

# Revenue Legislation Amendment Regulation 2022

## Human Rights Certificate

### Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, Cameron Dick MP, Treasurer and Minister for Trade and Investment provide this human rights certificate with respect to the *Revenue Legislation Amendment Regulation 2022* made under the *Duties Act 2001* and the *Payroll Tax Act 1971*.

In my opinion, the *Revenue Legislation Amendment Regulation 2022*, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

## Overview of the Subordinate Legislation

The objective of the *Revenue Legislation Amendment Regulation 2022* is to amend:

- the *Duties Regulation 2013* to update the list of declared public unit trusts in Schedule 1, part 2 by updating the name of the QIC Growth Fund to QIC Long Term Diversified Fund with effect from 1 May 2020; and remove several funds from the list with effect from the day the amending regulation is made; and
- the *Payroll Tax Regulation 2019* from 1 January 2023 to apply relevant existing provisions to the mental health levy to be imposed under the *Payroll Tax Act 1971* from that date.

### *Duties Regulation 2013* – declared public unit trusts

The *Duties Act 2001* imposes transfer duty on the dutiable value of dutiable transactions. Among other things, a dutiable transaction includes the acquisition or surrender of an interest in a trust that directly or indirectly holds dutiable property in Queensland. However, unit dealings in public unit trusts that hold Queensland dutiable property do not usually attract duty as it is recognised that investments in these trusts are more akin to shareholdings rather than beneficial interests in the underlying trust property.

Chapter 2, part 8, division 7 of the *Duties Act 2001* contains provisions relating to public unit trusts. There are five categories of public unit trusts, including declared public unit trusts. Section 79 of the *Duties Act 2001* states a declared public unit trust is a trust declared under a regulation. Section 4 of the *Duties Regulation 2013* provides unit trusts listed in schedule 1 are declared public unit trusts for chapter 2, part 8, division 7 of the *Duties Act 2001*. For a trust to become a declared public unit trust, it must meet and maintain certain conditions set out in section 4(2) of the *Duties Regulation 2013*.

The QIC Growth Fund (the fund) is a declared public unit trust under the *Duties Act 2001*. The fund was renamed QIC Long Term Diversified Fund, with effect from 1 May 2020. The fund, as renamed, still satisfies the conditions of section 4(2) of the *Duties Regulation 2013* and therefore it is considered appropriate it retain its status as a declared public unit trust.

Several funds on the list of declared public unit trusts have been wound up. Additionally, there are funds on the list which either no longer require declared public unit trust status or do not continue to satisfy the conditions in section 4(2) of the *Duties Regulation 2013*. It is therefore necessary that these funds are removed from the list to ensure the *Duties Regulation 2013* remains current.

### Payroll Tax Regulation 2019 – application to mental health levy

The *Revenue Legislation Amendment Act 2022* amended the *Payroll Tax Act 1971* with effect from 1 January 2023 to impose a mental health levy in relation to taxable wages (for payroll tax purposes) paid or payable from that date. The *Betting Tax and Other Legislation Amendment Act 2022* made further amendments to the *Payroll Tax Act 1971* with effect from 1 January 2023 to support an orderly transition to, and appropriate ongoing administration of, the mental health levy.

Sections 13, 91 and 97 of the *Payroll Tax Act 1971* contemplate that a regulation may be made in relation to particular matters, including relevantly:

- how taxable wages that are paid or payable in kind, but are not fringe benefits under the *Fringe Benefits Tax Assessment Act 1986* (Cth), are to be valued; and
- in relation to taxable wages that are fringe benefits (as defined in the *Payroll Tax Act 1971*), what is to be included in a return lodged under the *Payroll Tax Act 1971* as the value of the fringe benefits paid or payable by an employer.

The *Payroll Tax Regulation 2019* currently provides for such matters. Although taxable wages are to be determined in the same way for the purposes of payroll tax and the mental health levy, particular drafting adopted in the *Payroll Tax Regulation 2019* necessitates amendments being made to ensure the provisions apply appropriately for the mental health levy.

## **Human Rights Issues**

### **Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)**

No human rights have been identified as being engaged or limited by the *Revenue Legislation Amendment Regulation 2022*.

In relation to the amendments to the *Duties Regulation 2013*, the majority of the funds being removed from the list of declared public unit trusts have been wound up. For the three funds that continue to exist, their removal from the list, of itself, does not engage any human rights. As a consequence of the removal, those funds will be subject to the same transfer duty treatment generally applying to dealings in trusts.

The amendments to the *Payroll Tax Regulation 2019* are as a consequence of the *Payroll Tax Act 1971* imposing the mental health levy from 1 January 2023 with reference to the taxable wages paid or payable by an employer (being the same basis on which payroll tax is imposed). The amendments do not impose any additional obligations on a person, but rather, clarify that existing provisions apply to the mental health levy as well as to payroll tax. For instance, an election made by an employer to include estimated value amounts for fringe benefits in returns lodged by the employer will apply for both the mental health levy and payroll tax purposes.

**Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)**

No human rights have been identified as being limited by the *Revenue Legislation Amendment Regulation 2022*.

**Conclusion**

I consider that the *Revenue Legislation Amendment Regulation 2022* is compatible with the *Human Rights Act 2019* because it does not raise a human rights issue.

**CAMERON DICK MP**  
TREASURER  
MINISTER FOR TRADE AND INVESTMENT

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