

112HA. Certain capital reductions dutiable

- (1) This section applies if a taxable event occurs because a WA company reduces its share capital by cancelling any of its shares (“**the capital reduction**”).
- (2) This section applies if —
 - (a) a taxable event occurs because a WA company varies or abrogates the voting rights of any of its voting shares (“**the rights alteration**”); and
 - (b) within 6 months after doing so the WA company reduces its share capital by cancelling those shares (“**the share cancellation**”).
- (3) A taxable event occurs if —
 - (a) a person who immediately prior to the capital reduction or the rights alteration —
 - (i) was not entitled to any voting shares in the company; or
 - (ii) was entitled to less than 50% of the voting shares in the company,becomes entitled to at least 50% of the voting shares of the company; or
 - (b) a person who immediately prior to the capital reduction or the rights alteration was entitled to at least 50% of the voting shares of the company becomes entitled to at least 5% more of the voting shares.
- (4) If this section applies the WA company must prepare a dutiable statement in relation to the capital reduction or the rights alteration and share cancellation, unless the capital reduction, or the rights alteration and the share cancellation, also result in a relevant acquisition occurring under Part IIIBA.
Penalty: \$20 000.
- (5) A dutiable statement must be in an approved form.
- (6) A dutiable statement prepared under this section is taken to be an instrument evidencing the capital reduction or the rights alteration and share cancellation and is chargeable with duty at the rate provided for in item 4A of the Second Schedule on the dutiable value.
- [(7) repealed]*
- (8) The dutiable value is the greater of —
 - (a) the unencumbered value of the cancelled shares immediately prior to the company’s resolution for the capital reduction or for the rights alteration (as the case requires); or
 - (b) the amount, or value at the date of the resolution, of the consideration payable to the holders of the cancelled shares by the company or any other person.
- (9) If under section 74A(1) duty is charged on the conveyance or transfer of any property to a shareholder of the company that is made on or pursuant to the capital reduction or the share cancellation, the dutiable value shall be reduced by the unencumbered value of the property conveyed or transferred.

[(10) repealed]

- (11) The company and its directors at the time of the company's resolution for the capital reduction or for the rights alteration (as the case requires) are jointly liable to pay the duty charged on the dutiable statement.

[Section 112HA inserted by No. 57 of 1996 s. 8; amended by No. 13 of 1997 s. 23 and 42; No. 26 of 1999 s. 103(2); No. 53 of 1999 s. 29; No. 10 of 2001 s. 184; No. 2 of 2003 s. 121.]