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Update Summary

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HILL'S DUTIES LEGISLATION

HR Sorensen, SJ McMillan, DKL Raphael

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UPDATED COMMENTARY

Holger Sorensen and Stephen McMillan have updated the annotations. Highlights include:

Duties Act 1997 (NSW)

Instruments relating to superannuation – s 65

Section 65 sets out the exemptions applicable to duty that would be otherwise payable under Ch 2. Section 65(10)(b) provides an exemption from duty on superannuation and applies where there is a dutiable transaction effected by an “instrument”. The phrasing is intended to focus on the document which brought about the relevant dutiable transaction: *Imbree v Chief Commissioner of State Revenue* [2024] NSWCATAD 22. See [3.3416].

Taxation Administration Act 1996 (NSW)

Background – Div 3, Pt 10

Division 3 of Pt 10 prohibits tax avoidance schemes and is modelled on Div 290 of the *Income Tax Assessment Act 1997*(Cth). It sets out the factors to be taken into account in determining a civil penalty. Case law on the Commonwealth provisions is likely to be applicable. See [TAA.Pt10A.Div3.10].

Revenue Rulings

Revenue NSW has issued the following revised Revenue Rulings:

- DUT 012v4 – Evidence of value requirements and guidelines: see [34.0120];
- DUT 030v2 – Property vested in an apparent purchaser: see [34.0300];
- DUT 033v2 – Consideration for duties transactions: see [34.0330];
- DUT 036v4 – Aggregation of dutiable transactions: see [34.0360];
- DUT 044v2 – Valuation of property - suitably qualified person: see [34.0440];
- DUT 049v2 – Transfer in relation to Managed Investment Schemes: see [34.0490].

New developments

Recent judgments

Discussion of recent decisions on duties matters:

- *Gupta v Chief Commissioner of State Revenue* [2023] NSWCATAD 303: see [50.7205];
- *Commissioner for ACT Revenue v Leemhuis Investments Mitchell Pty Ltd* [2023] ACAT 83: see [50.7210];
- *Imbree v Chief Commissioner of State Revenue* [2024] NSWCATAD 22: see [50.7215];

- *Lei v Chief Commissioner of State Revenue* [2024] NSWCATAD 28: see [50.7220];
- *Li v Commissioner for ACT Revenue* [2024] ACAT 24: see [50.7225].

