



Western Australia

Taxation Administration Amendment Act 2019

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Western Australia

Taxation Administration Amendment Act 2019

No. 11 of 2019

An Act to amend the *Taxation Administration Act 2003* and for related purposes.

[Assented to 12 June 2019]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Taxation Administration Amendment Act 2019*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — when the *Revenue Laws Amendment Act 2019* Part 2 comes into operation.

Part 2 — *Taxation Administration Act 2003* amended

3. Act amended

This Part amends the *Taxation Administration Act 2003*.

4. Section 3 amended

Delete section 3(1)(g).

5. Section 23 amended

In section 23(2)(d) delete “land tax” and insert:

if land tax

6. Section 30 replaced

Delete section 30 and insert:

30. Practice for remitting penalty tax

The Commissioner must publish on the OSR website the practice followed by the Commissioner when deciding whether or not to remit penalty tax under section 29.

7. Section 47 amended

After section 47(8) insert:

- (9) In this section, a reference to tax is to be read as including costs of the kinds referred to in section 62(a), (b), (ba) and (d).

8. Section 54A inserted

After section 54 insert:

54A. Interest on refunds resulting from proceedings under *Valuation of Land Act 1978*

- (1) This section applies if a reassessment is made, and an amount is to be refunded or credited to a taxpayer under section 54(1)(a) or (2), as a result of —
 - (a) an objection under the *Valuation of Land Act 1978* section 32 being allowed, wholly or in part; or
 - (b) a review by the State Administrative Tribunal under the *Valuation of Land Act 1978* section 33.
- (2) The following amounts must also be refunded or credited to the taxpayer —
 - (a) any amount paid by the taxpayer for the lodging of a memorial under section 76, if the Commissioner has lodged a withdrawal of the memorial as a result of the reassessment;
 - (b) interest during the reassessment period, calculated at the prescribed rate, on the amount to be refunded or credited, including any amount referred to in paragraph (a).
- (3) In subsection (2)(b) —
reassessment period, in relation to the payment of interest on an amount, means the period —
 - (a) beginning on whichever is the later of —
 - (i) the date on which the amount to be refunded or credited to the taxpayer, as a result of the reassessment referred to

- in subsection (1), was paid by the taxpayer; or
 - (ii) the date on which the assessment of tax to which the objection or review under the *Valuation of Land Act 1978* related was made;
- and
- (b) ending on the date, on or after the date the Commissioner made the reassessment referred to in subsection (1), on which the Commissioner approved the refunding or crediting of the amount.

9. Section 62 amended

In section 62:

- (a) in paragraph (b) delete “section 76, 77 or 77A; and” and insert:

section 76, 77 or 77A(2), (3), (4A) or (4); and
- (b) after paragraph (b) insert:
 - (ba) costs incurred for lodging a withdrawal of memorial under section 81; and

10. Section 76A amended

- (1) In section 76A(2)(c) delete “(b) and” and insert:

(b), (ba) and

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(2) After section 76A(2) insert:

(3) A purported payment is *dishonoured* —

- (a) if the purported payment is by means of a cheque and the cheque is dishonoured or cancelled; or
- (b) if the purported payment is by means of a credit card and the payment is not authorised by the issuer of the card; or
- (c) if the purported payment is pursuant to an arrangement to directly debit an account with a person and the person fails to authorise the payment; or
- (d) in circumstances prescribed by the regulations.

11. Section 76 amended

Delete section 76(3) and insert:

- (3) If a purported payment of land tax is dishonoured, the tax is taken not to be paid by the due date for the purposes of subsection (2) (even though the due date may not have arrived when the purported payment is dishonoured).

12. Section 77 amended

Delete section 77(5) and insert:

- (5) If a purported payment of stamp duty is dishonoured, the duty is taken not to be paid by the due date for the purposes of subsections (1), (1a) and (2) (even though

the due date may not have arrived when the purported payment is dishonoured).

13. Section 77A amended

(1) Delete section 77A(1) and insert:

(1) In this section —

landholder has the meaning given in the *Duties Act 2008* section 148(1);

landholder duty means duty under the *Duties Act 2008* Chapter 3 or Chapter 3A Part 3;

linked entity has the meaning given in the *Duties Act 2008* section 148(1);

transaction record has the meaning given in the *Duties Act 2008* section 3;

transfer duty means duty under the *Duties Act 2008* Chapter 2 or Chapter 3A Part 2;

transfer duty interim assessment means an interim assessment under the *Duties Act 2008* section 44A or 205R.

(2) After section 77A(2) insert:

(2A) If the Commissioner has made a transfer duty interim assessment on a transaction in relation to land and the transaction record for the transaction is endorsed under the *Duties Act 2008* section 273(3A), the Commissioner may lodge a memorial to create a charge on the land for the transfer duty payable on the transaction for which the Commissioner has not made an assessment (the *remaining transfer duty*).

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- (2B) A memorial under subsection (2A) —
 - (a) cannot be lodged without the consent of the taxpayer; and
 - (b) can be lodged even though an assessment of the amount of the remaining transfer duty has not been made.
- (3) In section 77A(3) delete “to give effect to the *Duties Act 2008* section 145”.
- (4) In section 77A(4):
 - (a) delete “a relevant acquisition” and insert:

an acquisition
 - (b) delete “the *Duties Act 2008* section 186.” and insert:

calculating the landholder duty payable.
- (5) Delete section 77A(6) and insert:
 - (6) If a purported payment of transfer duty or landholder duty is dishonoured, the duty is taken not to be paid by the due date for the purposes of this section (even though the due date may not have arrived when the purported payment is dishonoured).
- (6) In section 77A(7) delete “subsection (2)” and insert:

subsection (2), (2A) or (3)

14. Section 85 amended

In section 85(2A) after “77A” insert:

(other than where the memorial creating the charge is lodged under section 77A(2A))

15. Section 115 amended

Delete section 115(c).

16. Section 117 amended

- (1) In section 117(1)(e) delete “faxing it or emailing it to a fax number or” and insert:

emailing it to an

- (2) In section 117(2) delete “section 117(1)” and insert:

subsection (1)

- (3) Delete section 117(4) and insert:

- (4) If a notice or other document is not served personally, the notice or document is taken to be served on a day prescribed by the regulations.

- (5) For the purposes of subsection (4), the regulations may prescribe different days for documents served by different methods and in different circumstances.

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17. Section 127 amended

- (1) In section 127(1) delete “tax.” and insert:

tax on the OSR website.

- (2) In section 127(2) delete “practice.” and insert:

practice on the OSR website.

18. Part 10 Division 7 deleted

Delete Part 10 Division 7.

19. Section 137 inserted

At the end of Part 11 insert:

137. Provisions for *Taxation Administration Amendment Act 2019*

- (1) In this section —

commencement day means the day on which the *Taxation Administration Amendment Act 2019* section 8 comes into operation.

- (2) Section 54A applies in relation to an amount refunded or credited to a taxpayer on or after commencement day, even if the objection or review under the *Valuation of Land Act 1978* that resulted in the reassessment being made and the refund or credit becoming payable occurred before commencement day.

- (3) A refund or credit of interest to a taxpayer made, or purported to be made, on or after 1 July 2003 and

before commencement day is, and is taken to have always been, as valid and effective as it would have been if, on the day on which the refund or credit was made —

- (a) section 54A (as in force on commencement day) had been in force; and
- (b) the prescribed rate for section 54A had been the rate prescribed for the purposes of section 39 on that day.

20. Glossary amended

- (1) In the Glossary delete the definition of *publish*.
- (2) In the Glossary insert in alphabetical order:

OSR website means a website maintained by or on behalf of the Commissioner;

- (3) In the Glossary in the definition of *penalty tax* paragraph (d) delete “section 239(3)(b), 249(4)(b) or 266(2)(b);” and insert:

section 239(3)(b), 249(4)(b) or 266(1A)(b) or (2)(b);

Part 3 — *Biosecurity and Agriculture Management Act 2007* amended

21. Act amended

This Part amends the *Biosecurity and Agriculture Management Act 2007*.

22. Section 139 amended

In section 139(3) after “*Taxation Administration Act 2003* section 54” insert:

or 54A

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