



HIGH COURT OF AUSTRALIA

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Details of Filing

File Number: B48/2024
File Title: G Global 120E T2 Pty Ltd as trustee for the G Global 120E AI
Registry: Brisbane
Document filed: Form 27F - A-G WA Outline of oral argument
Filing party: Interveners
Date filed: 08 May 2025

Important Information

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IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY

B48 of 2024

BETWEEN: **G GLOBAL 120E T2 PTY LTD** **atf** **THE G GLOBAL 120E AUT**
Appellant
and
COMMISSIONER OF STATE REVENUE
Respondent

B49 of 2024

BETWEEN: **G GLOBAL 180Q PTY LTD** **atf** **THE G GLOBAL 180Q AUT**
Appellant
and
COMMISSIONER OF STATE REVENUE
Respondent

B50 of 2024

BETWEEN: **G GLOBAL 180Q PTY LTD** **atf** **THE G GLOBAL 180Q AUT**
Appellant
and
COMMISSIONER OF STATE REVENUE
Respondent

**OUTLINE OF ORAL SUBMISSIONS OF THE ATTORNEY GENERAL FOR THE
STATE OF WESTERN AUSTRALIA (INTERVENING)**

PART I: CERTIFICATION

1. This outline is in a form suitable for publication on the internet.

PART II: PROPOSITIONS TO BE ADVANCED IN ORAL ARGUMENT

Commonwealth Amendment Act supported by the external affairs power

2. The *Treasury Laws Amendment (Foreign Investment) Act 2024* (Cth) (**Amendment Act**) will be supported by the external affairs power in s 51(xxxi) of the Constitution if the *International Tax Agreements Act 1953* (Cth) (**ITA Act**), as it stands after the changes made by the Amendment Act, retains its character as a law with respect to external affairs: *Kartinyeri v Commonwealth* (1998) 195 CLR 337 [15] (Brennan CJ and McHugh J), [47] (Gaudron J) (**JBA Vol 8 Tab 61, 3118-3119, 3130-3131**).

3. The ITA Act, as it stands after the Amendment Act, remains concerned with giving force to international tax agreements. That the ITA Act does not give force to all of those agreements in every respect does not deprive the ITA Act of its character as a law with respect to external affairs: *Victoria v Commonwealth* (1996) 187 CLR 416, 488 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ) (**JBA Vol 13 Tab 84, 5127**).

Commonwealth Amendment Act cleared the way for the Queensland Amendment Act

4. For the reasons submitted by Western Australia in *Stott*, if *University of Wollongong v Metwally* (1984) 158 CLR 447 (**JBA Vol 12 Tab 82**) is not overruled, s 5(3) of the ITA Act cleared the way for the *Revenue Legislation Amendment Act 2025* (SA) to impose the foreign surcharge on land tax retrospectively.

If necessary, *Metwally* should be re-opened and overruled

5. For the reasons submitted by Western Australia in *Stott*, if the Court considers it necessary or otherwise appropriate to consider Question 2 of the Special Case, *Metwally* should be re-opened and overruled.

Commonwealth Amendment Act not a s 51(xxxi) law

6. For the reasons submitted by Western Australia in *Stott*, s 51(xxxi) of the Constitution is not engaged by the Amendment Act.

Dated: 8 May 2025


Craig Bydder SC

Stuart Cobbett