts new section 4 (5A) to prescribe the Gambling and Racing Commission, a gaming officer, and the director-general the administrative unit responsible for the *Gambling and Racing Control Act 1999* as persons to whom a tax officer may disclose information obtained under or in relation to the administration of a tax law. Permitted disclosures are limited to information that are for the purpose of administering the voluntary surrender scheme under Part 2A of the *Gaming Machine Act 2004*.

Clause 5 Section 4 (6), new definitions

Clause 5 inserts signpost definitions for the terms ‘commission’ and ‘gaming officer’. These terms are defined in the *Gambling and Racing Control Act 1999*.