

ALERT

Stamp duty exemption under s36A Duties Act 2000 (Vic)

6 June 2016

Recently, we have been involved in preparing and managing various applications for stamp duty exemption under section 36A of the *Duties Act 2000* (Vic) (which relates to property passing to beneficiaries).

By assessing eligibility for the exemption prior to the anticipated transfer of property, we have been able to identify and attend to procedural and substantive matters that may have precluded or delayed the exemption to stamp duty otherwise payable in connection with the transfer. For example, we have:

- facilitated the necessary inquiries regarding lost trust documentation to enable preparation of a statutory declaration that meets the SRO's internal requirements;
- prepared trustee minutes, having regard to the specific powers exercisable in the trust deed; and
- ensured that the relevant trust distribution is structured in accordance with the relevant trust deed (eg raising a sum of money and applying a trust asset (ie the property) in satisfaction of that amount, as opposed to a straight in specie distribution not permitted by the trust deed).

Our experience has been that attending to these matters before the transfer typically ensures a smooth and successful exemption application process.

Queries

Should you have any queries regarding this alert, please contact: Michael Kohn, Partner and Head of Revenue Law on +61 3 9608 2273 or at m.kohn@cornwalls.com.au; or Dennis Tomaras, Partner, Revenue Law on +61 3 9608 2189 or at d.tomaras@cornwalls.com.au.

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