



Western Australia

Taxation Administration Regulations 2003

Compare between:

[01 Jul 2017, 03-j0-00] and [07 Mar 2018, 03-k0-01]

Taxation Administration Regulations 2003

1. Citation

These regulations may be cited as the *Taxation Administration Regulations 2003*¹.

2. Commencement

These regulations come into operation on the day on which the *Taxation Administration Act 2003* comes into operation¹.

[2A.^{1M} *Modification, to insert regulation 2A, to have effect under the Commonwealth Places (Mirror Taxes Administration) Act 1999, see note 1M.*]

[2A.^{1MC} *Modification, to insert regulation 2A, to have effect under the Commonwealth Places (Mirror Taxes) Act 1998 (Commonwealth), see note 1MC.*]

3A. Rates of interest under compromise assessments (section 20A)

The rate of interest payable under a compromise agreement for the purposes of section 20A(3A) of the Act is —

- (a) if the agreement provides for the payment of interest by the Commissioner — 2.2% per annum;

- (b) if the agreement provides for the payment of interest by a taxpayer — 10.2% per annum.

[Regulation 3A inserted in Gazette 11 Dec 2015 p. 4962.]

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 2.2% per annum.

[Regulation 3 amended in Gazette 17 May 2013 p. 1985; 17 Dec 2013 p. 6240; 26 Jun 2015 p. 2279; 11 Dec 2015 p. 4962.]

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 2.2% per annum.

[Regulation 4 amended in Gazette 17 May 2013 p. 1985; 17 Dec 2013 p. 6241; 26 Jun 2015 p. 2279; 11 Dec 2015 p. 4963.]

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 10.2% per annum.

[Regulation 5 amended in Gazette 13 Aug 2004 p. 3253; 28 Feb 2007 p. 639; 14 Mar 2008 p. 837; 17 May 2013 p. 1985; 17 Dec 2013 p. 6241; 26 Jun 2015 p. 2280; 11 Dec 2015 p. 4963.]

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.]

5B. Rate of interest for refunds (section 54(2A))

The rate of interest payable for the purposes of section 54(2A) of the Act is 2.2% per annum.

[Regulation 5B inserted in Gazette 17 Dec 2013 p. 6241; amended in Gazette 26 Jun 2015 p. 2280; 11 Dec 2015 p. 4963.]

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 \$20.01.

[Regulation 6A inserted in Gazette 11 Nov 2008 p. 4845; amended in Gazette 5 Jun 2015 p. 1976.]

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 80)

The prescribed fee for the issue of a certificate under section 80 of the Act is \$39.60.

[Regulation 8 inserted in Gazette 25 Jun 2010 p. 2880; amended in Gazette 5 Jun 2015 p. 1977; 24 Jun 2016 p. 2345; 27 Jun 2017 p. 3451.]

9. Where tax records 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; Act 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) deleted]

- (2) For the purposes of section 114(3)(g) of the Act, the Commissioner may disclose to the CEO, as defined in the *Road Traffic (Administration) Act 2008* section 4, 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; amended in Gazette 8 Jan 2015 p. 107-8.]

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

- (1) In this regulation —

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.]

**13D. Disclosure of information about a person's taxation affairs
(section 114(3)(g))**

- (1) This regulation has effect for the purposes of section 114(3)(g) of the Act.
- (2) If a member of the Parliament of the State or of the Commonwealth writes to the Minister on behalf of a person about the person's taxation affairs, the Commissioner may disclose to the Minister information, obtained under a taxation Act, that relates to the person, for the purpose of enabling the Minister to respond to the member of Parliament.

[Regulation 13D inserted in Gazette 9 Sep 2011 p. 3685-6.]

13E. Disclosure of information to interstate official: first home owner grant (section 114(3)(g))

- (1) In this regulation —
corresponding law has the meaning given in the *First Home Owner Grant Act 2000* section 3(1).
- (2) For the purposes of section 114(3)(g) of the Act, the Commissioner may disclose information or material to an official administering a corresponding law, for a purpose related to the administration of the corresponding law.

[Regulation 13E inserted in Gazette 17 Dec 2013 p. 6241.]

13F. Disclosure of information to Australian Border Force Commissioner (section 114(3)(g))

For the purposes of section 114(3)(g) of the Act, the Commissioner may disclose to the Australian Border Force Commissioner (as defined in the *Australian Border Force Act 2015* (Commonwealth) section 4(1)) information or material that was disclosed to or obtained by the Commissioner under a taxation Act.

[Regulation 13F inserted in Gazette 6 Mar 2018 p. 709.]

13G. Disclosure of information about employers of apprentices (section 114(3)(g))

- (1) In this regulation —
chief executive officer means the chief executive officer of the department of the Public Service principally assisting in the administration of the *Vocational Education and Training Act 1996* (except Part 4);
employer has the meaning given in the *Pay-roll Tax Assessment Act 2002* Glossary clause 1;
wages has the meaning given in the *Pay-roll Tax Assessment Act 2002* Glossary clause 1.

- (2) For the purposes of section 114(3)(g) of the Act, the Commissioner may disclose to the chief executive officer information or material relating to an employer who pays wages to or in relation to a person who is an apprentice under a training contract registered under the *Vocational Education and Training Act 1996* Part 7 Division 2.

[Regulation 13G inserted in Gazette 6 Mar 2018 p. 710.]

13H. Disclosure of information about charities and not-for-profits (section 114(3)(g))

- (1) In this regulation —

ACNC Commissioner means the Commissioner of the Australian Charities and Not-for-profits Commission established by the *Australian Charities and Not-for-profits Commission Act 2012* (Commonwealth) section 110-5.

- (2) For the purposes of section 114(3)(g) of the Act, the Commissioner may, for purposes relating to the administration of a taxation Act or the *Australian Charities and Not-for-profits Commission Act 2012* (Commonwealth), disclose to the ACNC Commissioner information or material about the affairs of a person that was disclosed to or obtained by the Commissioner under a taxation Act.

[Regulation 13H inserted in Gazette 6 Mar 2018 p. 710.]

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

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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 —
- 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 —
- (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 the person for the time being designated as the Commissioner under the *Fair Trading Act 2010* section 55.

[Regulation 14A inserted in Gazette 22 Jul 2008 p. 3355-6; amended in Gazette 5 Jun 2015 p. 1977.]

14. Service on Commissioner (section 115)

[(1) deleted]

- (2) For the purposes of section 115(d) of the Act, the format for sending computer data is by attaching to the Web Enquiry Form located at www.finance.wa.gov.au an electronic document of any of the following types —
- (a) Adobe Portable Document Format (PDF);
 - (b) compressed files (ZIP);
 - (c) Graphics Interchange Format (GIF);
 - (d) Joint Photographic Experts Group (JPG, JPEG);
 - (e) Microsoft Excel (XLS, XLXS);
 - (f) Microsoft Word (DOC, DOCX);
 - [(g) *deleted*]
 - (h) Text (TXT).
- (3) For the purposes of section 115(d) of the Act, the address for serving a document as set out in subregulation (2) is www.finance.wa.gov.au.

[Regulation 14 amended in Gazette 15 May 2009 p. 1642-3; 18 Dec 2012 p. 6598; 5 Jun 2015 p. 1977; 13 Dec 2016 p. 5634.]

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

¹ 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. The table also contains information about any reprint.

Compilation table

| Citation | Gazettal | Commencement |
|--|---------------------------|--|
| <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) |
| Reprint 1: The <i>Taxation Administration Regulations 2003</i> as at 16 Mar 2007 (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)) |

| Citation | Gazettal | Commencement |
|---|---------------------------|--|
| Reprint 2: The Taxation Administration Regulations 2003 as at 10 Jul 2009 (includes amendments listed above) | | |
| <i>Revenue Laws Amendment and Repeal Act 2010</i> s. 31 assented to 25 Jun 2010 | | 26 Jun 2010 (see s. 2(b)) |
| <i>Taxation Administration Amendment Regulations 2010</i> | 25 Jun 2010 p. 2879-80 | r. 1 and 2: 25 Jun 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2010 (see r. 2(b)) |
| <i>Taxation Administration Amendment Regulations 2011</i> | 9 Sep 2011 p. 3685-6 | r. 1 and 2: 9 Sep 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 10 Sep 2011 (see r. 2(b)) |
| <i>Taxation Administration Amendment Regulations 2012</i> | 18 Dec 2012 p. 6597-8 | r. 1 and 2: 18 Dec 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 19 Dec 2012 (see r. 2(b)) |
| <i>Taxation Administration Amendment Regulations (No. 2) 2013</i> | 17 May 2013 p. 1985 | r. 1 and 2: 17 May 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 18 May 2013 (see r. 2(b)) |
| <i>Taxation Administration Amendment Regulations 2013</i> | 17 Dec 2013 p. 6240-1 | r. 1 and 2: 17 Dec 2013 (see r. 2(a)); r. 3 and 8: 18 Dec 2013 (see r. 2(b)); r. 4-7: 1 Jan 2014 (see r. 2(c)) |
| Reprint 3: The Taxation Administration Regulations 2003 as at 1 Aug 2014 (includes amendments listed above) | | |
| <i>Taxation Administration Amendment Regulations 2014</i> | 8 Jan 2015 p. 107-8 | r. 1 and 2: 8 Jan 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 27 Apr 2015 (see r. 2(b) and <i>Gazette</i> 17 Apr 2015 p. 1371) |
| <i>Taxation Administration Amendment Regulations 2015</i> | 5 Jun 2015 p. 1976-7 | r. 1 and 2: 5 Jun 2015 (see r. 2(a)); r. 3, 4 and 6 and 7: 6 Jun 2015 (see r. 2(b)); r. 5: 1 Jul 2015 (see r. 2(c)) |
| <i>Taxation Administration Amendment Regulations (No. 2) 2015</i> | 26 Jun 2015 p. 2279-80 | r. 1 and 2: 26 Jun 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2015 (see r. 2(b)) |

| Citation | Gazettal | Commencement |
|--|---|--|
| <i>Taxation Administration Amendment Regulations (No. 3) 2015</i> | 11 Dec 2015 p. 4962-3 | r. 1 and 2: 11 Dec 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jan 2016 (see r. 2(b)) |
| <i>Taxation Administration Amendment Regulations 2016</i> | 24 Jun 2016 p. 2344-5 | r. 1 and 2: 24 Jun 2016 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2016 (see r. 2(b)) |
| <i>Taxation Administration Amendment Regulations (No. 2) 2016</i> | 13 Dec 2016 p. 5634 | r. 1 and 2: 13 Dec 2016 (see r. 2(a)); Regulations other than r. 1 and 2: 14 Dec 2016 (see r. 2(b)) |
| <i>Taxation Administration Amendment Regulations 2017</i> | 27 Jun 2017 p. 3450-1 | r. 1 and 2: 27 Jun 2017 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2017 (see r. 2(b)) |
| <u><i>Taxation Administration Amendment Regulations 2018</i></u> | <u>6 Mar 2018</u> <u>p. 709-10</u> | <u>r. 1 and 2: 6 Mar 2018</u> <u>(see r. 2(a));</u> <u>Regulations other than r. 1 and 2:</u> <u>7 Mar 2018 (see r. 2(b))</u> |

^{1M} Under the *Commonwealth Places (Mirror Taxes Administration) Act 1999* s. 7, modifications to State taxing laws may be prescribed. Modifications are prescribed in the *Commonwealth Places (Mirror Taxes Administration) Regulations 2007*. If a modification is to replace or insert a numbered provision, the new provision is identified by the superscript 1M appearing after the provision number.

^{1MC} Under the *Commonwealth Places (Mirror Taxes) Act 1998* (Commonwealth) s. 8, modifications to State taxing laws, in their application as Commonwealth laws in Commonwealth places in Western Australia, may be prescribed. Modifications are prescribed in the *Commonwealth Places (Mirror Taxes) (Modifications of Applied Laws (WA)) Notice 2007* (Commonwealth). If a modification is to replace or insert a numbered provision, the new provision is identified by the superscript 1MC appearing after the provision number.

² Under the *Settlement Agents Act 1981* s. 126, a reference to the Settlement Agents Supervisory Board may, where the context so requires, be read as if it had been amended to be a reference to the Commissioner.

Under the *Settlement Agents Act 1981* s. 3(1) **Commissioner** has the meaning given in the *Fair Trading Act 2010* s. 6.

³ The *Settlement Agents Act 1981* s. 6 was deleted by the *Acts Amendment (Fair Trading) Act 2010* s. 137(2).

- ⁴ Under the *Settlement Agents Act 1981* s. 129(1), a reference to the Registrar may where the context so requires, be read as if it had been amended to be a reference to the Commissioner. See note 2 as to the meaning of Commissioner.