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# Update Summary

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**UPDATE 53**

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**DUTIES LEGISLATION WESTERN AUSTRALIA**

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## UPDATED COMMENTARY

### Updated commentary by Grahame Young

#### New developments

##### Assistance for off-the-plan buyers

The Commissioner of State Revenue has advised that off-the-plan buyers may apply for a tax payment arrangement to defer payment of duty for up to 12 months, with the possibility of further extension if there are ongoing delays beyond the buyer's control. See [2.1135].

#### Digest of recent cases

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

- *O'Neill v CACTR* [2024] ACAT 55: see [2.7970];
- *Re Richflow Pty Ltd (in liq)* [2024] VSC 618: see [2.7975];
- *Commissioner of State Revenue v Australian Securities and Investments Commission* [2024] WASC 392: see [2.7980];
- *Vicinity Funds RE Ltd v CSR (Vic)* [2024] VSC 658: see [2.7985].

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

##### New developments/Recent cases: s 153A

Section 153A sets out how to determine the total direct and indirect interest that one entity has in another entity. If no advantage results from the acquisition of shares in a corporate beneficiary of a discretionary trust, that is also the trustee of the trust: *O'Neill v CACTR* [2024] ACAT 55. See [3.153A.99].

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

##### New developments/Recent cases: s 85

Section 85 sets out the circumstances in which the Commissioner may make an application to the Supreme Court for an order for the sale of land where tax remains unpaid. Although the section may be available, the Commissioner may opt for reregistration of a company and the appointment of a liquidator: *Commissioner of State Revenue v Australian Securities and Investments Commission* [2024] WASC 392. See [5.85.99].

## Forms

### Forms

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

## Index and Tables

The tables of cases and statutes have been updated and reissued.