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Update Summary

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HILL'S DUTIES LEGISLATION

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Updated commentary by Grahame Young

New developments

Notice of a systemic issue

The President of the Administrative Review Tribunal has raised the question of whether an agency should apply the Tribunal's interpretation of a statute in a case in subsequent cases involving the same provision rather than continuing to apply its own preferred interpretation, unless and until the Tribunal's decision is set aside or varied. See [2.1145].

Digest of recent cases

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

- *Dinheiro Pty Ltd v CCSR (NSW)* [2024] NSWCATAD 347: see [2.7990];
- *Van Dairy (Hong Kong) Group Ltd v CSR (Tas)* [2024] TASSC 70: see [2.7995];
- *Sandhu v CSR (Qld)* [2024] QCAT 511: see [2.8000];
- *Armada Holdings (WA) Pty Ltd v CSR* [2024] WASAT 139: see [2.8005];
- *6 Doublebar Pty Ltd v CACTR* [2024] ACAT 94: see [2.8010];
- *New Country Developments Pty Ltd v CSR* [2025] WASAT 9: see [2.8020].

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

New developments/Recent cases: s 37

Section 37 allows certain dutiable transactions to be aggregated and treated as a single dutiable transaction for the purposes of charging duty. However, there must be some relationship or connection between the transactions: *6 Doublebar Pty Ltd v CACTR* [2024] ACAT 94. See [3.37.99].

New developments/Recent cases: s 42

Section 42 specifies that particular dutiable transactions relating to the same dutiable property are not chargeable with duty, including where the beneficiary and the purchaser are related. Care must be taken to come within and document all the requirements for accessing the exemption: *Dinheiro Pty Ltd v CCSR (NSW)* [2024] NSWCATAD 347. See [3.42.99].

New developments/Recent cases: s 116

Section 116 provides that only nominal duty is chargeable on certain transfers of, and agreements for the transfer of, dutiable property by a trustee of a trust to a beneficiary of that trust. However, a taxpayer may not be able to rely on it if the declaration of trust is neither duty endorsed nor exempt: *New Country Developments Pty Ltd v CSR* [2025] WASAT 9. See [3.116.99].

New developments/Recent cases: s 259

Section 259 defines what constitutes a "relevant consolidation transaction". Subsection (4) requires each person to hold "those securities" to be a person that held securities of the affected entity immediately before the securities of the affected entity were acquired by the head entity. "Those securities" refers not only to the securities issued by the head entity for the acquisition of the affected entity, but to all securities of the head entity: *Armada Holdings (WA) Pty Ltd v CSR* [2024] WASAT 139. See [3.259.99].

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

New developments/Recent cases: s 7

Section 7 sets out the relationship between the Commissioner and the Minister. Although the Commissioner may exercise a discretion to refund duty under the “good management rule” where there had been a minor inadvertent failure to comply with conditions for an exemption, it is difficult to see how good management requires the Commissioner to refund a taxpayer from payment of a correct assessment of duty: *Armada Holdings (WA) Pty Ltd v CSR* [2024] WASAT 139. See [5.7.99].

Index and Tables

The index has been updated and reissued.

