

Commonwealth Places (Mirror Taxes) Act 1998
(Commonwealth)

**Commonwealth Places (Mirror Taxes)
(Modification of Applied Laws (WA))
Amendment Notice 2012**

Made by the Treasurer of Western Australia under the *Commonwealth Places (Mirror Taxes) Act 1998* (Commonwealth) section 8(2), and in accordance with the *Commonwealth Places (Mirror Taxes Administration) Act 1999* (Western Australia) section 6.

1. Citation

This notice is the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Amendment Notice 2012*.

2. Commencement

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

3. Notice amended

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

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4. Clause 3 amended

(1) In clause 3(1):

(a) delete “The” and insert:

Subject to this regulation, the

(b) delete “Part 2,”.

(2) After clause 3(2) insert:

(3) The modifications prescribed in Part 2 have effect on and from 1 July 2008.

(4) The modification prescribed in clause 30 has effect on and from 25 June 2010.

(5) The modifications prescribed in clause 51 have effect on and from 1 July 2008.

5. Clause 5 amended

Delete clause 5(3) and insert:

(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.

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

6. Clause 7A inserted

At the end of Part 1 insert:

7A. Use of notes

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

7. Part 2 inserted

Delete Part 2 and insert:

Part 2 — Duties

Division 1 — The applied *Duties Act 2008*

7. Modification of the applied *Duties Act 2008*

This Division sets out modifications of 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.

8. Section 3 modified

(1) In section 3 insert in alphabetical order:

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

corresponding Duties Act^{1MC} means the *Duties Act 2008* (Western Australia) in its application as a law of Western Australia;

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(2) In section 3 in the definition of *exempt body*:

(a) delete “fund;” and insert:

fund; or

(b) after paragraph (c) insert:

(d) the Commonwealth or any agent or
instrumentality of the Commonwealth;

9. Sections 8A and 8B inserted

After section 7 insert:

8A.^{IMC} 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 regulations is to be read as a
reference to 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 Mirror
Taxes Act; and

- (c) a reference to the Minister is to be read as a reference to the Minister of the Crown in right of Western Australia to whom the administration of the corresponding Duties Act is for the time being committed by the Governor of Western Australia; and
 - (d) a reference to any of the following enactments is to be read as a reference to the enactment of that name 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 —
 - (i) the *Stamp Act 1921*;
 - (ii) the *Taxation Administration Act 2003*;
 - (iii) the *Land Tax Assessment Act 2002*;
 - (iv) the *Planning and Development Act 2005*;
 - (v) the *Duties Legislation Amendment Act 2008*.
- (2) This Act is to be read with the corresponding Duties 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 2007*, this Act is to be taken 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 Duties Act is as nearly as possible the same as

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the taxpayer's liability would be under the corresponding Duties Act alone if the Commonwealth places in Western Australia were not Commonwealth places.

- (4) 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 corresponding 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.^{IMC} 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 corresponding Duties Act, the total amount of duty payable under this Act and the corresponding 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 corresponding 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 corresponding Duties Act.

10. 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 applied *Duties Regulations 2008*

11. Modification of the *Duties Regulations 2008*

This Division sets out modifications of 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.

12. Regulation 3A inserted

After regulation 2 insert:

3A.^{IMC} Application of regulations in Commonwealth places

(1) In this regulation —

corresponding Duties Regulations means the *Duties Regulations 2008* (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

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- (b) a reference to the Act is to be read as a reference to 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 Mirror Taxes Act.
- (3) These regulations are to be read with the corresponding Duties 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 to be taken 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.

8. Clause 30 replaced

Delete clause 30 and insert:

30. Section 5B inserted

At the beginning of Part 2 Division 1 insert:

5B.^{1MC} 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. Clause 35 amended

Delete clause 35(3), (4) and (5).

10. Clause 51 amended

- (1) In clause 51 in inserted section 5A(1) delete paragraph (d)(i) and (ii) and insert:

(i) the *Duties Act 2008*;

- (2) In clause 51 in inserted section 5B:

- (a) in paragraph (b) delete “Australia.” and insert:

Australia; and

- (b) after paragraph (b) insert:

- (c) a reference to the Public Service is to be read as a reference to the Public Service of Western Australia; and
- (d) a reference to the Treasurer is to be read as a reference to the Treasurer of Western Australia; and
- (e) a reference to the Consolidated Account is to be read as a reference to the Consolidated Account of Western Australia referred to in the *Constitution Act 1889* (Western Australia) section 64.

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Treasurer of Western Australia