



Western Australia

## **Taxation Administration Regulations 2003**

Compare between:

[26 Jun 2010, 02-b0-02] and [01 Jul 2010, 02-c0-03]



## **Taxation Administration Regulations 2003**

**1. Citation**

These regulations may be cited as the *Taxation Administration Regulations 2003*<sup>1</sup>.

**2. Commencement**

These regulations come into operation on the day on which the *Taxation Administration Act 2003* comes into operation<sup>1</sup>.

**3. Rate of interest for refunds and credits (section 39)**

The rate of interest payable for the purposes of section 39(2) of the Act is 6% per annum.

**4. Rate of interest for overpaid amounts (section 43)**

The rate of interest payable for the purposes of section 43(3) of the Act is 6% per annum.

**5. Rate of interest for outstanding amounts (section 47)**

The rate of interest payable for the purposes of section 47(3) of the Act is 12% per annum.

*[Regulation 5 amended in Gazette 13 Aug 2004 p. 3253; 28 Feb 2007 p. 639; 14 Mar 2008 p. 837.]*

**5A. Special tax return arrangements — corrections and alterations (section 50(1)(f))**

- (1) An online arrangement may authorise the responsible party to correct an error of any of the following kinds made in a self-assessment made under the arrangement —
  - (a) a typographical error;
  - (b) an incorrect selection from a list of items;
  - (c) incorrectly entering information more than once;
  - (d) any other error of a minor clerical nature.
- (2) An online arrangement may authorise the responsible party to alter a self-assessment of the duty payable on a transaction or instrument if —
  - (a) the responsible party has made an error of the kind referred to in subregulation (1); and
  - (b) as a result of the error an incorrect decision was made as to —
    - (i) whether duty was payable; or
    - (ii) the amount of duty payable;and
  - (c) the alteration is to correct that decision after the error has been corrected.
- (3) In this regulation —

**duty** means duty under the *Duties Act 2008* or stamp duty under the *Stamp Act 1921*;

**online arrangement** means a special tax return arrangement under which the responsible party may make a self-assessment of the duty payable on a transaction or instrument using the web site provided by the Commissioner to enable taxpayers to make self-assessments, lodge returns and pay tax electronically (known as Revenue Online).

*[Regulation 5A inserted in Gazette 13 Dec 2005 p. 5993; amended in Gazette 15 May 2009 p. 1639-40.]*

**6A. Amount for writing off unused credit (section 55A(1)(a))**

The amount for the purposes of writing off credits under section 55A(1)(a) of the Act is \$5.01.

*[Regulation 6A inserted in Gazette 11 Nov 2008 p. 4845.]*

**6. Limit for waiving payment of tax (section 56)**

The limit for waiving payment of tax for the purposes of section 56(1) of the Act is \$20.

**7. Statutory administrator of a taxpayer's assets (section 64)**

A person holding one of the following positions is included in the definition of *statutory administrator of a taxpayer's assets* in section 64(3)(d) of the Act —

- (a) a provisional liquidator appointed under the *Corporations Act 2001* of the Commonwealth;
- (b) an agent for a mortgagee in possession, being a person who is in possession, or has control, of that property for the purpose of enforcing a charge.

**8. Fee for certificate (~~section~~ Act s. 80)**

The prescribed fee for the issue of a certificate under section ~~80(4)~~ of the Act ~~stating whether there is a charge on the land under section 76 or 77 is~~ \$35.

- ~~(a) if the request for the certificate is made electronically through the Electronic Advice of Sale computer system operated by the Western Australian Land Information Authority and the Office of State Revenue \$30; or~~
- ~~(b) in any other case \$50.~~

*[Regulation 8 ~~amended~~ inserted in Gazette ~~7 May 2004~~ 25 Jun 2010 p. ~~1413~~; ~~22 Dec 2006~~ p. ~~5811~~ 2880.]*

**9. Where tax records are to be kept (section 89)**

- (1) A tax record may be kept outside of Western Australia, for the purposes of section 89(1)(b) of the Act, if the tax record is required to be kept under —
- (a) the *Pay-roll Tax Assessment Act 2002*; or
  - [(b) deleted]*
  - (c) the *Stamp Act 1921*; or
  - (d) the *Duties Act 2008*.
- (2) Subregulation (1) does not apply to a tax record if the Commissioner requires the person who keeps the record to bring the record into Western Australia under section 89(2).

*[Regulation 9 amended in Gazette 15 May 2009 p. 1640; amended by No. 17 of 2010 s. 31.]*

**10. Exemption from requirement to keep tax records (section 91)**

For the purposes of section 91(1) of the Act tax records are not required to be kept —

- (a) by a company that has gone into liquidation and been wound up; or
- (b) by a financial institution (as defined in the *Stamp Act 1921*) in relation to stamp duty paid on a cheque.

*[Regulation 10 inserted in Gazette 17 Dec 2004 p. 6093.]*

**11. Expenses of witnesses (section 95)**

- (1) If a person is required under section 95 of the Act to attend for examination by an investigator, that person is entitled to —
- (a) the sum actually and necessarily lost by reason of their attendance, not exceeding the minimum wage payable in the metropolitan area at the time the witness attended; and

(b) if the person resides more than 7 km from the place at which they are required to attend, such travelling expenses, not exceeding the amount actually paid, as the Commissioner thinks reasonable.

(2) If the person required to attend is the taxpayer or a representative of the taxpayer concerning whom the evidence is required, that person is not entitled to any sum or any travelling expenses incurred by reason of their attendance.

**12. Law enforcement agency authorised to receive confidential information (section 114)**

For the purposes of section 114(3)(a)(iv) of the Act, the Australian Crime Commission is authorised to receive confidential information.

**13A. Disclosure of information about vehicle licensing (section 114(3)(g))**

(1) In this regulation —

*DG (vehicle licensing)* means the chief executive officer of the department of the Public Service principally assisting in the administration of the provisions that the *Road Traffic Act 1974* section 5(1) defines as the *licensing provisions of this Act*.

(2) For the purposes of section 114(3)(g) of the Act, the Commissioner may disclose to the DG (vehicle licensing) information about the affairs of a person that was disclosed or obtained under —

- (a) the *Stamp Act 1921* Part IIIC; or
- (b) the *Duties Act 2008* Chapter 5.

[Regulation 13A inserted in Gazette 15 May 2009 p. 1641.]

**13B. Disclosure of information about petroleum matters (section 114(3)(g))**

(1) In this regulation —

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**CEO (petroleum)** means the chief executive officer of the department of the Public Service principally assisting in the administration of the *Petroleum and Geothermal Energy Resources Act 1967*.

- (2) For the purposes of section 114(3)(g) of the Act, the Commissioner may disclose to the CEO (petroleum), in relation to the sale, transfer or value of petroleum titles and mining tenements, information relating to any or all of the following —
- (a) exploration permits, drilling reservations, production licences, retention leases and production access authorities granted pursuant to the *Petroleum and Geothermal Energy Resources Act 1967*;
  - (b) exploration permits, production licences, retention leases and pipeline licences granted under the *Petroleum (Submerged Lands) Act 1982*;
  - (c) pipeline licences granted pursuant to the *Petroleum Pipelines Act 1969*.

[Regulation 13B inserted in Gazette 15 May 2009 p. 1641.]

**13C. Disclosure of information about land transfers (section 114(3)(g))**

- (1) In this regulation —
- CEO (Landgate)** means the chief executive officer of the Western Australian Land Information Authority;
- duty** means —
- (a) transfer duty under the *Duties Act 2008* Chapter 2; or
  - (b) stamp duty under the *Stamp Act 1921*.
- (2) For the purposes of section 114(3)(g) of the Act, the Commissioner may disclose to the CEO (Landgate) information identifying persons authorised to pay duty under a special tax return arrangement.

[Regulation 13C inserted in Gazette 15 May 2009 p. 1642.]



**13. Disclosure of information about pastoral lessees  
(section 114(3)(g))**

(1) In this regulation —

**Pastoral Lands Board** means the Pastoral Lands Board established by the *Land Administration Act 1997* section 94;  
**pastoral lessee** has the meaning given in the *Land Administration Act 1997* section 3(1).

(2) For the purposes of section 114(3)(g) of the Act, the Commissioner may disclose to the Pastoral Lands Board information about the affairs of persons who are or were pastoral lessees that was disclosed to or obtained by the Commissioner under the *Duties Act 2008* or the *Stamp Act 1921*.

[Regulation 13 inserted in Gazette 15 May 2009 p. 1642.]

**14A. Disclosure of information about settlement agents  
(section 114)**

(1) In this regulation —

**senior Board member** means —

- (a) a member of the Settlement Agents Supervisory Board established by the *Settlement Agents Act 1981* section 5 appointed under section 6(1)(a), (b) or (c) of that Act; or
- (b) the Registrar of that Board;

**settlement agent** has the meaning given in the *Settlement Agents Act 1981* section 3(1);

**STR arrangement** means a special tax return arrangement under which a settlement agent —

- (a) is authorised to collect tax payable by a taxpayer; and
- (b) is required to pay that tax to the Commissioner.

(2) If —

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- (a) a settlement agent has entered into an STR arrangement; and
- (b) after carrying out an investigation under Part 8 of the Act, the Commissioner believes on reasonable grounds that the settlement agent failed to pay tax payable under that arrangement by the date on which it was due for payment,

the Commissioner may, under section 114(3)(g) of the Act, disclose information relating to that failure to a senior Board member.

*[Regulation 14A inserted in Gazette 22 Jul 2008 p. 3355-6.]*

**14. Service on the Commissioner (section 115)**

- (1) For the purposes of section 115(c) of the Act, the fax number for service of a document is —
  - (a) for land tax — (08) 9226 0837; and
  - (b) for stamp duty — (08) 9226 0834; and
  - (c) for pay-roll tax — (08) 9226 0841; and
  - (d) for duties under the *Duties Act 2008* — (08) 9226 0834.
- (2) For the purposes of section 115(d) of the Act, a document may be served in any of the following electronic formats —
  - (a) Microsoft Word;
  - (b) Adobe Portable Document Format (PDF);
  - (c) electronic mail (email);
  - (d) Hyperlink Text Mark up Language (HTML);
  - (e) Text (.txt).
- (3) For the purposes of section 115(d) of the Act, the email address for service of a document is —
  - (a) for land tax — [landtax@dtf.wa.gov.au](mailto:landtax@dtf.wa.gov.au); and
  - (b) for stamp duty — [stampduty@dtf.wa.gov.au](mailto:stampduty@dtf.wa.gov.au); and
  - (c) for pay-roll tax — [payroll@dtf.wa.gov.au](mailto:payroll@dtf.wa.gov.au); and

- (d) for duties under the *Duties Act 2008* —  
[duties@dtf.wa.gov.au](mailto:duties@dtf.wa.gov.au).

*[Regulation 14 amended in Gazette 15 May 2009 p. 1642-3.]*

**15. Prescription of Commissioner as State taxation officer**

The Commissioner is a State taxation officer for the purposes of Part IIIA of the *Taxation Administration Act 1953* of the Commonwealth.

**Notes**

<sup>1</sup> This is a compilation of the *Taxation Administration Regulations 2003* and includes the amendments made by the other written laws referred to in the following table<sup>2,3</sup>. The table also contains information about any reprint.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Taxation Administration Regulations 2003</i>	27 Jun 2003 p. 2419-22	1 Jul 2003 (see r. 2 and <i>Gazette</i> 27 Jun 2003 p. 2383)
<i>Taxation Administration Amendment Regulations 2004</i>	7 May 2004 p. 1413	7 May 2004
<i>Taxation Administration Amendment Regulations (No. 2) 2004</i>	13 Aug 2004 p. 3253	1 Sep 2004 (see r. 2)
<i>Taxation Administration Amendment Regulations (No. 3) 2004</i>	17 Dec 2004 p. 6092-3	1 Jan 2005 (see r. 2)
<i>Taxation Administration Amendment Regulations 2005</i>	13 Dec 2005 p. 5992-3	13 Dec 2005
<i>Taxation Administration Amendment Regulations 2006</i>	22 Dec 2006 p. 5811	1 Jan 2007 (see r. 2 and <i>Gazette</i> 8 Dec 2006 p. 5369)
<i>Taxation Administration Amendment Regulations 2007</i>	28 Feb 2007 p. 639	1 Mar 2007 (see r. 2)
<b>Reprint 1: The <i>Taxation Administration Regulations 2003</i> as at 16 Mar 2007</b> (includes amendments listed above)		
<i>Taxation Administration Amendment Regulations 2008</i>	14 Mar 2008 p. 837	r. 1 and 2: 14 Mar 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 15 Mar 2008 (see r. 2(b))
<i>Taxation Administration Amendment Regulations (No. 2) 2008</i>	22 Jul 2008 p. 3354-6	r. 1 and 2: 22 Jul 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 23 Jul 2008 (see r. 2(b))
<i>Taxation Administration Amendment Regulations (No. 3) 2008</i>	11 Nov 2008 p. 4845	r. 1 and 2: 11 Nov 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 12 Nov 2008 (see r. 2(b))
<i>Taxation Administration Amendment Regulations 2009</i>	15 May 2009 p. 1639-43	r. 1 and 2: 15 May 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 16 May 2009 (see r. 2(b))
<b>Reprint 2: The <i>Taxation Administration Regulations 2003</i> as at 10 Jul 2009</b> (includes amendments listed above)		

Citation	Gazettal	Commencement
<i>Revenue Laws Amendment and Repeal Act 2010</i> s. 31 assented to 25 Jun 2010		26 Jun 2010 (see s. 2(b))
<a href="#">Taxation Administration Amendment Regulations 2010</a>	<a href="#">25 Jun 2010</a> <a href="#">p. 2879-80</a>	<a href="#">r. 1 and 2: 25 Jun 2010</a> <a href="#">(see r. 2(a));</a> <a href="#">Regulations other than r. 1 and 2:</a> <a href="#">1 Jul 2010 (see r. 2(b))</a>

<sup>2</sup> Under the *Commonwealth Places (Mirror Taxes Administration) Act 1999* s. 7 these regulations are to be read and construed with any modifications referred to in subsection (1) of that section and, in particular, with the modifications set out in the *Commonwealth Places (Mirror Taxes Administration) Regulations 2007*. R. 1-4 and Pt. 7 Div. 2 of those regulations read as follows:

**1. Citation**

These regulations are the *Commonwealth Places (Mirror Taxes Administration) Regulations 2007*.

**2. Commencement**

These regulations come into operation on the day on which the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2007* comes into operation.

**3. When certain modifications have effect**

- (1) The modifications prescribed in Part 2, Part 3, Part 5, Part 6 Division 2 and Part 7 have effect on and from 1 July 2003.
- (2) The modifications prescribed in Part 4 have effect on and from 9 April 2006 and prevail over the modifications in the *Commonwealth Places (Mirror Taxes Administration) Regulations 2002* Part 5 to the extent of any inconsistency.

Note: Modifications prescribed for the purposes of section 7(2) of the Act may be expressed to take effect from a date that is earlier than the date on which the modifications are published in the Gazette, see section 7(3) of the Act.

**4. Modification of State taxing laws**

- (1) For the purposes of section 7(2) of the Act, each State taxing law is taken to be modified to the extent necessary to give effect to subregulation (2).
- (2) If —
  - (a) a State taxing law applies, or could apply, to any extent, to or in relation to an event, state of affairs or transaction, and the corresponding applied law also applies, or could apply, to any extent, to or in relation to the same event, state of affairs or transaction; and

- (b) a person is required or permitted, or could be required or permitted, to take an action under both the State taxing law and the corresponding applied law in relation to the event, state of affairs or transaction; and
- (c) the person has taken the action in accordance with the corresponding applied law; and
- (d) the Commissioner of State Revenue has sufficient information about the event, state of affairs or transaction to carry out his or her functions in relation to it under the State taxing law or the corresponding applied law or both, as the case requires,

then —

- (e) the person is not required to take the action under the State taxing law; and
  - (f) the Commissioner may carry out his or her functions in relation to the event, state of affairs or transaction as if the person had taken whatever action is required or permitted under the State taxing law in relation to the event, state of affairs or transaction.
- (3) The particular modifications set out in these regulations of certain State taxing laws have effect for the purposes of section 7(2) of the Act.

## **Part 7 — Taxation administration**

### **Division 2 — The *Taxation Administration Regulations 2003***

**51. Modification of the *Taxation Administration Regulations 2003***

This Division sets out modifications of the *Taxation Administration Regulations 2003* in their application as a law of Western Australia.

**52. Regulation 2A inserted**

After regulation 2 the following regulation is inserted —

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**2A. Application of regulations in non-Commonwealth places**

- (1) In these regulations, unless the contrary intention appears —
  - (a) a reference to these regulations is to be read as a reference to these regulations in their application as a law of Western Australia; and

- (b) a reference to the Act is to be read as a reference to the Act in its application as a law of Western Australia.
- (2) These regulations are to be read with the applied Taxation Administration Regulations as a single body of law.
- (3) In these regulations —  
***applied Taxation Administration Regulations*** means the *Taxation Administration Regulations 2003* of Western Australia in their application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Act.  
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<sup>3</sup> Under the *Commonwealth Places (Mirror Taxes) Act 1998* s. 8(2) of the Commonwealth, these regulations are to be read and construed with any modifications referred to in subsection (1) of that section and, in particular, with the modifications set out in the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2007*. R. 1-5 and Pt. 7 Div. 2 of that notice read as follows:

**1. Citation**

This notice is the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2007*.

**2. Commencement**

This notice comes into operation on the day after the day on which it is registered under the *Legislative Instruments Act 2003* of the Commonwealth.

**3. When certain modifications have effect**

- (1) The modifications prescribed in Part 2, Part 3, Part 5, Part 6 Division 2 and Part 7 have effect on and from 1 July 2003.
- (2) The modifications prescribed in Part 4 have effect on and from 9 April 2006 and prevail over the modifications in the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2002* Part 5 to the extent of any inconsistency.

Note: Modifications prescribed in a notice under section 8 of the Act may be expressed to take effect from a date that is earlier than the date on which the modifications are published in the *Commonwealth of Australia Gazette*, see section 8(5) of the Act.

**4. Definitions**

In this notice —

**applied WA law** means the provisions of a State taxing law of Western Australia that apply or are taken to have applied in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act;

**Commissioner of State Revenue** means the Commissioner of State Revenue of Western Australia appointed in accordance with the *Taxation Administration Act 2003* section 6 of Western Australia;

**Commonwealth Mirror Taxes Act** means the *Commonwealth Places (Mirror Taxes) Act 1998* of the Commonwealth.

**5. Modification of applied WA laws**

- (1) For the purposes of the Commonwealth Mirror Taxes Act section 8, each applied WA law is taken to be modified to the extent necessary to give effect to subclause (2).
- (2) If —
  - (a) an applied WA law applies, or could apply, to any extent, to or in relation to an event, state of affairs or transaction, and the corresponding State taxing law also applies, or could apply, to any extent, to or in relation to the same event, state of affairs or transaction; and
  - (b) a person is required or permitted, or could be required or permitted, to take an action under both the applied WA law and the corresponding State taxing law in relation to the event, state of affairs or transaction; and
  - (c) the person has taken the action in accordance with the corresponding State taxing law; and
  - (d) the Commissioner of State Revenue has sufficient information about the event, state of affairs or transaction to carry out his or her functions in relation to it under the applied WA law or the corresponding State taxing law or both, as the case requires,then —
  - (e) the person is not required to take the action under the applied WA law; and
  - (f) the Commissioner may carry out his or her functions in relation to the event, state of affairs or transaction as if the person had taken whatever action is required or permitted under the applied WA law in relation to the event, state of affairs or transaction.
- (3) The particular modifications set out in this notice of certain applied WA laws have effect for the purposes of the Commonwealth Mirror Taxes Act section 8.



**Part 7 — Taxation administration**

**Division 2 — The applied *Taxation Administration Regulations 2003***

**61. Modification of the applied *Taxation Administration Regulations 2003***

This Division sets out modifications of the *Taxation Administration Regulations 2003* of Western Australia in their application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia.

**62. Regulation 2A inserted**

After regulation 2 the following regulation is inserted —

“

**2A. Application of regulations in Commonwealth places**

(1) In this regulation —

*corresponding Taxation Administration Regulations* means the *Taxation Administration Regulations 2003* of Western Australia in their application as a law of Western Australia.

(2) In these regulations —

(a) a reference to these regulations is to be read as a reference to these regulations in their application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act; and

(b) a reference to the Act or the *Taxation Administration Act 2003* is to be read as a reference to the *Taxation Administration Act 2003* of Western Australia in its application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act.

(3) These regulations are to be read with the corresponding Taxation Administration Regulations as a single body of law.

(4) In addition to being modified as prescribed by the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2007*, these regulations are deemed to be further modified to any extent that is necessary or convenient to enable these regulations to operate effectively as a law of the Commonwealth.

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