
Table of cases

These cases have been referred to in articles published in Volume 34 (Issues 1-4)

123 East Fifty-Fourth Street Inc v United States 157 F 2d 68 (1946).....	241
AAT Case [2004] AATA 1041; (2004) 57 ATR 1149.....	229
AAT Case [2004] AATA 349, (2004) 55 ATR 1082.....	229
AAT Case 4674 (1988) 19 ATR 3987; 88 ATC 962	76, 78
Accounting Systems 2000 (Developments Pty Ltd) v CCH Australia Ltd (1993) 42 FCR 470; 114 ALR 355.....	144
Adelaide Racing Club Inc v FCT (1964) 114 CLR 517; 13 ATD 361.....	220
Adele Grace Pty Ltd v Commissioner of Land Tax (1977) 2 NSWLR 382; 8 ATR 163.....	35
AEG Unit Trust (Managers) Ltd's Deed, In re [1957] Ch 415	47
Air Canada v British Columbia (1989) 59 DLR (4th) 161	233
Alexander v Cambridge Credit Corporation (1987) 9 NSWLR 311	140
Amadio Pty Ltd v Henderson (1998) 81 FCR 149.....	144
Amministrazione delle Finanze dello Stato v San Giorgio (Case C-199/82) [1983] ECR 3595	231
Amway of Australia Pty Ltd v Commonwealth of Australia [1998] FCA 1311 ...	234, 239, 242, 244
Annetts v Australian Stations Pty Ltd (2002) 211 CLR 317	144
Anns v Merton LBC [1978] AC 728.....	136
Applicant and FCT, Re (2004) 55 ATR 1082	229
Archer Brothers Pty Ltd v Commissioner of Taxation (Cth) (1953) 90 CLR 140; 10 ATD 192; [1953] ALR 748.....	90, 91, 97
Archer-Shee v Baker (1928) 15 TC 6.....	92
Argos Distributors Ltd v Commissioners of Customs and Excise (Case C-288/94) [1996] ECR I-5311.....	237, 241
Arjon Pty Ltd v Commissioner of State Revenue (Vic) (2003) 56 ATR 446.....	33, 45, 51, 53
ASIC v Commercial Nominees of Australia Ltd (as trustee for the Confidens Investment Trust) (2002) 42 ACSR 240; [2002] NSWSC 576.....	89
ASIC v Koala Quality Produce Ltd (2002) 41 ACSR 628; [2002] NSWSC 628.....	89
Astley v Austrust Ltd (1999) 197 CLR 1	135
Attorney-General v Heywood (1887) 19 QBD 326	76
Australian Dental Association (NSW Branch) v FCT (1934) 3 ATD 114.....	218, 220
Aust-Wide Management Ltd v Chief Commissioner of Stamp Duties (NSW) (1992) 24 ATR 418	44
Avon Products Pty Ltd v Commissioner of Taxation [2005] FCAFC 63.....	234, 242, 244
Ayrshire Employers Mutual Insurance Association Ltd v IRC (1946) 27 TC 331; 1956 6 CTBR (NS) Case 39; 1957, 8 TBRD Case H39.....	219, 227
Bailey v FCT (1977) 136 CLR 214 51 ALJR 429; 7 ATR 251	10
Baker v Archer-Shee [1927] AC 844	53, 92
Baltic Shipping Co v Dillon (1993) 176 CLR 344.....	140
Bank PLC v Cox McQueen [1999] Lloyd's Rep PN 223	140

Table of cases

Banque Financière de la Cité v Parc (Battersea) Ltd [1999] AC 221	230
Barclay’s Mercantile Business Finance Ltd v Mawson [2004] UKHL 51; [2005] 1 All ER 97	229
Barclays Bank plc (t/as Barclaycard) v Taylor (1989) 1 WLR 1066; 3 All ER 563	21
Barings Plc (in liq) v Coopers & Lybrand (No 7) [2003] EWHC 1319	140, 144
Batagol v FCT (1963) 109 CLR 243; 13 ATD 202	9, 12, 13
Bayer v Balkin (1995) 31 ATR 295 at 305; 95 ATC 4609	131
Bell Bros Pty Ltd v Shire of Serpentine-Jarrahdale (1969) 121 CLR 137	231
Bennett v Minister for Community Welfare (1992) 176 CLR 408	135, 139
Berry v Green [1938] AC 575 at 582	44
Birch v Cropper (1889) 14 App Cas 525	89
Bohemians Club v Acting FCT (1918) 24 CLR 334	216, 224
Boland v Yates Property Corporation Ltd (1999) 74 ALJR 209; 167 ALR 575; [1999] HCA 64	138
Bond Corporation Pty Ltd v Thiess Contractors Pty Ltd (1987) 14 FCR 215	145
BRK (Bris) Pty Ltd v Commissioner of Taxation (Cth) (2001) 46 ATR 347; 2001 ATC 4111	87
Brooklands Selangor Holdings Ltd v Inland Revenue Commissioners [1970] 1 WLR 429	35
Brown v Jam Factory Pty Ltd (1981) 53 FLR 340	144
Bucks Constabulary Widows’ and Orphans’ Fund Friendly Society (No 2), Re [1979] 1 WLR 936	218, 223, 226
Budai and Tax Agents Board (NSW), Re (2002) 51 ATR 1058; 2002 ATC 2226; [2002] AATA 1154	133, 144, 151, 146
Caboche v Ramsay (1993) 27 ATR 479	39
Cabramatta Golf Club Ltd v Commissioner of Land Tax (NSW) [1977] 7 ATR 659	220, 223
Calder Construction Co Ltd v IRC (NZ) [1963] NZLR 921; (1963) 13 ATD 214	221
Campbells Hardware Pty Ltd v Commissioner of Stamp Duties (Qld) (1998) 40 ATR 1	37
Canada Trust Co, Re [1950] 2 DLR 611	89
Canadian Pacific Tobacco Company Ltd v Stapleton (1952) 86 CLR 1; 26 ALJ 344	25
Caratti v FCT (1999) 42 ATR 714; 99 ATC 5044	23
Cardiff City Council v Commissioners of Customs and Excise [2003] EWCH Civ 1456	238
Carlisle and Silloth Golf Club v Smith (Surveyor of Taxes) [1913] 3 KB 75; (1912) 6 TC 48	217, 218, 225, 227
Carreras Group Ltd v Stamp Commissioner [2004] UKPC 16	229
Case 123 (1951) 1 CTBR(NS)	90
Case 40 (1957) 7 CTBR(NS)	90
Case 45/95 95 ATC 395	234, 239, 242, 244
Case 46/94 94 ATC 412	221
Case ST 94/49 (AAT Case 10,338) (1995)	234, 239, 242, 244
Case W49 89 ATC 469	221
Case Y46 91 ATC 431	234, 239, 242, 244
Cauvin v Philip Morris Ltd [2002] NSWSC 736	231, 243
Charles v FCT (1954) 90 CLR 598 at 609; 28 ALJR 117	50
Chief Commissioner of Stamp Duties (NSW) v Buckle (1998) 192 CLR 226; 72 ALJR 243; 98 ATC 4103	37, 52, 53, 69, 75

Chief Commissioner of Stamp Duties (NSW) v ISPT Pty Ltd (1998) 45 NSWLR 639; 41 ATR 29	32, 50
Chippendale Printing Co Pty Ltd v CT (1996) 62 FCR 347	232, 234, 241
Cie Immobiliere Viger Ltee v Laureat Giguere Inc [1977] 2 SCR 67.....	231
Clyne v Deputy FCT (1985) 8 FCR 130; 16 ATR 938; 85 ATC 4597	21
Collie v FCT (1997) 35 ATR 1204	24
Collie v FCT (2003) 54 ATR 1048; 2003 ATC 2239	24, 25
Columbia Ferry Corp v Canada [2001] FCA 146	232
Commissioner of State Revenue v Karingal 2 Holdings Pty Ltd (2003) 54 ATR 798.....	33, 36, 53
Commissioner of State Revenue v Royal & Sun Alliance Insurance Australia Ltd (2003) 54 ATR 339; [2003] VSCA 177	57
Commissioner of State Revenue v Royal Insurance Australia Ltd (1994) 182 CLR 51; 29 ATR 173; 126 ALR 1.....	231, 233, 234,237, 238, 239, 241, 243
Commissioner of State Taxation (WA) v Merifield Cooksey Holdings Pty Ltd (1994) 30 ATR 21	53
Commissioner of Taxation (NSW) v Stevenson (1937) 59 CLR 80, 38 SR (NSW) 121; 4 ATD 415; [1938] ALR 290.....	90, 99, 102
Commissioner of Taxation v Firth (2002) 120 FCR 450; 50 ATR 1; 192 ALR 542; [2002] ATC 4346	115
Commissioner of Taxation v Linter Textiles Australia Ltd (in liq) (2003) 129 FCR 42; 52 ATR 502.....	34, 38
Commissioner of Taxation v Metal Manufacturers Ltd (2001) 108 FCR 150; 46 ATR 497 ..	133, 138
Commissioners of Customs and Excise v National Westminster Bank plc [2003] STC 1072.....	233, 235
Commissioners of Customs and Excise v Zoological Society of London [2002] STC 521 ..	235, 237
Commissioners of Inland Revenue v Executors of Hamilton-Russell [1943] 1 All ER 474	51
Commissioners of Inland Revenue v Scottish Provident Institution [2004] UKHL 52.....	229
Commissioners of Inland Revenue v Sparkford Vale Cooperative Society Ltd (1925) 12 TC 891	221
Commonwealth of Australia v SCI Operations Pty Ltd (1998) 192 CLR 285	232
Commonwealth v Amann Aviation Pty Ltd (1991) 174 CLR 64.....	140
Comptroller of Stamps (Vic) v Yellowco Five Pty Ltd [1993] 2 VR 529; (1992) 24 ATR 456	32, 41, 45
Comptroller-General of Customs (NSW) v Kawasaki Motors Pty Ltd (No 2) (1991) 32 FCR 243	232
Computeach International Ltd v Customs and Excise Commissioners [1994] VATTR 237	237
Corrs Chambers Westgarth and Commissioner of Taxation, Re (1998) 53 ALD 769	24
Costa & Duppe Properties Pty Ltd v Duppe [1986] VR 90	41
Cox v Archer (1964) 110 CLR 1 at 5; 37 ALJR 475.....	44
Craig, Re (1952) 52 SR (NSW) 256 at 267; 69 WN (NSW) 205	52
Credit Suisse v Attar [2004] EWHC 374	235, 242
Cronulla Sutherland Leagues Club Ltd v FCT (1990) 23 FCR 82; [1990] 90 ATC 4215	220, 222, 225
Customs and Excise Commissioners v McMaster Stores (Scotland) Ltd (in receivership) [1995] STC 846.....	234
Czarnikow Ltd v Kufos [1969] AC 350	140

Table of cases

Dalgety Downs Pastoral Co Pty Ltd v FCT (1952) 86 CLR 335; 10 ATD 55	34
David Securities Pty Ltd v Commonwealth Bank of Australia (1992) 175 CLR 353	230, 231
DCT v Warrick (No 2) (2004) 56 ATR 371; [2004] FCA 54	24
Decorative Carpets v State Board of Equalization 373 P 2d 637 (1962).....	241
Deputy Commissioner of Taxation (Qld) v Harris (1987) 89 FLR 227; 19 ATR 432	11
Deputy Commissioner of Taxation (WA), Re; Ex parte Briggs (1986) 12 FCR 301; 17 ATR 1031	10
Deputy Commissioner of Taxation (WA); Ex parte Briggs (1987) 14 FCR 249; 18 ATR 570	11
Deputy Commissioner of Taxation v Richard Walter (1995) 183 CLR 168; 69 ALJR 223; 29 ATR 644	12
Dimbula Valley (Ceylon) Tea Co Ltd v Laurie [1961] Ch 353; [1961] 1 All ER 769.....	73
Divune Pty Ltd v Gould Ralph Services Pty Ltd [2004] NSWSC 8	145
DKLR Holding Co (No 2) Pty Ltd v Commissioner of Stamp Duties (1980) 1 NSWLR 510; 10 ATR 942	35, 37, 38
DKLR Holding Co (No 2) Pty Ltd v The Commissioner of Stamp Duties (NSW) (1982) 149 CLR 431; 56 ALJR 287; 12 ATR 874.....	37
Dodds v Tuke (1884) 25 Ch D 617	53
Donohue v Stevenson [1932] AC 562.....	136
Doug Sim Enterprises Pty Ltd v Patrick Wan & Co (1987) 19 ATR 758.....	134
Drake Personnel Ltd v Commissioner of State Revenue [2000] VSCA 122	234, 242, 244
Driffield Gas Light Co, Re [1898] 1 Ch 451.....	89
DS Millard & Son Pty Ltd, Re (1997) 24 ACSR 71; 15 ACLC 808.....	89
Duchess of Argyll v Beuselinck [1972] 2 Lloyds Rep 172	136
Dwight v Commissioner of Taxation (1992) 37 FCR 178 at 192; 23 ATR 236	45
Earl of Mountcashell v More-Smyth [1896] AC 158 at 164	38
Eastern Nitrogen Ltd v Commissioner of Taxation (2001) 108 FCR 27.....	133, 138
English & Scottish Joint Cooperative Wholesale Society Ltd v Commissioner of Agricultural Income Tax [1948] AC 405; [1948] 2 All ER 395	218, 221, 227
Equitable Life Assurance Society of the United States v Bishop [1900] 1 QB 177.....	218
Equity Excess Pty Ltd v Westpac Banking Corporation [1990] ATPR 40-994	144
Equuscorp Pty Ltd v Glengallan Investments Pty Ltd (2004) 218 CLR 471; 57 ATR 556; [2004] HCA 55.....	229
ETO Pty Ltd v Idameneo (No 123) Pty Ltd [2004] NSWCA 368	55-60
EVBJ Pty Ltd v Greenwood (1988) 20 ATR 134	134, 136, 137
Farrow Mortgage Services Pty Ltd (in liq) v Edgar (1993) 114 ALR 1.....	141
Faulconbridge (HM Inspector of Taxes) v National Employers' Mutual General Insurance Association Ltd (1952) 33 TC 103	218, 219, 224
FCT v Australia and New Zealand Banking Group Ltd (1979) 143 CLR 499; 9 ATR 483	21, 22
FCT v Australian Music Traders Association (1990) 21 ATR 471; [1990] 90 ATC 4536	216, 218, 221, 227
FCT v Blakely (1951) 82 CLR 388.....	95

FCT v Brewing Investments Ltd (2000) 100 FCR 437; 44 ATR 471; 177 ALR 1; [2000] ATC 4431	90, 91, 95, 96
FCT v Citibank Ltd (1989) 20 FCR 403; 20 ATR 292; 89 ATC 4268	21
FCT v Consolidated Press Holdings Ltd (1999) 42 ATR 575; [1999] FCA 1199	207
FCT v Consolidated Press Holdings Ltd (2001) 207 CLR 235; 47 ATR 229; [2001] HCA 32 ...	152, 197, 198, 199, 204, 205, 206, 207, 209, 214, 215
FCT v Cooling (1990) 22 FCR 42; 21 ATR 13; 94 ALR 121	80
FCT v Hart (2002) 121 FCR 206; 50 ATR 369; 196 ALR 636	200, 201, 214
FCT v Hart (2004) 217 CLR 216; 55 ATR 712; [2004] HCA 26	142, 196, 201, 202, 213, 204, 205, 207, 208, 210, 211, 212, 213, 214, 215, 229
FCT v Hoffnung & Co Ltd (1928) 42 CLR 39; 1 ATD 310	11, 12
FCT v Peabody (1994) 181 CLR 359; 28 ATR 344.....	196, 197, 198, 202, 203, 204, 205, 206, 207, 209, 214, 215
FCT v Richard Walter Pty Ltd (1995) 183 CLR 168; 29 ATR 644	196, 197
FCT v Ryan (2000) 201 CLR 109; 74 ALJR 471; 43 ATR 694	12, 13, 15
FCT v Sleight (2004) 55 ATR 555	229
FCT v Spotless Services Ltd (1996) 186 CLR 404; 34 ATR 183.....	197, 198, 199, 204, 205, 206, 207, 210, 211, 215
FCT v Stokes (1996) 72 FCR 160; 34 ATR 478	12, 13
FCT v Stone [2005] HCA 21; 79 ALJR 956	118
FCT v Totledge Pty Ltd (1982) 60 FLR 149; 12 ATR 830.....	39, 53
FCT v Uther (1965) 112 CLR 630	98
FCT v WE Fuller (1959) 101 CLR 403; 33 ALJR 190; 12 ATD 85; [1959] ALR 1233	95
FCT v Zoffanias Pty Ltd [2003] FCAFC 236	207
Fitzpatrick v Twin Towns Services Club [2003] NSWSC 1242	243
Fleming v Associated Newspapers Ltd [1973] AC 628	232
Fletcher v Income Tax Commissioner [1972] AC 414 [1971] 3 All ER 1185	218, 219, 226, 221, 226, 227, 219
Frank Lyon Co v United States (1978) 435 US 561.....	204
Frankcom v Commissioner of Taxation (Cth) (1982) 65 FLR 25	150
Garland v Consumers' Gas Co (2004) SCC 25, [2004] 1 SCR 629 [38]-[47]	231
Gartside v Inland Revenue Commissioners [1968] AC 553; [1968] 1 All ER 121	75, 76, 81, 82
Gates v City Mutual Assurance Society Ltd (1986) 160 CLR 1	140
Gaydon, Re [2001] NSWSC 473	51
George v FCT (1952) 86 CLR 183.....	10
Gibb Commissioner of Taxation (Cth) (1966) 118 CLR 628; 40 ALJR 394; 14 ATD 363; [1967] ALR 527	90, 95, 96
Glasgow Corp Waterworks Acts v IRC (1875) 1 TC 28.....	217, 218
Glenn v Federal Commissioner of Land Tax (1915) 20 CLR 490; 21 ALR 565	37, 39, 41
Glenville Pastoral Co Pty Ltd (in liq) v Commissioner of Taxation (Cth) (1963) 109 CLR 199; 37 ALJR 173, [1964] ALR 225	90, 91, 97
Global Sportsmen Pty Ltd v Mirror Newspapers Pty Ltd (1984) 2 FCR 82	144
Gosling v Gosling (1859) John 265 at 272; 70 ER 423.....	39

Table of cases

Government of India v Taylor [1955] AC 491	94
Grant v Sun Shipping Co Ltd [1948] AC 549	139
Grantham Cricket Club v Commissioners of Customs and Excise [1998] BVC 2272.....	235
Great Western Railway Co v Bater [1922] 2 AC 1	232
Greave & Co (Contractors) Ltd v Baynham Meikle & Partners [1975] 1 WLR 1095	138
Grosse v Purvis [2003] QDC 151.....	21
Grove (Surveyor of Taxes) v Young Men’s Christian Association (1903) 4 TC 613	227
Hadley v Baxendale (1854) 9 Ex CH 341 at 354	140
Handley v Commissioner of Taxation (Cth) (1981) 148 CLR 182	150
Haque v Haque [No 2] (1965) 114 CLR 98; 39 ALJR 144.....	35, 49
Harbin v Masterman (1894) 2 Ch 184.....	39
Harmer v FCT (1989) 20 ATR 1461	41
Harmer v FCT (1991) 173 CLR 264; 66 ALJR 89; 22 ATR 726.....	78
Harris v Commissioner of Taxation (2001) 48 ATR 434.....	148
Harrowell v Commissioner of Taxation (Cth) (1967) 116 CLR 607	95, 96
Hart v FCT (2001) 48 ATR 317; 189 ALR 584	200
Hawkins v Clayton (1988) 164 CLR 539.....	134
Hedin v McIntyre [2004] VCAT 1745.....	58
Hedley Byrne & Co Ltd v Heller & Partners Ltd [1964] AC 465	136
Henjo Investments Pty Ltd v Collins Marrickville Pty Ltd (No 1) (1988) 39 FCR 546; 79 ALR 83.....	144
Henry v Hammond [1913] 2 KB 515 at 521	243
Henville v Walker (2001) 206 CLR 459	145, 146
Heydon v NRMA Ltd (2000) 51 NSWLR 1; [2000] NSWCA 374	136
Hill v Van Earp (1997) 188 CLR 159	134
Hollis v Atherton Shire Council [2003] QSC 147.....	231
Home Office v Dorset Yacht Co Ltd [1970] AC 1004.....	136
Hornsby Building Information Centre Pty Ltd v Sydney Building Information Centre Ltd (1978) 140 CLR 216	144
Howard v Miller [1915] AC 318.....	49
Hoysted v FCT (1920) 27 CLR 400.....	37, 39, 42
Hurlingham Estates Ltd v Wilde & Partners (1996) 37 ATR 261.....	151
Igloo Homes Pty Ltd v Sammut Constructions Pty Ltd [2004] NSWSC 1213	55-60
Illawarra Suburbs Lawn Tennis Association Ltd v Commissioner of Land Tax (NSW) [1985] 16 ATR 664; [1985] 85 ATC 4423.....	222, 225
Inland Revenue Commissioner (NZ) v Ward (1969) 1 ATR 287	78
Inland Revenue Commissioners v Burmah Oil Co Limited [1982] STC 30	131
Inland Revenue Commissioners v Burrell [1924] 2 KB 52.....	91
Inland Revenue Commissioners v Fitzwilliam [1993] 1 WLR 1189	153
Inland Revenue Commissioners v Wesley & General Assurance Society (1946) 30 TC 1116	131
Inn Leisure Industries Pty Ltd (Provisional liquidator appointed) v D F McCloy Pty Ltd (No 1) (1991) 28 FCR 151; 21 ATR 1494; 100 ALR 447; [1991] ATPR 41-091	145

Institute of Civil Engineers v IRC [1932] 1 KB 149	220
Institute of Fuel v Morley [1955] 1 QB 317.....	220
Integrated Financial Group Pty Ltd v Australian Securities Commission (2004) 49 ASCR 509; [2004] WASCA 213.....	26
IRC v Deutsche Morgan Grenfell Group plc [2005] EWCA Civ 78.....	219, 220, 223, 225, 231
ISPT Pty Ltd v Chief Commissioner of Stamp Duties (1997) 38 ATR 128.....	33
J Sainsbury plc v O'Connor (Inspector of Taxes) [1991] 1 WLR 963	34
Javor v State Board of Equalization 527 P 2d 1153 (1974)	241, 242
Jax Tyres Pty Ltd v FCT (1986) 5 NSWLR 329	229
Jennings v Mather [1901] 1 QB 108	52
Jennings v Zalani, Kiss & M K Tremayne & Co Pty Ltd [1972] 2 SASR 493	137, 150
Jones v South-West Lancashire Coal Owners' Association Ltd (1927) AC 827; (1927) 11 TC 790	225
Jones v South-West Lancashire Coal Owners' Association Ltd [1927] 1 KB 33	220, 221
Just v Ministry for Fiscal Affairs (Case C-68/79) [1980] ECR 501	231
JW Broomhead (Vic) Pty Ltd (in liq) v JW Broomhead Pty Ltd [1985] VR 891	48, 52
Kapkini Mikhailidis AE v Idrima Kinonikon Asphaliseon (Cases C-441/98 and 442/98) [2002] ECR I-7145.....	231
Karingal 2 Holdings Pty Ltd v Commissioner of State Revenue (2002) 51 ATR 190.....	34, 53, 54
Kelly v Mawson (1982) 6 ACLR 667	50
Kemtron Industries Pty Ltd v Commissioner of Stamp Duties [1984] 1 Qd R 576; 15 ATR 627.....	52
Kent v SS "Maria Luisa" (No 2) (2003) 130 FCR 12	29, 52
Kern Corp Ltd v Walter Reid Trading Pty Ltd (1987) 163 CLR 164; 61 ALJR 319	35
King v Deputy FCT (SA); Ex parte Hooper (1926) 37 CLR 368	10
KLDE Pty Ltd (in liq) v Commissioner of Stamp Duties (Qld) (1984) 155 CLR 288; 58 ALJR 545; 15 ATR 1214	35
Kleinwort Benson Ltd v Lincoln CC [1999] 2 AC 349.....	231
Kleinwort Benson v Birmingham City Council [1997] QB 380	231, 232, 234
Knox's Trusts, In re [1895] 2 Ch 483.....	50, 52
Koehler v Cerebos (Australia) Ltd (2005) 79 ALJR 845; [2005] HCA 15	135
Kolavo v Pitsikis (<u>t/as Comino and Pitsikas</u>) [2003] NSWCA 59.....	138
Koorootang Nominees Pty Ltd v Australian & New Zealand Banking Group Ltd [1998] 3 VR 16	230
Lamesa Holding BV v FCT (1999) 92 FCR 210; 2 ATR 154; 163 ALR 1	232
Lanphier v Phippos (1838) 8 CAR & P475.....	137
Last v London Assurance Corp (1884) 2 TC 100	217, 222
Leary v Commissioner of Taxation (Cth) (1980) 47 FLR 414; 11 ATR 145.....	152
Leedale (Inspector of Taxes) v Lewis [1982] 1 WLR 1319; [1982] 3 All ER 803	76
Legh's Settlement Trusts, Re [1938] 1 Ch 39	42

Table of cases

Linter Textiles Australia Ltd (in liq) v Commissioner of Taxation (Cth) (2002) 50 ATR 548	34, 35
Lipkin Gorman v Karpnale Ltd [1991] 2 AC 548	235, 242
Liverpool Corn Trade Association Ltd v Monks (HM Inspector of Taxes) (1926) 10 TC 442	222
Lloyd's Bank Export Finance Ltd v Inland Revenue Commission [1991] 2 AC 427	13, 15
Lloyd's Bank plc v Independent Insurance Co Ltd [1998] EWCA Civ 1853, [2000] QB 110	230
Lock v Commissioner of Taxation (2003) 129 FCR 1; 52 ATR 575	46
Lysaght v Edwards (1876) 2 Ch D 499	35
MacBeth & Co v Chislelt [1910] AC 220	77
Macniven (Inspector of Taxes) v Westmoreland Investments Ltd [2003] 1 AC 311; [2001] UKHL 6; 1 All ER 86	131
Macquarie Finance Ltd v FCT (2004) 57 ATR 115; [2004] FCA 1170	208, 209, 210, 211, 214, 229
Macquarie Finance Ltd v FCT [2005] FCAFC 205	212
Madden v Madden, FCT (1996) 65 FCR 354; 32 ATR 223	11
Malaysia Shipyard and Engineering Sdn Bhd v "Iron Shortland" as the Surrogate for the Ship "Newcastle Pride" (1995) 59 FCR 535; 131 ALR 738	30, 36
Malone v Commissioner of Police of the Metropolis (No 2) [1979] Ch 344; 2 WLR 700	21
Mammos v Karnis [2003] VCAT 1050	58
March v Stramare (1991) 171 CLR 506	139
Marijancevic v Deputy Federal Commissioner of Taxation (2004) 56 ATR 625	11
Marks & Spencer plc v Commissioners of Customs and Excise (No 5) [2003] EWCA Civ 1448	238
Marks & Spencer plc v Customs & Excise Commissioners (No 5) [2005] UKHL 53	233, 237, 246
Marks & Spencer plc v Customs and Excise Commissioners (No 1) [1997] V&DR 85	235
Marks and Spencer plc v Customs and Excise Commissioners (No 2) [1997] V&DR 85	234, 240, 242, 244
Marks v Trustees Executors & Agency Co Ltd (1948) 77 CLR 497; 22 ALJR 539	43
Marren v Ingles [1980] 3 All ER 95	114
May v Mijatovic (2002) 26 WAR 95; [2002] WASC 151	145
McBride v Hudson (1962) 107 CLR 604; 35 ALJR 439; [1963] ALR 226	74
McDonald v Coys of Kensington [2004] EWCA Civ 47	230, 245
McWilliam's Wines Pty Ltd v McDonald's System of Australia Pty Ltd (1980) 49 FLR 455; 33 ALR 394	144
Midland Bank PLC v Cox McQueen [1999] Lloyd's Rep PN 223; [1999] PNLR 593	134
Midlands Bank Trust Co Ltd v Hett, Stubbs & Kemp [1979] Ch 384	134
Mohawk Carpet Mills v Delaware Rayon Co 110 A 2d 305 (1954)	90
Monks (HM Inspector of Taxes) [1926] 2 KB 110	222
MSP Nominees Pty Ltd v Commissioner of Stamps (1996) 34 ATR 360	40
MSP Nominees Pty Ltd v Commissioner of Stamps (SA) (1999) 198 CLR 494; 42 ATR 833	40
MT Gibson Manager Pty Ltd v DCT (1997) 81 FCR 335; 38 ATR 62; 162 ALR 237	232
Municipal Mutual Insurance Ltd v Hills (HM Inspector of Taxes) [1932] All ER Rep 979; (1930) 16 TC 430	217, 218, 219, 221, 222, 225, 226
Murphy v Brentwood District Council [1991] AC 398	136

National Association of Local Government Officers v Watkins (HM Inspector of Taxes) (1934) 18 TC 499	218, 219, 221, 225
National Australia Bank Ltd v Budget Stationery Supplies Pty Ltd (unreported, 23 April 1997, NSWCA 40679 of 1996, Mason P)	230
National Australia Bank Ltd v Nemur Verity Pty Ltd (2002) VSCA 18.....	140
National Provincial Building Society v Commissioners of Customs & Excise [1996] V&DR 153	235, 237, 240
National Trustees, Executors & Agency Co of Australasia Ltd v FCT (1923) 33 CLR 491.....	41
Naxakis v Western General Hospital (1999) 197 CLR 269	143
Nelson, In re [1928] 1 Ch 920.....	44
Niru Battery Manufacturing Co v Milestone Trading Ltd (No 2) [2004] EWCA Civ 487	230
North of England Zoological Society v Chester Rural District Council [1958] 3 All ER 535.....	218, 220
North of England Zoological Society v Chester Rural District Council [1959] 3 All ER 116.....	222
North v Marra Developments Ltd (1981) 148 CLR 42	141
Nykredit Mortgage Bank Plc v Edward Erdman Group Ltd (Interest on Damages) [1997] 1 WLR 1627	136
Octavo Investments Pty Ltd v Knight (1979) 144 CLR 360; 54 ALJR 87.....	51, 52
Parkdale Custom Built Furniture Pty Ltd v Puxu Pty Ltd (1982) 149 CLR 191.....	144, 145
Parke Davis & Co v Commissioner of Taxation (Cth) (1959) 101 CLR 521; 33 ALJR 83; 11 ATD 545; [1959] ALR 599	94, 98
Parry-Jones v Law Society [1969] 1 Ch 1; [1968] 2 WLR 397	21
Parway Estates Ltd v Commissioners of Inland Revenue (1958) 45 TC 135	34
Pavey & Matthews Pty Ltd v Paul (1987) 162 CLR 221	230
Peabody v FCT (1993) 40 FCR 531; 25 ATR 32; 93 ATC 4104.....	202, 204, 206, 207
Pearson v Inland Revenue Commission [1981] AC 753	76
Pech v Tilgals (1994) 94 ATC 4206.....	146
Pell v Marshall (1984) 8 ACLR 1015; 2 ACLC 537.....	90
Perre v Apand Pty Ltd (1999) 198 CLR 180.....	136
Peters v The Queen (1998) 192 CLR 493; 38 ATR 142.....	133
Pettkus v Becker [1980] 2 SCR 834.....	231
Portman BS v Hamlyn Taylor Neck (a firm) [1998] 4 All ER 202.....	230
Prebble v Commissioner of Taxation (2002) 51 ATR 459; 2002 ATC 5045 [2002] FCA 1434	138, 148
Prebble v Commissioner of Taxation (2003) 131 FCR 130; [2003] FCAFC 165.....	148, 149
Precision Pools Pty Ltd v FCT (1992) 37 FCR 554	229, 232, 237
Pridecraft Pty Ltd v FCT (2004) 58 ATR 210; [2004] FCAFC 339	208, 212, 213, 214, 215, 229
Printers and Transferrers Amalgamated Trades Protection Society, Re [1899] 2 Ch 184	219
Prudential Assurance Co v Chatterley-Whitfield Collieries Co [1949] AC 512.....	90
Qantas Airways Ltd v CT [2001] FCA 1720	231, 232

Table of cases

QBE Insurance Group Ltd v Australian Securities Commission (1992) 38 FCR 270; 110 ALR 301; 8 ACSR 631	73
Queensland Trustees Ltd v Commissioner of Stamp Duties (1952) 88 CLR 54; [1952] ALR 895; 26 ALJ 389	76
R v Customs and Excise Commissioners; ex parte Building Societies Ombudsman Co Ltd [2000] STC 892	235, 237
Rathwell v Rathwell [1978] 2 SCR 436 at 455	231
Recher's Will Trusts, Re [1972] Ch 526	218
Reeves v Commissioner of Police of the Metropolis [2000] 1 AC 360	152
Regional Municipality of Peel v Canada [1992] 3 SCR 762	231
Revesby Credit Union Cooperative Ltd v FCT (1965) 112 CLR 564; 13 ATD 449	218, 221, 222, 225, 226
Riba Publications v Customs and Excise Commissioners [1999] V&DR 230 (Tribunal)	233, 237, 246
Richardson v FCT (Cth) (1999) 42 ATR 1151; 99 ATC 2198; [1999] AATA 248	71
Rogers v Whittaker (1992) 175 CLR 479	136, 143
Roxborough v Rothmans of Pall Mall (2001) 208 CLR 516; 48 ATR 442; [2001] HCA 68	231, 233, 234, 243
Royal Australasian College of Surgeons v FCT (1943) 68 CLR 436	220
Royal Automobile Club of Victoria v FCT [1974] VR 651; (1974) 23 FLR 175	219, 220, 221, 226
Sacca v Adam [1983] 33 SASR 429	137
St Mary's Rugby League Club Ltd v FCT (1997) 36 ATR 281; [1997] 97 ATC 4528	218, 220, 222
Saunders v Vautier (1841) 4 Beav 115; 49 ER 282	31, 39, 41, 50, 51, 52, 54, 78
Say-Dee Pty Ltd v Farah Constructions Pty Ltd [2005] NSWCA 309	230
Scott v Commissioner of Taxation [No 2] (1966) 40 ALJR 265	133
Scott v Tax Agents' Board (Qld) (2001) 47 ATR 1136; [2001] AATA 435	137, 150
Scottish Equitable plc v Derby [2001] EWCA 369	235, 242, 245
Scottish Insurance Corporation v Wilson & Clyde Coal Co [1949] AC 462	90
Sellars v Adelaide Petroleum NL (1994) 179 CLR 332	140
Shannon v Hughes & Co 109 SW 2d 1174 at 1177 (1937)	245
Sharment Pty Ltd v Official Trustee in Bankruptcy (1988) 18 FCR 449	133
Sick and Funeral Society of St John's Sunday School, Golcar, Re [1972] 2 All ER 439	219
Simionato Holdings Pty Ltd v FCT (No 2) (1995) 60 FCR 375; 32 ATR 298	24, 26
Sir Moses Montefiore Jewish Home v Howell & Co (No 7) Pty Ltd (1984) 2 NSWLR 406	44
Slattery v Moore Stephens [2003] EWHC 1869	133, 142, 151
Smith, In re [1928] 1 Ch 915	44
Social Credit Savings & Loans Society Ltd v FCT (1971) 125 CLR 250; [1971] 71 ATC 4232	217, 220, 221, 226
Spotlight Stores Pty Ltd v FCT (2005) 55 ATR 745; [2004] FCA 650; ATC 4674	212, 213
Stasos v Tax Agents' Board (1990) 21 ATR 974 at 984; 21 ALD 437	132

State Bank of New South Wales Ltd v FCT (1995) 62 FCR 371; 31 ATR 430; 132 ALR 653.....	231, 243
Stern v McArthur (1988) 165 CLR 489; 62 ALJR 588.....	50
Stone v Commissioner of Taxation (Cth) (2002) 51 ATR 297.....	119
Stone v Commissioner of Taxation (Cth) (2003) 53 ATR 214.....	119
Styles (Surveyor of Taxes) v New York Life Insurance Company (1889) 14 App Case 381.....	217, 218, 220
Suncorp Insurance & Finance v Commissioner of Stamp Duties (Qld) [1998] 2 Qd R 285; (1997) 36 ATR 514.....	35, 41
Sutherland Shire Council v Heyman (1985) 157 CLR 424.....	136
Sydney Water Board Employees Credit union v FCT (1973) 129 CLR 446; [1973] 73 ATC 4129.....	218, 221, 222, 227
Tame v New South Wales.....	144
Tanwar Enterprises Pty Ltd v Cauchi (2003) 77 ALJR 1853; 201 ALR 359.....	49, 50
Tayside Numbers Ltd v Commissioners of Customs and Excise [1992] VATTR 406.....	235, 237, 240
Terranora Lakes Country Club Ltd v FCT (1993) 25 ATR 294; [1993] 93 ATC 4078.....	218, 220, 222
Theosophical Foundation Pty Ltd v Commissioner of Land Tax [1966] 67 SR (NSW) 70.....	216, 218, 225
Thomas v FCT [1972-1973] ALR 368.....	150
Thomas v Perpetual Trustee Co (Ltd) (1955) 94 CLR 537; 29 ALJR 598.....	47
Tip Top Dry Cleaners Pty Ltd v MacIntosh (1998) 39 ATR 30; [1998] SASC 613.....	138, 141, 142, 144, 146, 151, 152
Toll (FCGT) Pty Ltd v Alphafarm Pty Ltd [2004] HCA 52.....	135
Tomlinson v Glyns Executor & Trustee Co (1969) 45 TC 600.....	77
Tournier v National Provincial and Union Bank of England [1924] 1 KB 461; [1923] WL 17957.....	21
Transphere Pty Ltd, Re (1986) 5 NSWLR 309; 10 ACLR 776.....	37
Trautwein v FCT; The King v FCT; Ex parte Trautwein (1936) 56 CLR 63; 4 ATD 48.....	11
Trebanog Working Men's Club and Institute Ltd v Macdonald [1940] 1 KB 576.....	218
Trustees, Executors and Agency Co Ltd v Acting Federal Commissioner of Taxation (1917) 23 CLR 576; [1918] VLR 1.....	39
Tweed Heads Bowls Club v FCT (1992) 24 ATR 1068; [1992] 92 ATC 2087.....	218, 220, 222, 225
Union Trustee Co of Australia Ltd v Federal Commissioner of Land Tax (1915) 20 CLR 526; 21 ALR 481.....	35
Victoria Laundry (Windsor) Ltd v Newman Industries Ltd [1949] 2 KB 528.....	140
Victoria Park Racing & Recreation Grounds Co Ltd v Taylor (1937) 58 CLR 479; 55 WN (NSW) 13.....	21
Voli v Inglewood Shire Council (1962) 110 CLR 74.....	136
Waimond Pty Ltd v Byrne (1989) 18 NSWLR 642.....	136
Walker v Hungerfords (1987) 49 SASR 93.....	135
Walsh Bay Developments Pty Ltd v FCT (1995) 31 ATR 15; 130 ALR 415.....	42, 46

Table of cases

Walstern v Commissioner of Taxation (2003) 138 FCR 1; [2003] FCA 1428	148, 151, 152
Waratahs Rugby Union Football Club v FCT (1997) 37 FLR 413	220
Wardley Australia Ltd v Western Australia (1992) 175 CLR 514	145
Watson v J&AG Johnson Ltd (1936) 55 CLR 63	219
Weatherall v Thornburgh (1878) 8 Ch D 261	39
Welton v Saffery [1897] AC 299 at 309	89
Westbourne Supporters of Glentoran Club v Brennan (Inspector of Taxes) [1995] STC (SCD) 137 30	219
Westburn Sugar Refineries Ltd v IRC [1960] TR 105	73
Whakamanu Timber Co, Re [1944] NZLR 1	89
Wharton v Masterman [1895] AC 186	39, 47
Will-Sher Construction Ltd v MNR (2003) FC 1207	232
Winterton Constructions Pty Ltd v Hambros Australia Ltd (1992) 39 FCR 97	145
Woolwich Equitable BS v IRC [1993] AC 70	231, 232, 235
Wurzel v Houghton Main Home Delivery Service Ltd [1937] 1 KB 380	219, 224
Wyong Shire Council v Shirt (1980) 146 CLR 40	136, 144
Yango Pastoral Co Pty Ltd v First Chicago Australia Limited (1978) 139 CLR 410	141
York v Lucas (1985) 158 CLR 661	145
Young Men's Christian Association of Melbourne v FCT (1926) 37 CLR 351	220
Zelino v Budai (2001) 47 ATR 488 at 491; [2001] NSWSC 501	133, 134, 141, 142, 144, 151, 152, 153