



## 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

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

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

**World Tax Guide:** Highly Regarded Women in Tax (2020)

## PROFESSIONAL MEMBERSHIPS

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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

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- As Junior Counsel
  - **The Bell Group Limited (in liquidation) v Federal Commissioner of Taxation** FCA NSD 2098/2016 – led by P D Crutchfield QC, M J O'Meara and S B Rosewarne. \$260m tax dispute arising from settlement of litigation with banks.
  - **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. Ongoing.
  - **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
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invoice, change in consideration for acquisitions comprising an adjustment event and penalties.

- **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.

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- **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.
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- As Sole Counsel
  - **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.
  - **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.
  - **A.G.C. Roof Maintenance Northern Division Pty Ltd v Chief Commissioner of State Revenue** NCAT 2019/208861 – payroll tax common law employee v independent contractor and relevant contract exemptions dispute. Decision reserved.
  - **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.
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- **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.
  - **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.
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- **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.
  - **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 21 – 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.
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## PRINCIPAL AREAS OF PRACTICE

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### COMMERCIAL LAW

Administrative Law

Bankruptcy and Insolvency

Corporations and Securities

Appellate

Contracts

Real property

Banking and Financial Services

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### CRIMINAL

Appellate

Fraud

White collar and corporate crime

Proceeds of crime

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### 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

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### 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

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## SECTORS

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Banks and Financial Institutions

Technology, Media and

Primary Resources

Government

Telecommunications

Real Estate