



## 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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### 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 Ensor practises principally in corporate and commercial law, with a specialisation in tax law. Courtney's background in pure mathematics is particularly valuable in these areas.

Courtney appears in civil and criminal trials and appeals across the country. She is a trusted advocate with over 15 years of experience in litigation, including significant in-Court expertise, both led and unled. Courtney is experienced in managing large teams of lawyers, experts and stakeholders in complex matters to deliver successful outcomes. She represents both commercial and government clients in Federal and State courts and tribunals.

In 2024, Courtney successfully completed the Australian Bar Association Advanced Trial Advocacy Intensive (a 5-day residential course specialising in advanced trial advocacy).

In the Asia Pacific Australia Bar Legal 500, Courtney is ranked as a Leading Junior in Commercial Disputes (2022-2024), where she was acknowledged for "Her strengths are: intelligence, hardworking, eye for detail, initiative where she sees things needed to be done. Advocacy skills are strong – I've seen her do cross-examinations involving complex financial arrangements with clarity and confidence" (2022); "Courtney is an extremely hard-working, well organised and diligent advocate, with a breadth of commercial disputes experience" (2023); and "Courtney is extremely thorough and precise" and "knowledgeable of the law." (2024).

Courtney is also ranked as a preeminent tax junior in Doyles Guide (2017-2023) and World Tax (in association with the International Tax Review) (2017-2025), and recognised in Best Lawyers for Tax Law (2023-2025).

## 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

**Best Lawyers in Australia:** Tax Law (2023 - 2025)

**Asia Pacific Australia Bar Legal 500:** Commercial Disputes - Leading Junior (2022 - 2024)

**Doyles Guide:** Leading Tax Barristers – New South Wales - Preeminent (2017 - 2023)

**World Tax Guide:** Leader - Highly Regarded (2020 - 2025)

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

## PROFESSIONAL MEMBERSHIPS

**2017 - 2018:** New South Wales Bar Association Bar Council

**2022 - present:** New South Wales Bar Association Practice Development Committee

**2017 - 2019:** New South Wales Bar Association Professional Conduct Committee

**2017 - 2018:** New South Wales Bar Association Examination Marker

**2013 - present:** New South Wales Bar Association

**2013 - present:** Australian Bar Association

**2017 - present:** Law Council of Australia Taxation Committee

**2018 - 2020:** The University of Sydney Law Extension Committee

**2015 - 2020:** International Fiscal Association

## SELECTED CASES

- As Junior Counsel
- **JMC Pty Limited v Commissioner of Taxation** [2022] FCA 750; [2023] FCAFC 76; [2023] HCASL 155 - led by L T Livingston SC. Appeared in Federal Court, appeal to Full Court of the Federal Court, and on special leave application to the High Court. Cases concern assessments for superannuation guarantee charges and whether lecturer at TEQSA regulated higher education provider an employee under s 12(1) of

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*Superannuation Guarantee (Administration) Act 1992* (Cth) or expanded definition under s 12(3).

- **Gumm v Commissioner of Taxation** [2024] FCA 71 - led by J E Jaques KC. Successfully obtained security for costs against offshore natural person taxpayer where underlying Part IVC tax proceedings concern over \$23m in dispute.
- **Commissioner of Taxation v Iannuzzi** (No 3) [2024] FCA 45; (No 4) [2024] FCA 1094 - led by L T Livingston SC. Applications were made to discharge an order made pursuant to s 601AH(3)(d) of the *Corporations Act 2001* (Cth) which disregarded the period of deregistration of various entities for the purpose of calculating the period ending three years after their respective relation-back days. That order had been relied on by liquidators of the reinstated entities in proceedings commenced in the Supreme Court of New South Wales for voidable transaction claims. The Commissioner had lodged proofs of debt in the liquidations exceeding \$24m and was the principal creditor who stood to benefit from the recovery proceedings. Questions arising for determination included whether s 588FF(3)(b) of the Act covers the field to the exclusion of s 601AH(3)(d) on the reinstatement of companies. Currently the subject of an extant application for leave to appeal.
- **Jamsek v ZG Operations Australia Pty Ltd (No 3)** [2023] FCAFC 48 - led by L T Livingston SC. Remittal from the High Court of Australia concerning whether truck drivers were employees for superannuation purposes under expanded definition in s 12(3) of the *Superannuation Guarantee (Administration) Act 1992* (Cth). Full Court accepted all submissions advanced as to the construction of the statute.
- **Melbourne Corporation of Australia Pty Ltd v Commissioner of Taxation** [2022] FCA 972; [2020] FCA 641 - led by K A Stern SC and J E Jaques QC. Successfully opposed deduction claims for management fees and interest on loans in respect of two corporates controlled by accountant Vanda Gould (overwhelming dominant purpose to obtain a tax benefit).
- **Anglo Amercian Investments Pty Ltd (Trustee) v Commissioner of Taxation** [2022] FCA 971; (No 2) [2019] FCA 1028; [2019] FCA 1027 - led by K A Stern SC and J E Jaques QC. Successfully opposed deduction claims for bad debts, management fees and interest on onshore loans in respect of corporate controlled by accountant Vanda Gould.
- **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, M J 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.
- **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 alleged negligence against Commissioner and Commonwealth in relation to GST refunds, and sought enforcement of statutory duty re RBA.
- **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.
- **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.

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- **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.
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- As Lead Counsel
  - **SFQV v Commissioner of Taxation** AAT 2023/3742 - leading M Gioskos. GST margin scheme decision concerning ACT residential development and attribution of GST payable on the supply of Development Services, the applicant's non-monetary consideration for the land and issues of excess-GST. Decision reserved.
  - **Hanieh v Tax Practitioners Board** [2024] AATA 3251 - leading J Thornton. Successfully resisted application for stay of decision and for confidentiality orders pending the Tribunal's review of the Respondent's decision to terminate the Applicant's registration as a BAS and tax agent and to disallow the Applicant from being able to apply for registration for five years from the date of termination.
  - **Borella v Tax Practitioners Board** [2023] AATA 3748 - successfully opposed review of decision of respondent to terminate the applicant's tax agent registration (due to not being a fit and proper person) and to disallow the applicant from being able to apply for registration for two years from the date of termination.
  - **Ian Mark Collins & Mieneke Mianno Collins ATF The Collins Retirement Fund v Commissioner of Taxation** [2022] AATA 628 - successfully had GST decision
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affirmed. Case concerned whether c.\$10m sales of subdivided real property by self-managed super fund excluded from registration turnover threshold because held by SMSF as capital assets, or because supplies made, or likely to be made, solely as a consequence of ceasing to carry on, or substantially and permanently reducing the size or scale of, an enterprise.

- **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.
- **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.

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- **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.
  - **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).
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- **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 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

Appellate

Banking and Financial Services

Bankruptcy and Insolvency

Contracts

Corporations and Securities

Real property



**CRIMINAL**

Appellate

Fraud

White collar and corporate crime

Proceeds of crime

**EQUITY**

Appellate

Property

Trusts

**PUBLIC AND ADMINISTRATIVE LAW**

Administrative Law

Disciplinary Proceedings

Proceeds of crime

Appellate

Judicial review and administrative law

Public law

Constitutional Law

Merits review

**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

Funds

Government

Technology, Media and

Telecommunications

Primary Resources

Real Estate