



COURTNEY ENSOR

Master of Laws - The University of Sydney

Bachelor of Laws (Honours) - The University of Wollongong

Bachelor of Mathematics (Distinction) - The University of Wollongong

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Clerk of Chambers

Michael Wilcox

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Admitted to the legal profession

2009

Admitted as a barrister in NSW

2013

Also entitled to practise in

Australian jurisdictions (Commonwealth,
State and Territory)

Courtney is a tax law specialist, who also practices in corporate and commercial law. Courtney's background in pure mathematics is particularly valuable in these areas.

Courtney regularly appears for and advises taxpayers, the Commissioner of Taxation and the NSW Chief Commissioner of State Revenue. She is briefed in matters of international tax law, income tax, capital gains tax, fringe benefits tax, payroll tax, land tax, stamp duty and state grants. She has been appointed to the Commonwealth Director of Public Prosecutions' external junior counsel panel, including for panel briefs from the revenue and benefits fraud practice group. She has been an invited panel presenter for the International Fiscal Association. In her Masters of Law from the University of Sydney, Courtney exclusively undertook taxation subjects.

Courtney routinely appears both led and unled in State and Federal courts and tribunals, and represents clients at arbitrations, mediations and settlement conferences. Courtney also has experience in s 353-10 interviews, liquidator's examinations, representing directors in disciplinary proceedings, and appearing at creditors' meetings. Courtney regularly represents government instrumentalities, natural persons, trustees, corporates and multinationals.

Courtney has been recognised in Doyle's Guide as a Leading Tax Barrister in 2017, 2018, 2019, 2020, in the International Tax Review as a Women in Tax Leader in 2017, 2018, 2019, and in the World Tax Guide's Highly Regarded Women in Tax in 2020.

PROFESSIONAL EXPERIENCE

- **2011 – 2012:** Arnold Bloch Leibler, Solicitor (Litigation)
- **2009 – 2010:** Mallesons Stephen Jaques, Solicitor (Tax Litigation, Property, Construction Litigation)
- **2008:** Tipstaff to the Hon Justice I V Gzell, Supreme Court of New South Wales
- **2006 – 2007:** Goldman Sachs JBWere (Fixed Income, Currency & Commodities)

AWARDS OR PROFESSIONAL RECOGNITION

Doyle's Guide: Leading Tax Barristers – New South Wales (2017, 2018, 2019, 2020, 2021)

World Tax Guide: Highly Regarded Women in Tax (2020, 2021, 2022)

International Tax Review: Women in Tax Leaders (2017, 2018, 2019)

PROFESSIONAL MEMBERSHIPS

New South Wales Bar Association:

- **(2017 to 2018)** Elected to Bar Council
- **(2017 to 2019)** Appointed to Professional Conduct Committee
- **(2013 to present)** Member

(2013 to present) Australian Bar Association

(2015 to 2020) International Fiscal Association

(2017 to present) Law Council of Australia, Business Law Section, Taxation Committee

(2018 to 2020) Law Extension Committee, The University of Sydney

SELECTED CASES

- As Junior Counsel
- **Krejci, in the matter of Union Standard International Group Pty Limited (in liq)** [2021] FCA 1483 - led by B F Katekar SC. Successfully obtained directions that money held by company in liquidation subject to statutory trust pursuant to s 981H of the Corporations Act 2001 (Cth) in favour of appointed representative class (proofs of debt being between \$195 million and \$405 million).
- **The Bell Group Limited (in liquidation) v Federal Commissioner of Taxation** FCA NSD 2098/2016 – led by P D Crutchfield QC, MJ O'Meara and S B Rosewarne. \$260m tax dispute arising from settlement of litigation with banks.
- **Anglo American Investments Pty Ltd v Commissioner of Taxation** [2021] FCA 1253 – led by K A Stern SC. Successfully opposed application for leave to appeal from decision allowing re-opening of three proceedings to cross-examine key witness on conviction relied on solely as credibility evidence.
- **WYPF v Commissioner of Taxation** [2021] AATA 3050 - led by D Thomas SC. GST margin scheme decision considering which components of \$106m development works

on ACT residential development constituted consideration. AAT confirmed FCT's view that \$77m Building Works were not non-monetary consideration for the acquisition of 99 year leases from the ACT development authority.

- **JMC Pty Limited v Commissioner of Taxation** FCA NSD175/2020 – led by L T Livingston. Liability for superannuation and whether worker employee under s 12(1) of the *Superannuation Guarantee (Administration) Act 1992* (Cth), or expanded definition under s 12(3). Decision reserved.
- **BSRJ v Commissioner of Taxation** [2021] AATA 333 – led by K J Deards SC. GST case concerning discretion to treat progress claim under construction contract as a tax invoice, change in consideration for acquisitions comprising an adjustment event and penalties.
- **Farah Custodians Pty Ltd v Federal Commissioner of Taxation** FCA NSD 506/2017; [2018] FCA 1185; (No 2) [2019] FCA 1076 – led by D A McLure SC. Taxpayer alleges negligence against Commissioner and Commonwealth in relation to GST refunds, and seeks enforcement of statutory duty re RBA.
- **Melbourne Corporation of Australia Pty Ltd v Commissioner of Taxation** [2020] FCA 641 – led in the substantive proceedings by K A Stern SC and J E Jaques. Part IVA and IVC proceeding concerning company controlled by accountant Vanda Gould. Decision reserved.
- **Agius v R** [2019] NSWCCA 114 – led by G Bashir SC for the appellant. Reserved question to NSWCA and appeal on conviction to NSWCCA heard concurrently. Concerned whether trial judge misdirected jury as to concepts of 'derivation' and 'ordinary income' and as to s 6-5(4), *Income Tax Assessment Act 1997* (Cth). Convictions quashed, acquittals entered and no retrial ordered.
- **Anglo American Investments Pty Ltd (Trustee) v Commissioner of Taxation** [2019] FCA 1027; (No 2) [2019] FCA 1028 – led by K A Stern SC and J E Jaques. Part IVA and IVC proceeding concerning company controlled by accountant Vanda Gould and issues including offshore loan arrangements with Hua Wang Bank Berhad in Samoa. Decision reserved.
- **Chevron Australia Holdings Pty Ltd v Federal Commissioner of Taxation (No 4)** [2015] FCA 1092; (2015) 102 ATR 13 – led by D H Bloom QC, S H P Steward QC, P Kulevski, K J Deards and L A Hespe. Complex transfer pricing, international tax law and constitutional law dispute resulting in 16 tax appeals and an application under s 39B of the *Judiciary Act 1903* (Cth) concerning an intercompany credit facility agreement.

- **Oswal v Federal Commissioner of Taxation** [2014] FCA 812 – led by S H P Steward QC. Sought leave to appeal from decision on separate and preliminary question regarding capital gains tax event in relation to shares held by trustee.
- **International Litigation Partners Pte Ltd v Federal Commissioner of Taxation** [2014] FCA 671; (2014) 317 ALR 708 – led by T M Thawley SC in the substantive proceedings. Resisted application for leave to inspect documents in Family Court file in tax proceedings regarding residence of litigation funder.
- **Mt Lewis Estate Pty Ltd v Deputy Commissioner of Taxation** FCA NSD 267/2018 – led by A J McInerney SC in dispute concerning s 260-5 garnishee notice, resolved prior to hearing.
- **Deputy Commissioner of Taxation v Valeant HoldCo 2 Pty Ltd** FCA NSD 1347/2017 – led by S White SC, obtained urgent ex parte freezing orders.
- **CWO & CWP v Chief Commissioner of State Revenue** NCAT 2016/378548 and 2017/118159 – led by B J Sullivan SC on dispute regarding land tax principal place of residence exemption.
- **Ultimate Security Services Pty Ltd v Chief Commissioner of State Revenue** NCAT 2016/378026 – led by T L Wong on payroll tax dispute concerning applicability of employment agency and relevant contract provisions, resolved prior to hearing.
- **Donnelly v Australia and New Zealand Banking Group Ltd** [2014] NSWCA 145 – led by A J McInerney SC on the appeal for ANZ. Resisted appeal alleging unconscionable conduct on the part of the Bank on dual currency loan facility following judgment for possession of real property.

- As Sole Counsel
- **Anglo American Investments Pty Ltd (Trustee) v Commissioner of Taxation** [2021] FCA 974 – successfully obtained leave to reopen three proceedings reserved for judgment to recall key witness for further cross-examination and to tender further evidence.
- **AGC Roof Maintenance Northern Division Pty Ltd v Chief Commissioner of State Revenue** [2021] NSWCATAD 199 – payroll tax common law employee v independent contractor and relevant contract exemptions dispute.
- **Caron v Said Jahani and John McInerney as joint and several liquidators of Courtenay House Capital Trading Group Pty Ltd (In liq) and Courtenay House Pty Ltd (In liq)** [2019] NSWCA 293 – payment of representative party's costs of appeal against companies in liquidation from common fund.

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- **My Queen Pty Ltd v Ha Ha Jing Pty Ltd** (NSWDC, Curtis ADCJ, 4 May 2020) – obtained judgment for breach of contract concerning distribution of imported goods.
 - **In the matter of Plutus Payroll Australia Pty Limited (in liquidation)** [2019] NSWSC 1171 – liquidators’ application for directions concerning ‘employees’ within the meaning of s 556, *Corporations Act 2001* (Cth).
 - **Coshott v Commissioner of Taxation** [2015] FCAFC 71; 2015 ATC 20-508 – had AAT’s decision regarding capital gains tax set aside for error of law.
 - **Middlebrook v Tax Practitioners Board** [2020] AATA 3698 – administrative review proceedings concerning decision to terminate registration of tax agent on basis not a fit and proper person, and to prohibit applications for registration.
 - **Mangat v Federal Commissioner of Taxation** [2018] AATA 3012 – resisted application for CGT discount on employee share scheme interest.
 - **Ritson v Commissioner of Police, New South Wales Police Force (No 2)** [2019] FCA 662 – appeal against judgment on application to set aside bankruptcy notice; opposed interlocutory applications.
 - **Blue Haven Pools South Pty Ltd v Chief Commissioner of State Revenue** NCAT 2018/41968 – payroll tax relevant contract exemptions dispute, resolved at mediation.
 - **Ha v Chief Commissioner of State Revenue** NCAT 2018/364545 – dispute regarding surcharge purchaser duty, resolved following mediation.
 - **Sogeri Pty Ltd v Chief Commissioner of State Revenue** NCAT 2018/203978 – primary production land tax exemption dispute, resolved at hearing.
 - **Maas Group Properties No. 3 Pty Ltd & Maas Group Properties No. 2 Pty Ltd v Chief Commissioner of State Revenue** NCAT 17/368105 and 17/368113 – primary production land tax exemption dispute, resolved prior to hearing.
 - **Akkari v Federal Commissioner of Taxation** AAT 2017/0699-0700 – objection decision concerning unexplained deposits affirmed.
 - **Apparent Communications Pty Ltd v Chief Commissioner of State Revenue** NCAT 2017/258722 – payroll tax relevant contract exemptions dispute, resolved prior to hearing.
 - **Teebee Holdings Pty Ltd atf Teebee Property Trust v Chief Commissioner of State Revenue** [2017] NSWCATAD 338 – resisted application for primary production land tax exemption.
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- **Deputy Commissioner of Taxation v Harding** [2017] NSWSC 772 – debt recovery proceedings for unpaid income tax, administrative penalties and interest charges.
 - **Transfield Edgeworth Pty Ltd v Chief Commissioner of State Revenue** NCAT 2017/25258 – land tax dispute concerning retirement villages exemption, resolved prior to hearing.
 - **Ha Ha Jing Pty Ltd v My Queen Pty Ltd** [2017] NSWSC 594 – opposed application for transfer to Victoria pursuant to the *Jurisdiction of Courts (Cross-Vesting) Act 1987* (NSW).
 - **M & S Dehsabzi Pty Ltd v Chief Commissioner of State Revenue** NSWSC 2016/53174 – payroll tax dispute concerning applicability of employment agency and relevant contract provisions, resolved prior to hearing.
 - **T & S Nominees Pty Ltd v Chief Commissioner of State Revenue** [2017] NSWCATAP 6; [2017] NSWCATAP 104 (costs) – resisted application to reinstate appeal of land tax proceedings concerning primary production exemption, and obtained a costs order.
 - **Weng v Sun** (NSWSC, Slattery J, 23 December 2016) – obtained urgent interlocutory relief before the equity Duty Judge in relation to proceedings for oppressive conduct under s 233, *Corporations Act 2001* (Cth).
 - **Nick's Happy Days Amusements (Syd Ops) Pty Ltd v Federal Commissioner of Taxation** AAT 2016/108 – car fringe benefit tax case settled prior to hearing.
 - **The Official Trustee in Bankruptcy v Macalindong** [2016] NSWSC 1735 – obtained the appointment of trustees for the sale of real property and resisted cross-claim contending constructive trust between bankrupt and her former husband.
 - **In the matter of Arora Supermarkets Pty Ltd** [2016] NSWSC 880; (2016) 34 ACLC 16-018 – obtained the winding up of the company despite an overstatement of debt in the statutory demand.
 - **The Official Trustee in Bankruptcy v Foster** (NSWSC, Darke J, 27 May 2016) – obtained the appointment of trustees for the sale of real property under s 66G, *Conveyancing Act 1919* (NSW).
 - **Zyplast Constructions Pty Ltd v Chief Commissioner of State Revenue** NCAT 2015/10552 – application for 2-person exemption to the relevant contract payroll tax provisions, settled during hearing.
 - **Owners Corporation for Strata Plan 82413 v Australian Coastal Development Group Pty Ltd** (NSWSC, Bellach R, 2 Sep 2015) – obtained the winding up of the defendant.
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- **Bisvic Pty Ltd v Valuer-General** [2015] NSWLEC 70 – dispute regarding valuation of land and its unutilised value allowance for land tax purposes.
- **Paspaley v Chief Commissioner of State Revenue** [2014] NSWCATAD 217 – land tax dispute regarding principal place of residence exemption.
- **Bisvic Pty Ltd v Chief Commissioner of State Revenue (No. 2)** [2014] NSWCATAD 166; (2014) 99 ATR 488 – application for administrative review seeking primary production exemption from land tax.
- **Kotevski v Seadon & Owners Corporation for Strata Plan 82413** [2013] NSWCTTT 597 – resisted appeals against appointment of strata manager.

PRINCIPAL AREAS OF PRACTICE

COMMERCIAL LAW

Administrative Law	Bankruptcy and Insolvency	Corporations and Securities
Appellate	Contracts	Real property
Banking and Financial Services		

CRIMINAL

Appellate	Fraud	White collar and corporate crime
Proceeds of crime		

EQUITY

Appellate	Property	Trusts
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PUBLIC AND ADMINISTRATIVE LAW

Appellate	Judicial review and administrative law	Proceeds of crime
Constitutional Law	Merits review	Public law

TAXATION AND REVENUE

Alternative Dispute Resolution	Goods and services tax	Land tax
Appellate	Income tax	Payroll tax
Capital Gains tax	International tax	Stamp duty and other state taxes

SECTORS

Banks and Financial Institutions

Government

Technology, Media and

Telecommunications

Primary Resources

Real Estate