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Update Summary

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DUTIES LEGISLATION WESTERN AUSTRALIA

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UPDATED COMMENTARY

Updated commentary by Grahame Young

New developments

Duties Amendment (Off-the-Plan Concession and Foreign Persons Exemptions) Bill 2023

The *Treasury Laws Amendment (Foreign Investment) Bill 2024* (Cth) was introduced into the Federal Parliament on 7 February 2024 to amend the *International Tax Agreements Act 1953* (Cth) and clarify uncertainty associated with the interaction between certain taxes and double tax agreements. The amendments aim to correct an anomaly that a double tax agreement entered into by the Commonwealth could restrict the taxing powers of a State or Territory. See [2.1100].

Digest of recent cases

The following recent judgments on duties and tax administration are reported:

- *CACTR v Leemhuis Investments Mitchell Pty Ltd* [2023] ACAT 83: see [2.7860];
- *Imbree v CCSR (NSW)* [2024] NSWCATAD 22: see [2.7930];
- *Chloe Adolphi Pty Ltd v CCSR (NSW)* [2023] NSWCATAD 48: see [2.7935];
- *Li v CACTR* [2024] ACAT 24: see [2.7940].

Revised and new annotations to the *Duties Act 2008* (WA)

New developments/Recent cases: s 101

Section 101 describes the persons that may be transferees in relation to an exempt family farm transaction. On some occasions, a discretionary trust may be established to be a transferee to take advantage of the family farm exemption, but the class of beneficiaries is drafted to include persons who are not family members of the transferor. To correct the mistake, the Commissioner may accept that a deed of rectification is effective where it is clear that the intention was to establish a trust compliant with conditions for the family farm exemption. See [3.101.99].

New developments/Recent cases: s 117

Section 117 allows for nominal duty to be charged on certain dutiable transactions where property is vested in an apparent purchaser to be held on behalf of the real purchaser. It is necessary to ensure that the relevant transaction is effected by the dutiable transaction specified in the relevant section and not to assume that the concession will be available for any dutiable transaction: *Imbree v CCSR (NSW)* [2024] NSWCATAD 22. See [3.117.99].

Index and Tables

The index has been updated and reissued.