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**PAPER FOR TABLING**

**GAMING MACHINE TAX REBATE STATUTORY REVIEW - REPORT**

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**ACT**  
Government

# GAMING MACHINE TAX REBATE STATUTORY REVIEW – REPORT

Justice and Community  
Safety Directorate

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## BACKGROUND

The ACT Government's vision is for a strong, sustainable, diverse and community-focused club sector.

The *Supporting Local Community Clubs Policy*, released in September 2016, included a commitment to introduce a gaming machine tax rebate to allow small and medium clubs and club groups to retain 50 per cent of the amount of gaming machine tax otherwise payable. These 'small and medium clubs' include those clubs or club groups that receive not more than \$4 million Gross Gaming Machine Revenue (GGMR) per annum. Eligibility for the rebate takes into account GGMR across all of a club group's venues.

The intent of the gaming machine tax rebate was to allow smaller local community clubs to retain more of their gaming revenue to reinvest in their organisation, allowing them to diversify their income streams away from gaming revenue. This would support small and medium clubs in the ACT to focus on delivering community benefits, such as sport, music, arts and other culturally diverse activities.

Legislative changes to introduce the rebate were included in the *Gaming Machine Amendment Act 2017*. The rebate commenced from 1 July 2017.

As part of these changes, section 179A of the *Gaming Machine Act 2004* provides that the Minister must:

- > review the operation of section 162A (Gaming machine tax rebate—financial year); and
- > present a report of the review to the Legislative Assembly before 30 November 2019.

### **ACT Club Industry Diversification Support Analysis**

In April 2018, the Government appointed Mr Neville Stevens AO to undertake a *Club Industry Diversification Support Analysis*, to help achieve the Government's commitment to reduce the number of gaming machine authorisations in the Territory and to support clubs to transition away from a dependence on income from these machines.

During the Analysis, clubs made representations about the eligibility criteria to access the rebate. In the *Findings and Recommendations* of the Analysis, released in June 2018, Mr Stevens recommended the Government consider introducing a phased approach to calculating the rebate, which would see the rebate amount received by clubs reduced by 50 cents in every dollar of GGMR over \$4 million.

The Government agreed in-principle with this recommendation in the *Pathway to 4,000 Gaming Machine Authorisations by 2020*. The definitions of 'small or medium club' and 'small or medium club group' in the *Gaming Machine Act 2004* were amended by the *Gaming Legislation Amendment Act 2018*.

Under these changes, all clubs or club groups with GGMR of not more than \$4 million for the financial year, or whose GGMR was not more than \$4 million in 2017-18, are eligible for the rebate. In addition, the amendments provided that where a club is eligible for the rebate based on their 2017-18 GGMR, and their GGMR subsequently exceeds \$4 million, the rebate does not apply to the GGMR amount above \$4 million.

## Conduct of the Review

The ACT Government conducted a review of the operation of the gaming machine tax rebate for small and medium clubs. The review broadly considered whether the rebate has achieved the intent of allowing small and medium clubs to reinvest in their organisation to support the continued financial viability and the contribution of these clubs to the ACT community.

A broader comparative review of gaming machine tax rates and support provided to community clubs more generally was outside the scope of this review.

The review was led by the Justice and Community Safety Directorate. On Monday, 23 September 2019 the *Gaming Machine Tax Rebate Statutory Review – Issues Paper* (the Issues Paper) was released for consultation. Stakeholders were provided until Tuesday, 8 October 2019 to make written submissions to the review.

The Government received nine submissions from the club industry, club industry peak bodies, gambling harm reduction advocates and club workers through their representative union.

The Government has considered all of the input provided by stakeholders in response to the Issues Paper in drafting this review paper.

This report will be tabled in the ACT Legislative Assembly by 30 November 2019.

## FINDINGS AND CONCLUSIONS

1. The Government notes that small and medium clubs are taking steps to diversify their revenue sources away from gaming machines as well as facilitating new services and support for the Canberra community. However, business diversification takes time to implement. While it is clear that the increased availability of funds which has resulted from the rebate has provided a more conducive financial environment for the recipient clubs to invest in other revenue generation activities, further time is needed to determine the degree to which club diversification and sustainability activities are being supported by the gaming machine tax rebate. On this basis, the Government will retain the 50 per cent gaming machine tax rebate for small and medium clubs and club groups at this time.
2. The Government will introduce legislation to the ACT Legislative Assembly:
  - a. removing the current provision where any club eligible for the gaming machine tax rebate in 2017-18 remains eligible for the rebate in perpetuity;
  - b. providing for a phased reduction in the amount of gaming machine tax rebate received by eligible clubs. The rebate amount will be reduced by \$0.50 for every \$1 over \$4 million in GGMR per annum; and
  - c. providing for a further review of the operation of the gaming machine tax rebate, with the review report to be tabled in the Legislative Assembly by 30 November 2022.
3. The Government will undertake further work on the proposal that club eligibility for the rebate be dependent on employment conditions for club workers, in consultation with the club industry and club industry workers, through their representative body.

# THE GAMING MACHINE TAX REBATE IN CONTEXT

## Reducing the harm from gaming machines

The ACT Government has a strong commitment to reducing gambling harm in the Territory, and since 2017, the Government has introduced a number of key reforms in this area. One of the significant reforms was the Government's commitment in the *Parliamentary Agreement for the 9th Legislative Assembly* to reduce the number of gaming machine authorisations to 4,000 by 1 July 2020. In partnership with the club industry, the Government has successfully reduced the number of gaming machine authorisations from 4,946 to 4,001 over the past 12 months.

As part of these reforms, clubs were provided with the option to voluntarily surrender authorisations in exchange for access to cash incentives (for small and medium clubs) or offsets for land-related payments, fees and charges. Participating small and medium clubs received a total of \$648,000 in cash incentives, and \$13,742,500 in offset incentives are available to eligible clubs. Access to this support will make it easier for clubs to create new revenue opportunities that reduce their reliance on gaming machines.

## Reinvesting and diversification support

Over recent years, small and medium clubs have faced considerable financial pressures due in part to changing consumer tastes and gambling behaviours, and some have started to restructure their revenue sources in order to ensure their ongoing financial viability.

In addition to the gaming machine tax rebate, the Government has implemented a range of measures to assist small and medium clubs to diversify. Since 2017, the Government has:

- > provided \$10,000 community club grants to small and medium clubs for the purpose of diversification towards alternative income streams;
- > allowed quarterly (rather than monthly) lodgement of gaming machine tax returns and payments to reduce administrative burden and assist with cashflows; and
- > introduced a small and medium clubs liaison function, located in Access Canberra. This new function works with and supports Canberra clubs by providing a single point of contact for regulatory or administrative issues, including assistance to support diversification activities.

The Diversification and Sustainability Support Fund has been established under the *Gaming Machine Act 2004* to help clubs pursue a future away from gaming machines and support club staff to develop new skills. The Fund includes contributions from industry based on the number of gaming machine authorisations held, matched by Government funding for the first three years of the Fund's operation.

## UPTAKE OF THE REBATE

Clubs pay gaming machine tax on a monthly or quarterly basis. The monthly (and annual) tax rates currently applying to clubs are:

**TABLE 1: CLUB GAMING MACHINE TAX RATES**

Monthly Rate		Annual Rate		Tax Rate
GGMR above	GGMR below	GGMR above	GGMR below	
\$0.00	\$25,000.00	\$0.00	\$300,000.00	0%
\$25,000.01	\$49,999.99	\$300,000.01	\$599,999.99	17%
\$50,000.00	\$624,999.99	\$600,000.00	\$7,499,999.99	21%
\$625,000.00	-	\$7,500,000.00	-	23%

Small clubs that generate GGMR of less than \$25,000 per month (\$300,000 per annum) pay no tax on gaming machine revenue. A total of ten small clubs paid no tax during 2018-19.

A total of nine small and medium clubs have received the rebate since 1 July 2017. The rebate has provided a total of \$852,594 (2017-18) and \$820,405 (2018-19) in tax relief. Clubs who received the rebate are as follows:

**TABLE 2: REBATE RECEIVED BY ELIGIBLE CLUBS**

Venue	2017-18 (\$)	2018-19 (\$)
Magpies Belconnen Golf Club	78,301.68	28,733.85
Magpies Sports Club (closed during 2017-18)	5,069.38	0.00
Belconnen Soccer Club Hawker	106,842.61	87,675.82
Belconnen Soccer Club McKellar	230,817.93	199,732.98
Burns Club	286,416.15	334,223.29
Canberra Irish Club	10,708.56	12,861.02
The RUC at Turner	18,841.49	29,217.86
Canberra Deakin Football Club	100,853.86	102,582.32
Harmonie German Club	14,742.31	25,377.37
<b>Total</b>	<b>852,593.97</b>	<b>820,404.51</b>

# ISSUES RAISED DURING THE CONSULTATION PROCESS

## Reinvesting and diversification activities

The Issues Paper asked stakeholders to comment on whether the rebate has supported clubs to diversify their revenue sources away from gaming machines and facilitated new services and support for the Canberra community.

A number of clubs receiving the rebate provided examples of initiatives they have undertaken since receiving the rebate. This included initiatives to establish new revenue streams and enhance existing non-gaming facilities and services for club patrons.

Initiatives cited as being assisted by the provision of the rebate included:

- > seeking expert advice and analysis on the best use of club land owned by the club adjacent to its club facility
- > progressing a proposal for a new car park development adjacent to the club to cater for increased patronage which has occurred over recent years
- > installing a solar system in order to reduce club annual electricity charges
- > installing a voltage power optimiser so that the club's equipment operates to efficiency standards and therefore further mitigates rising costs of power
- > installing a waste management system to save 50 tonnes of land fill annually
- > investing in improved facilities and increasing the physical size of the club via an outdoor entertainment area in order to attract new patrons to the venue
- > exploring the opportunity to use of a portion of the club's land for an Early Learning Childcare Facility
- > investigating an alternate use for a club site
- > investing in improved football stadium facilities including painting the entire inside of the stadium, repairing the paving at the entrance gates, and erecting a fence at the road entrance to the carpark to prevent graffiti on the building
- > investing in re-painting to the club house
- > commencing a feasibility study to upgrade lighting at the club's football stadium
- > enhancing club function room facilities including new chairs, tables, carpet, dance floor and audio equipment
- > future plans to replace flooring in the foyer, bar and dining areas
- > establishing a new café.

A number of other examples were provided however on request from the stakeholder that the information be treated in-confidence, they are not included in this report.

Some clubs have experienced revenue increases in both gaming and/or hospitality services since receiving the rebate. This is likely due to the efforts directed by clubs towards improving their non-gaming facilities. The improved services have increased club patronage resulting in higher revenue across all club business areas.

One stakeholder submitted that the increase in gaming machine revenue by some clubs is evidence that the rebate is not achieving its intent to incentivise the diversification of revenue streams for clubs away from gaming machines and should therefore be ceased.

A number of stakeholders submitted that changing business models is an expensive, resource intensive and costly process which cannot be achieved in a short time frame. It was argued that smaller clubs are seeking to change their business models in response to changing consumer tastes, demographics and technology, however their capacity to respond to these factors and re-model their businesses is, at best, limited due to cash flow and financial pressures.

Some stakeholders suggested that the Government should consider providing the rebate for five to seven years on the basis that without the support, club diversification would take far longer or not happen at all.

One stakeholder stated in their submission the importance of retaining small and medium clubs within the Canberra community and that they believe the rebate is playing a critical role in helping ensure Canberra retains a healthy mix of small and large clubs:

*The Government's introduction of the gaming tax rebate was a direct response to these pressures on small clubs. It also reflects a recognition by the Government that it is important for Canberra to retain a mix of large and small clubs. This mix provides diversity which is so important to the Canberra community.*

*Small clubs play a key role in promoting multicultural and sporting activities and the embrace of diversity and social inclusion which Canberra is justifiably proud of. Having a mix of big and small club groups is healthy because it delivers different customer experiences, provides people with options, and promotes competition. Were Canberra to lose its smaller clubs the community would be poorer for it.*

*We have already lost almost 20 clubs in the last 15 years – we don't want to lose any more. And the ramifications of a club closing go beyond the impact on members, employees and suppliers. It has a ripple effect into those many community groups that are supported by the clubs through their financial and in-kind contributions.*

One stakeholder stated in their submission that the rebate was creating an uneven playing field for clubs:

*...the existing rebate scheme means that these beneficiary clubs have a larger profit margin in their poker machine account area. Tax is a significant part of poker machine expenses; for non-beneficiary clubs, about 30%. It is a tax on revenue (even on the GST component), not on profit. A club which has a larger profit margin can use funds from that additional margin for promotional purposes within their gaming area. This means that these clubs have a clear and significant competitive advantage over other clubs which don't receive the tax rebate.*

The stakeholder recommended that any tax rebates should be applied equitably, based on a site's gaming machine revenue, via adjustments to existing tax thresholds.

The stakeholder also stated in their submission that the rebate may have the opposite impact of the policy intent and actually discourage clubs to diversify their revenue, given the rebate in effect makes gaming machine revenue more profitable.

One stakeholder stated that access to the rebate should only be provided where a club has demonstrated genuine diversification and has not purchased additional poker machines since the start of the scheme (1 July 2017).

### **Government position**

The Government recognises that smaller clubs make a unique contribution to the economic and social fabric of the Canberra community. Smaller clubs are well placed to offer unique services, support and entertainment to the community.

The Government was clear when introducing the rebate that its intention was to support smaller clubs with tax concessions, to create a more level playing field where smaller clubs remain viable and competitive. Larger clubs and club groups have more resources to direct towards diversification activities.

Land holdings are a significant club asset and a number of clubs have focused their diversification activities on redevelopment of their land. The process of land development is complex, costly and generally takes significant time to complete. In their submissions, clubs provided examples of early work being undertaken, including seeking expert advice and analysis on the best use of club land in order to establish new community facilities. The capital provided to clubs through the rebate will be critical to introducing more diversified income streams.

It is clear from the submissions that clubs receiving the rebate are making efforts to diversify their business models. Business diversification takes time to implement and the degree to which the rebate is supporting club diversification activities to occur will become clearer over time.

On this basis, the Government considers that further time is needed before the contribution of the rebate to diversifying club revenue streams is known.

#### Finding/Conclusion

The Government notes that small and medium clubs are taking steps to diversify their revenue sources away from gaming machines as well as facilitating new services and support for the Canberra community. However, business diversification takes time to implement. While it is clear that the increased availability of funds which has resulted from the rebate has provided a more conducive financial environment for the recipient clubs to invest in other revenue generation activities, further time is needed to determine the degree to which club diversification and sustainability activities are being supported by the gaming machine tax rebate. On this basis, the Government will retain the 50 per cent gaming machine tax rebate for small and medium clubs and club groups at this time.

## **Eligibility for the rebate**

### **Eligibility based on 2017-18 GGMR**

The *Gaming Machine Amendment Act 2018* provides that any club that was eligible for the rebate in 2017-18 remains eligible for a rebate up to \$4 million dollars GGMR. These changes provide that if an eligible club's GGMR exceeds \$4 million, the tax rebate does not apply to the GGMR amount above \$4 million. The Government committed to reviewing this amendment in the review of the gaming machine tax rebate.

Submissions received generally did not express views about maintaining eligibility for the rebate based on 2017-18 gross gaming machine revenue. However, there were strong representations about the need to continue access to the rebate by clubs that are currently receiving it.

## Government position

There is limited rationale for maintaining eligibility criteria at a fixed point in time (2017-18). Club revenue from gaming will change over time and eligibility for the rebate should reflect a club's current GGMR and progress in diversifying their revenue sources away from gaming. As noted above the 50 per cent gaming machine tax rebate for small and medium clubs and club groups will be retained.

The introduction of a phased reduction in the rebate amount received by clubs (see below) will ensure that those clubs that are currently receiving the rebate will not lose access to the entire rebate amount on reaching \$4 million in GGMR, rather it will reduce with each dollar of GGMR exceeding that amount.

### Finding/Conclusion

The Government will introduce legislation to the ACT Legislative Assembly removing the current provision where any club eligible for the gaming machine tax rebate in 2017-18 remains eligible for the rebate in perpetuity.

## **\$4 million threshold for small and medium clubs**

The Issues Paper asked stakeholders to comment on whether maintaining, indexing or reducing the \$4 million threshold best supports the Government's objective to reduce small and medium clubs' reliance on gaming machine revenue.

As outlined in the *Club Industry Diversification Support Analysis* report, under the original structure of the rebate, any additional revenue over \$4 million results in the loss of the entire 50 per cent tax rebate. This equates to nearly \$360,000 per annum for clubs approaching \$4 million GGMR.

As noted above, under the Pathway, as an interim measure, clubs' existing eligibility for the rebate was maintained (based on 2017-18 GGMR) until this review of the tax rebate is completed.

The Analysis report recommended that the rebate be phased or tapered out at a rate of 50 cents for every dollar of GGMR over \$4 million. A phased approach would result in clubs earning up to \$4.718 million in GGMR still being eligible for some amount of rebate.

Phasing down the rebate at the level proposed in the Analysis report is not anticipated to benefit any clubs in the immediate future. Two small and medium clubs/club groups are approaching the threshold.

Rather than phasing the rebate, the \$4 million threshold amount could be indexed (e.g. through an annual Consumer Price Index or similar increase) in future years.

One stakeholder noted in their submission that three club or club groups are the main beneficiaries of the rebate. It was also argued that the rebate should be applied based on the GGMR of each venue (including venues within club groups):

*Rates, electricity, labour, maintenance, water/sewerage, gas, auditing, liquor licenses, building upgrades, entertainment (e.g. live music), promotions, cleaning, security, bank charges, IT costs and staff training are all costs which are fixed to a location. Club sites, whether grouped or not incur these costs, and shouldn't be disadvantaged by having other larger club sites within their group. A rebate scheme should therefore be available to small and medium clubs, without the exclusion for grouped club sites.*

## Government position

As outlined above, the Government has committed to removing the current provision where any club eligible for the gaming machine tax rebate in 2017-18 remains eligible for the rebate in perpetuity. Implementing this change without making any other adjustments to the rebate would mean that the rebate must be repaid in its entirety if a club's annual revenue exceeds \$4 million even by the smallest amount.

Generally, the policy intent behind phasing down or indexation of taxation measures is to allow for, or facilitate, growth so that the taxation measure is not a barrier to growth in income or the industry. The Government's policy objective is not to grow gaming machine revenue, rather to reduce clubs' reliance on this revenue source.

However, if the rebate is not phased down there is a risk the loss of the rebate could undermine a club's diversification efforts. Advice received from stakeholders is that a reasonable period of time is necessary to establish alternate revenue streams. Clubs undertaking fundamental changes to their business model will need greater time and significantly more capital to diversify their operations in a sustainable manner, compared to a club strengthening an existing business model.

On this basis the Government supports the introduction of a phased reduction in the rebate received by clubs at a rate of \$0.50 for every \$1 earned over \$4 million in GGMR in line with the recommendation of Mr Stevens.

### Finding/Conclusion

The Government will introduce legislation to the ACT Legislative Assembly that provides for a phased reduction in the amount of gaming machine tax rebate received by eligible clubs. The rebate amount will be reduced by \$0.50 for every \$1 over \$4 million in GGMR per annum.

## Review of the operation of the rebate

Some stakeholders stated in their submission that an independent review of club self-reported data would improve the transparency of the review and provide an objective assessment of the benefits of the rebate.

### Government position

Conducting an independent review of the rebate after the limited duration of the rebate would not provide value for money as many clubs are only in the early stages of diversification and further time is needed to fully evaluate the efficacy of the rebate.

Additional diversification efforts for small and medium clubs have been implemented by Government. These include the provision of cash and land and planning fee offsets as part of the voluntary surrender of gaming machine authorisations, and the creation from 1 July 2019 of the Diversification and Sustainability Support Fund to provide grants for projects that assist clubs to diversify away from gaming machine revenue.

A further review of the operation of the rebate will be conducted in three years' time. This will allow additional time for the effect of the rebate, and the Government's other efforts to support industry diversification, to be realised.

The review will be tabled in the Legislative Assembly by 30 November 2022.

It will be a matter for the Government of the day to determine whether the review is an independent review.

Finding/Conclusion

The Government will introduce legislation to the ACT Legislative Assembly providing for an independent review of the operation of the gaming machine tax rebate. The review will be tabled in the Legislative Assembly by 30 November 2022.

## Club employment conditions

One stakeholder recommended that club eligibility for the rebate should be dependent on club employment conditions, including payment of workers being at least equivalent to the *Registered and Licensed Clubs Award 2010* and the types of jobs being created in the club industry. It was argued that more secure local jobs (i.e. part or full time rather than casual employment) provide a greater overall benefit to the Canberra community.

### Government position

This is a complex issue that was not canvassed by Government during the consultation process. Further work will need to be undertaken in order to properly assess the implications of this proposal for the club industry.

Finding/Conclusion

The Government will undertake further work on the proposal that club eligibility for the rebate be dependent on employment conditions for club workers, in consultation with the club industry and club industry workers, through their representative body.



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