

Commonwealth Places (Mirror Taxes) Regulations 2000 2000 No. 66

EXPLANATORY STATEMENT

STATUTORY RULES 2000 No. 66

Issued by the Authority of the Treasurer

Commonwealth Places (Mirror Taxes) Act 1998

Commonwealth Places (Mirror Taxes) Regulations 2000

Authority

Under Section 3 of the *Commonwealth Places (Mirror Taxes) Act 1998* (the Act), a **'State taxing law'** includes a State law that imposes tax and is prescribed by regulations.

Section 25(1) of the Act empowers the Governor-General to make regulations prescribing matters which are required or permitted by the Act to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 25(2) of the Act permits regulations made under the Act to operate retrospectively. Hence, any new State taxing laws added to Schedule 1 will become applied laws as if they had always been listed in the Schedule.

Purpose

Certain State taxes are either invalid or possibly invalid in relation to Commonwealth places. The Act provides the framework for the imposition of taxes, in relation to Commonwealth places, which mirror those State taxes. Revenue collected will be returned to the States.

The purpose of the Regulations is to add State land taxes to the list of State taxes that are applied as Commonwealth mirror taxes in relation to Commonwealth places located in the States.

State land taxes were not included in the original mirror tax arrangements because the Constitution prevents the States from imposing land tax on Commonwealth property without the consent of Parliament. However, it has now come to light that the previous Government legislated to remove the exemption from land tax (and other State taxes) for certain Commonwealth business enterprises (eg. Australia Post) with effect from 1 July 1989. Hence, land owned by these enterprises has been subject to State land taxes since that date.

On behalf of all States, Western Australia has requested the extension of the mirror tax arrangements to State land taxes, including metropolitan region improvement taxes.

In the Treasurer's press release of 6 October 1997, the Government guaranteed to take action to ensure Commonwealth places are effectively subject to State taxes should their application be found to be ineffective.

Since land tax is applied on some Commonwealth places, and consistent with the above press release, the Government has agreed to extend the mirror tax arrangements to State land taxes. This mirror tax solution will validate land tax paid by the relevant Commonwealth business enterprises.

The Regulations commenced on gazetta.