

TR302*

Commonwealth Places (Mirror Taxes Administration) Act 1999

Commonwealth Places (Mirror Taxes Administration) Amendment Regulations 2012

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Commonwealth Places (Mirror Taxes Administration) Amendment Regulations 2012*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

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

4. Regulation 3 amended

- (1) In regulation 3(1):

- (a) delete “The” and insert:

Subject to this regulation, the

- (b) delete “Part 2,”.

- (2) After regulation 3(2) insert:

- (3) The modifications prescribed in Part 2 have effect on and from 1 July 2008.
- (4) The modification in regulation 29 has effect on and from 25 June 2010.
- (5) The modifications in regulation 47 have effect on and from 1 July 2008.

5. Regulation 4 amended

Delete regulation 4(3) and insert:

- (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.

Note: 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. If a modification is to replace or insert a definition, the new definition is identified by the superscript 1M appearing after the defined term.

6. Regulation 6A inserted

At the end of Part 1 insert:

6A. Use of notes

A note set out at the foot of a provision of these regulations is provided to assist understanding and does not form part of these regulations.

7. **Part 2 replaced**

Delete Part 2 and insert:

Part 2 — Duties

Division 1 — The *Duties Act 2008*

6. **Modification of the *Duties Act 2008***

This Division sets out modifications of the *Duties Act 2008* in its application as a law of Western Australia.

7. **Section 3 modified**

In section 3 insert in alphabetical order:

applied Duties Act^{1M} means the *Duties Act 2008* (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 Act;

Commonwealth Act^{1M} means the *Commonwealth Places (Mirror Taxes) Act 1998* (Commonwealth);

8. **Sections 8A and 8B inserted**

After section 7 insert:

8A.^{1M} **Application of Act in non-Commonwealth places**

- (1) In this Act, unless the contrary intention appears —
- (a) a reference to this Act is to be read as a reference to this Act in its application as a law of Western Australia; and
 - (b) a reference to the regulations is to be read as a reference to the *Duties Regulations 2008* in their application as a law of Western Australia; and
 - (c) a reference to the *Stamp Act 1921* is to be read as a reference to that Act in its application as a law of Western Australia; and
 - (d) a reference to the *Taxation Administration Act 2003* is to be read as a reference to that Act in its application as a law of Western Australia; and
 - (e) a reference to the *Land Tax Assessment Act 2002* is to be read as a reference to that Act

- in its application as a law of Western Australia;
and
- (f) a reference to the *Planning and Development Act 2005* is to be read as a reference to that Act in its application as a law of Western Australia;
and
 - (g) a reference to the *Duties Legislation Amendment Act 2008* is to be read as a reference to that Act in its application as a law of Western Australia.
- (2) This Act is to be read with the applied Duties Act as a single body of law.
- (3) If this Act requires any duty paid or payable (including in another State or a Territory) to be taken into account for the purpose of calculating the amount of duty payable under this Act, then any duty paid or payable under the applied Duties Act must also be taken into account if it would have been taken into account under this Act if it were paid or payable under this Act.

8B.^{1M} Things subject to dual liability

- (1) If a transaction, instrument or other thing is or may be liable to duty under both this Act and the applied Duties Act, the total amount of duty payable under this Act and the applied Duties Act may be calculated under this Act by reference to the sum of —
- (a) the amount or amounts in respect of which duty is payable under this Act; and
 - (b) the amount or amounts in respect of which duty is payable under the applied Duties Act.
- (2) Despite subsection (1), the total amount of duty payable in relation to a transaction, instrument or other thing cannot exceed the amount of duty that would be payable if the Commonwealth places in Western Australia were not Commonwealth places.
- (3) The amount of duty payable on or in relation to the transaction, instrument or thing under this Act is the amount calculated in accordance with subsections (1) and (2), less any amount paid under the applied Duties Act.

9. Section 268 modified

In section 268(1) in the definition of *foreign tax* delete “Commonwealth,” and insert:

Commonwealth (other than an applied law),

Division 2 — The *Duties Regulations 2008***10. Modification of the *Duties Regulations 2008***

This Division sets out modifications of the *Duties Regulations 2008* in their application as a law of Western Australia.

11. Regulation 3A inserted

After regulation 2 insert:

3A.^{1M} Application of regulations in non-Commonwealth places

(1) In this regulation —

applied Duties Regulations means the *Duties Regulations 2008* (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.

(2) 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.

(3) These regulations are to be read with the applied Duties Regulations as a single body of law.

8. Regulation 29 replaced

Delete regulation 29 and insert:

29. Section 5B inserted

At the beginning of Part 2 Division 1 insert:

5B.^{1M} References to jurisdictions

For the purposes of this Division —

- (a) Western Australia, other than the Commonwealth places in Western Australia; and
- (b) the Commonwealth places in Western Australia,

are to be treated as 2 separate Australian jurisdictions.

9. Regulation 34 amended

Delete regulation 34(2) and (3).

10. Regulation 47 amended

In regulation 47 in inserted section 5A(1) delete paragraph (c)(i) and (ii) and insert:

- (i) the *Duties Act 2008*;

By Command of the Governor,

G. MOORE, Clerk of the Executive Council.