

Western Australia

Debits Tax Act 1990

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Debits Tax Act 1990

An Act to impose a tax in respect of certain debits made to accounts kept with financial institutions.

1. Short title

This Act may be cited as the *Debits Tax Act 1990*¹.

2. Commencement

- (1) In this section “**the relevant day**” means the day of the coming into operation of the *Debits Tax Termination Act 1990* of the Commonwealth¹.
- (2) If this Act receives the Royal Assent on or before the relevant day it shall come into operation on the relevant day.
- (3) If this Act receives the Royal Assent after the relevant day it shall be deemed to have come into operation on the relevant day.

3. Incorporation of *Debits Tax Assessment Act 1990*

The *Debits Tax Assessment Act 1990* is incorporated with this Act and is to be read as one with this Act.

4. Imposition of tax

- (1) Tax is imposed in respect of —
 - (a) each taxable debit of not less than \$1 made to a taxable account;
 - (b) each eligible debit of not less than \$1 made to an exempt account; and

s. 4

- (c) each eligible debit of not less than \$1 made to an account kept outside Western Australia if —
 - (i) at the time when the debit is made, the person in whose name, or either or any of the persons in whose names, the account is kept is a resident of Western Australia; and
 - (ii) it would be concluded that the account was used in connection with the transaction that resulted in the debit for the purpose, or for purposes that included the purpose, of enabling —
 - (A) the person in whose name, or either or any of the persons in whose names, the account is kept; or
 - (B) any other person,
to avoid liability for payment of the tax that would have been imposed if the debit that resulted from that transaction had been made to an account kept in Western Australia.
- (2) A reference in this section to a debit made to an account kept outside Western Australia includes a reference to a debit made to an account (in this subsection called the “**customer’s account**”) kept outside Western Australia with a building society, credit union or similar body (including an account kept by way of withdrawable share capital in, or money deposited with, the body) if —
 - (a) another account is kept with a financial institution in the name of the body; and
 - (b) the customer’s account has characteristics such that a cheque may be drawn on the financial institution by the body and, at a time when it is incomplete, be delivered by the body to a customer under an agreement under which —
 - (i) the customer is authorised to fill up the cheque; and

- (ii) the body is authorised, for the purposes of making a payment to the financial institution to enable the financial institution to honour the cheque, to debit the customer's account.
- (3) The conclusion referred to in subsection (1)(c)(ii) may not be drawn if, under a law of the place where the account is kept, the person concerned would be liable, in relation to the use of the account, to pay tax of a similar kind to the tax imposed by this section.

[Section 4 amended by No. 22 of 1998 s. 44.]

5. Amount of tax

The amount of tax in respect of a taxable debit or eligible debit is the amount set out in Column 2 of the appropriate Division of Schedule 1 opposite to the reference in Column 1 of that Division of Schedule 1 to the range of amounts within which the amount of that debit is included.

[Section 5 amended by No. 12 of 1997 s. 4.]

Schedule 1 Amount of tax

Schedule 1 — Amount of tax

(Section 5)

Division 1 — Debits made before 1 July 1997

Column 1	Column 2
Range of amounts of taxable debits or eligible debits	Amount of tax
Not less than \$1 but less than \$100	15 cents
Not less than \$100 but less than \$500	35 cents
Not less than \$500 but less than \$5 000	75 cents
Not less than \$5 000 but less than \$10 000	\$1.50
\$10 000 or more	\$2.00

Division 2 — Debits made on or after 1 July 1997

Column 1	Column 2
Range of amounts of taxable debits or eligible debits	Amount of tax
Not less than \$1 but less than \$100	30 cents
Not less than \$100 but less than \$500	70 cents
Not less than \$500 but less than \$5 000	\$1.50
Not less than \$5 000 but less than \$10 000	\$3.00
\$10 000 or more	\$4.00

[Schedule 1 inserted by No. 12 of 1997 s. 5.]

Notes

- ¹ This is a compilation of the *Debits Tax Act 1990* and includes the amendments made by the other written laws referred to in the following table. For amendments that had not come into operation on the date on which this compilation was prepared see endnote ^{1a, 2, 3, 4}.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Debits Tax Act 1990</i>	56 of 1990	17 Dec 1990	1 Jan 1991 (see s. 2)
<i>Revenue Laws Amendment (Taxation) Act 1997 Pt. 2</i>	12 of 1997	25 Jun 1997	1 Jul 1997 (see s. 2)
<i>Revenue Laws Amendment (Assessment) Act 1998 Pt. 6 Div. 1</i>	22 of 1998	30 Jun 1998	2 Jul 1998 (see s. 2(1))

Reprint 1 of the *Debits Tax Act 1990* as at 3 Jan 2003
(includes amendments listed above)

- ^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and Year	Assent	Commencement
<i>Taxation Administration (Consequential Provisions) Act 2002 s. 5(a) and Pt. 4 Div 1 and 2⁵</i>	45 of 2002	20 Mar 2003	Operative on commencement of <i>Taxation Administration Act 2003</i> (see s. 2(1))

- ² This Act to be read as one with the *Debits Tax Assessment Act 1990*.

- ³ Under the *Commonwealth Places (Mirror Taxes Administration) Act 1999* s. 7 this Act is 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 2002*. Pt. 1 and Pt. 2 Div. 1 of those regulations read as follows:

“

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Commonwealth Places (Mirror Taxes Administration) Regulations 2002*.

2. Commencement

- (1) These regulations do not have effect unless an arrangement is in operation under section 5 of the Act.
- (2) When such an arrangement is in operation, these regulations and the modifications they prescribe are deemed to have taken effect on 6 October 1997.
- (3) If a State taxing law was repealed before these regulations take effect then, despite the repeal, when these regulations are deemed under subsection (2) to have taken effect, the repealed law is deemed to have been modified, in accordance with these regulations, on 6 October 1997.

3. Modification of State taxing laws

- (1) In its operation as an applied WA law, the Act is modified by omitting section 7.
- (2) 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 (3).
- (3) 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;
 - (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;
 - (c) the person has taken the action in accordance with the corresponding applied law; and
 - (d) the Commissioner has enough 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.
- (4) 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 2 — Debits tax

Division 1 — The *Debits Tax Act 1990*

4. Modification of the *Debits Tax Act 1990*

This Division sets out modifications of the *Debits Tax Act 1990*.

5. Section 2A inserted

After section 2 the following section is inserted —

“

2A. 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 *Debits Tax Assessment Act 1990* 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 Debits Tax Act as a single body of law.

”

”

⁴ Under the *Commonwealth Places (Mirror Taxes Administration) Act 1999* s. 8(2) of the Commonwealth, this Act is 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 2002*. Pt. 1 and Pt. 2 Div. 1 of that notice read as follows:

“

Part 1 — Preliminary

1. Citation

This notice may be cited as the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2002*.

2. Commencement

- (1) This notice does not have effect unless an arrangement is in operation under section 9 of the Commonwealth Places Mirror Taxes Act in relation to Western Australia.
- (2) When such an arrangement is in operation, this notice and the modifications it prescribes are deemed to have taken effect on 6 October 1997.
- (3) If an applied WA law was repealed before this notice takes effect then, despite the repeal, when this notice is deemed under subsection (2) to have taken effect, the repealed law is deemed to have been modified on 6 October 1997 as set out in this notice.

3. 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;

“**Commonwealth Mirror Taxes Act**” means the *Commonwealth Places (Mirror Taxes) Act 1998* of the Commonwealth;

“**WA taxing law**” means a State taxing law of Western Australia.

4. Modification of applied WA laws

- (1) For the purposes of section 8 of the Commonwealth Mirror Taxes Act, each applied WA law is taken to be modified to the extent necessary to give effect to subregulation (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;
 - (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;

- (c) the person has taken the action in accordance with the corresponding State taxing law; and
- (d) the Commissioner has enough 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 section 8 of the Commonwealth Mirror Taxes Act.

Part 2 — Debits tax

Division 1 — The applied *Debits Tax Act 1990*

5. Modification of the applied Act

This Division sets out modifications of the *Debits Tax Act 1990** of Western Australia.

[* *Act No. 56 of 1990.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 95.]

6. Section 2A inserted

After section 2 the following section is inserted —

“

2A. Application of Act in 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 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 *Debits Tax Assessment Act 1990* is to be read as a reference to that Act 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.
- (2) This Act is to be read with the corresponding Debits Tax Act as a single body of law.
- (3) In addition to being modified as prescribed by the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2002*, this Act is deemed to be further modified to any extent that is necessary or convenient —
 - (a) to enable this Act to operate effectively as a law of the Commonwealth; and
 - (b) to ensure that the combined liability of a taxpayer under this Act and the corresponding Debits Tax Act is as nearly as possible the same as the taxpayer's liability would be under the corresponding Debits Tax Act alone if the Commonwealth places in Western Australia were not Commonwealth places.

”

”

⁵ On the date as at which this compilation was prepared, the *Taxation Administration (Consequential Provisions) Act 2002* s. 5(a) and Pt. 4 Div 1 and 2 had not come into operation. They read as follows:

“

Part 2 — Repeals

5. Acts repealed

The following Acts are repealed —

- (a) *Debits Tax Act 1990*;

Part 4 — Transitional provisions

Division 1 — Interpretation

33. Definitions

In this Part —

“**commencement day**” means the day on which the *Taxation Administration Act 2003* comes into operation;

“**old Act**” means —

- (a) an Act repealed by section 5;
- (b) the old Stamp Act; or
- (c) section 41 of the *Metropolitan Region Town Planning Scheme Act 1959* as in force immediately before the commencement day;

“**old Stamp Act**” means the *Stamp Act 1921* as in force immediately before the commencement day;

“**substantive provisions**”, in relation to an old Act, means the provisions of the old Act other than those dealing with matters dealt with in the *Taxation Administration Act 2003*.

Division 2 — General transitional provisions

34. General transitional arrangements

- (1) Section 37(1) of the *Interpretation Act 1984*, except paragraphs (a) and (b), does not apply in relation to the repeal of an old Act.
- (2) The repeal of an old Act does not, unless the contrary intention appears —
 - (a) affect any right, interest, title, power or privilege created, acquired, accrued, established or exercisable or any status or capacity existing prior to the repeal;
 - (b) affect any duty, obligation, liability, or burden of proof imposed, created, or incurred prior to the repeal;
 - (c) subject to section 11 of *The Criminal Code* and section 10 of the *Sentencing Act 1995*, affect any penalty or forfeiture incurred or liable to be incurred in respect of an offence committed against the old Act; or
 - (d) affect any investigation, legal proceeding or remedy in respect of any such right, interest, title, power, privilege, status, capacity, duty, obligation, liability, burden of proof, penalty or forfeiture.
- (3) Subject to subsections (4) and (5) —
 - (a) a right, interest, title, power, privilege, duty, obligation, liability or burden of proof referred to in subsection (2)(a) or (b) may be exercised or enforced;
 - (b) a penalty or forfeiture referred to in subsection (2)(c) may be imposed and enforced; and

- (c) an investigation, legal proceeding or remedy referred to in subsection (2)(d) may be instituted, continued, or enforced,

as if the substantive provisions of the relevant old Act —

- (d) had not been repealed;
- (e) were a taxation Act for the purposes of the *Taxation Administration Act 2003*; and
- (f) had been amended to make any modifications necessary for this section to have effect.

- (4) If an objection, appeal or other legal proceeding (the “**action**”) was instituted under an old Act and was not finally determined before the commencement day —

- (a) the action may be continued;
- (b) any requirement to pay interest on an amount of tax determined in the action to have been overpaid applies and may be enforced;
- (c) any penalty may be imposed and enforced; and
- (d) any decision, order or determination made in the action has effect, and may be enforced,

as if this Act and the taxation Acts had not commenced.

- (5) If the time limited by an old Act for doing anything is longer than the time limited by a taxation Act for doing the equivalent thing under that Act, then in relation to a matter to which subsection (3) applies, the time limited under the old Act applies in relation to the doing of the thing under the taxation Act.
- (6) If the time limited by an old Act for commencing proceedings in relation to an offence under that Act is shorter than the 5 year period limited by section 111 of the *Taxation Administration Act 2003*, then despite section 111, proceedings in relation to an offence under the old Act (including an offence under a provision of the old Act that is continued in force under this Part) cannot be commenced after the expiry of the shorter period provided for by the old Act.
- (7) In this section a reference, in relation to the *Stamp Act 1921*, to the repeal of the old Act is a reference to the amendment of the Act by the *Stamp Amendment Act 2003*.

35. Commissioner not to increase tax liability

Despite Part 3 Division 1 of the *Taxation Administration Act 2003*, the Commissioner must not make a reassessment that increases the amount of tax a person is liable to pay in relation to anything that

happened before the commencement day if the reassessment could not have been made under the relevant old Act.

36. Delegations

A delegation made under an old Act and in force immediately before the commencement day continues in force on and after that day as a delegation made under section 10 of the *Taxation Administration Act 2003*.

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