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## Interpreting Taxing Statutes # 30 – The principle of effectiveness

### SYNOPSIS

*ut res magis valeat quam pereat*

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An Act must be constructed so that its provisions are given force and effect rather than being rendered nugatory. Said as follows:

“If very serious consequences to the beneficial and reasonable operation of the Act necessarily follow from one construction, I apprehend that, unless the words imperatively require it, it is the duty of the court of the Court to prefer such a construction that *res magis valeat, quam pereat*.”<sup>1</sup>

Here it should be noted that, even where the words do ‘imperatively require’ a particular meaning, the court may find it necessary to arrive at a different one (by applying strained construction).

The principle is embodied in the maxim *ut res magis valeat quam pereat* (it is better for a thing to have effect than to be made void). Said as follows:

“I feel no doubt that in any case of uncertainty, sense may be preferred to nonsense, and efficacy to impotence.”<sup>2</sup>

**Reconciliation of inconsistencies** - The principle outlined requires inconsistencies within Act to be reconciled. Said as follows:

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<sup>1</sup> The Beta (1865) 3 Moo PCCNS 23 cited in Bennion 2020 p 417

<sup>2</sup> Cannon Street Ltd v Singer Friedlander Ltd (1974) Ch 229 cited in Bennion 2020 p 417

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“One part of the statute must be so constructed by the another,
that the whole may if possible, stand: *ut res magis valent quam
pereat*.”³

Difficulty in implementation - The principle means that, if the obvious intention of the enactment gives rise to difficulties in implementation, the court must do its best to find ways of resolving these.⁴

Power of court - One application of the principle is that an Act is taken to give the courts such jurisdiction and powers as are necessary for its implementation, even though not expressly conferred.⁵

³ Blackstone, Commentaries on the Laws of England (1st ed, 1765-1769) i 89 cited in Bennion 2020 p 418

⁴ Bennion 20212 p 418

⁵ Buckley v Law Society (No.2) 1984 WLR 1101 cited in Bennion 2020 p 418

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