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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

Overview

Inconsistent availability of concessions or exemptions

Many exemptions or concessions from transfer duty or provisions for a charge of nominal duty only on what otherwise would be a dutiable transaction are available. However, often it is difficult to discern why the exemption or concession is confined to transfers or agreements for transfer when the underlying transaction can be effected by some other means. Practitioners should be aware of the need to implement transactions to satisfy the conditions for the concession, including the choice of the dutiable transaction. See [1.0260].

New developments

Increase in First Home Owner Duty Concessions

The Duties Amendment (First Home Owner Concessions) Bill 2024 (WA) has been introduced to increase the concessional rates of duty for first home buyers as from 9 May 2024. The change was to reflect the increase in median house prices since 2014 when the previous thresholds were implemented. See [2.1130].

Digest of recent cases

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

- *Cohen v CCSR (NSW)* [2024] NSWCATAD 136: see [2.7945];
- *Conexa Sydney Holdings Pty Ltd v CCSR (NSW)* [2024] NSWSC 628: see [2.7950];
- *Baxter v CCSR (NSW)* [2024] NSWCATAD 153: see [2.7955];
- *Tessier v Senior Revenue Consultant* [2024] WASAT 55: see [2.7960];
- *Agrinova Pty Ltd v CCSR (NSW)* [2024] NSWCATAD 170: see [2.7965].

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

Declaration of trust: s 11

Section 11 sets out the dutiable transactions on which transfer duty is imposed. A declaration of trust over dutiable property is a "dutiable transaction" under s 11(1)(c). A variation of a trust may in some circumstances be a declaration of trust: *Baxter v CCSR (NSW)* [2024] NSWCATAD 153. See [3.11.20].

Revised annotations to the *Taxation Administration Act 2003* (WA)

Description of the respondent: s 40

Section 40 rights of appeal taxpayers have when dissatisfied with the Commissioner's decision on an objection. An applicant must determine whether the reviewable decision has been made by a delegate of the Commissioner and, if so, to use the official title of the delegate as the name of the respondent: *Tessier v Senior Revenue Consultant* [2024] WASAT 55. See [5.40.11].

Forms

Forms

Many of the forms required to be used to advise RevenueWA of relevant information have been revised. See [15.0000] ff

Commissioner's Practices

Commissioner's Practices

The following Commissioner's Practice has been revised and reissued by RevenueWA:

- DA 30.4 – Duties – Calculation of First Home Owner Concession involving Excluded Persons under the First Home Owner Grant Act: see [17.0300].

Fact Sheets

Fact Sheets

The following Fact Sheet has been revised and reissued by RevenueWA:

- First Home Owner rate of Duty: see [19.0100].

Index and Tables

The index has been updated and reissued.

