



## Christopher Peadon

NEW/CHAMBERS

LLB / BSc (UTS), LLM (Syd)

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Admitted to the legal profession 2001  
Admitted as a barrister in NSW 2011  
Also entitled to practise in All Australian jurisdictions

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### Principal areas of practice

Taxation | Commercial Law | Insurance

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### Awards and Professional Recognition

Chambers & Partners – Asia-Pacific Guide: Australian Tax Bar (2017 - present)  
Best Lawyers in Australia: Tax Law (2017 - present)  
International Tax Review: Tax Controversy Leaders (2017 - present)  
Who's Who Legal – Australia (Tax) (2017 - present)  
Doyle's Guide: Leading Tax Barristers (2016 - present)  
Corporate LiveWire Tax Lawyer of the Year (2018) – Australia

### Previous professional experience

Allens + Linklaters, Solicitor and Senior Associate (2001-2011)

### Professional memberships

NSW Bar Association (2011 – present) (Practice Development Committee (2019 – present)  
Law Council of Australia, Business Law Section, Tax Committee (Sydney) (2011 – present)  
Tax Institute of Australia (Fellow) (and member of Dispute Resolution Technical Committee)

### Additional Information

Chris practises in tax and commercial law.

He regularly appears unled including against Senior Counsel in trials in State and Federal Courts and Tribunals. He also appears in appeals including applications to the High Court.

Chris has an extensive tax advice and audit practice. He advises on all Commonwealth and State taxes. He commonly advises on international tax including the application of International Tax Treaties, transfer pricing, and residency. His work often arises out of large M&A and property transactions, financing arrangements and R&D activities. He has significant experience across the mining, telecommunications and finance sectors. He acts for large domestic and foreign corporate taxpayers, high net worth private groups and individuals, and charities. Recent clients include News Corp, multinational telecommunications companies, Lakes Oil Ltd, and the Salvation Army.

Career highlights include acting for News Corp in appeals resulting in an \$850 million refund, reportedly the largest in Australian tax history.

*"Chris .. is an increasingly prominent senior junior at the tax Bar who is also accomplished in commercial and insurance law. 'Chris is a standout in terms of engaging in current issues in the tax space ...' explains one approving client. - **Chambers Asia-Pacific 2020***

*"Chris .. is a sought after advocate, with experience appearing at all levels of the Australian court system" – **Chambers Asia-Pacific 2019***

*"Chris .. is considered an 'excellent tax barrister' by clients and wins praise for 'fighting for his clients while providing objective advice' " - **Chambers Asia-Pacific 2018***

### Professional profiles

Chris is also regularly briefed to advise and appear for underwriters of financial lines insurance and insured defendants in claims against directors and professional advisers.

[au.linkedin.com/in/chrispeadon](https://au.linkedin.com/in/chrispeadon)



(\*) denotes unled:-

## Tax

### High Court

- High Court special leave application (2019): Harding's case: residency – place of abode (led by Brendan Sullivan SC – instructed by PWC)
- High Court special leave application (2019): RCF IV: TARP - Tax Treaty (led by Mark Richmond SC – instructed by Minter Ellison)

### Full Federal Court

- FCT v Resource Capital Fund IV LP [2019] FCAFC 51: TARP – US Tax Treaty (led by Mark Richmond SC – instructed by Minter Ellison)
- MNWA Pty Ltd v DFCT (2016) 250 FCR 381; [2016] FCAFC 154: setting aside statutory demand for tax debt (led by Mark Robertson QC)
- John Holland v FCT (2015) 232 FCR 59; [2015] FCAFC 82: deductibility of travel costs for “fly-in fly-out” employees (led by Brendan Sullivan SC – instructed by PWC)
- Atkinson v FCT (2015) 318 ALR 585; [2015] FCAFC 18: bills of exchange – payment of tax debt (instructed by AGS) (\*)
- News Corp FX case (Messenger Press) (2013) 212 FCR 298: foreign exchange losses (\$2.2 billion) - \$850 million refund (led by Neil Young QC and Mark Richmond SC – instructed by Allens + Linklaters).

### State Courts of Appeal

- Winston-Smith v Chief Commissioner of State Revenue [2019] NSWCA 75: landholder duty - “just and reasonable” exemption led by B Sullivan SC – instructed by Piper Alderman).
- Tay v CCSR (NSWCA, 2017, resolved): landholder duty (\$30 million) - deceased estate exemption (led by Noel Hutley SC – instructed by Allens + Linklaters).
- CCSR (Vic) v Snowy Hydro (2012) 43 VR 109; [2012] VSCA 145: acquisition of shares in power station owning entity - land rich stamp duty (led by John de Wijn QC and M Richmond SC – instructed by Allens + Linklaters) .

### Federal Court

- Acting for The Bell Group Ltd (in liq): \$260m tax dispute arising from \$1.5 billion settlement of 25-year litigation with banks - interest deductions - debt forgiveness (ongoing, led by Mark Richmond SC and Kristen Deards SC – instructed by Ashurst).
- Healius Ltd v FCT [2019] FCA 2011: capital / revenue – instructed by AGS) (on appeal).
- FCT v Tristan Waters & Ors: freezing orders (ongoing, initially led by Tony McInerney SC (now unled) – instructed by AGS) (\*)
- Resource Capital Fund IV LP v FCT (2018) 355 ALR 273; [2018] FCA 41: TARP – corporate limited partnerships (Div 5A) – income/capital - source - application of US Tax Treaty (led by Mark Richmond SC – instructed by Minter Ellison)
- Newmont Canada FN Holdings LLC v FCT (ongoing): foreign investment – corporate reorganization – US / Canadian Tax Treaties - TARP (led by Mark Richmond SC - instructed by AGS) | interlocutory applications against John de Wijn QC [2018] FCA 958 (\*)
- News Australia Holdings Pty Ltd v FCT (2017) 105 ATR 874; [2017] FCA 645 – derivation of interest income on receipts or accruals basis (Carden's case) (led by M Richmond SC – instructed by Allens + Linklaters)
- Whitby Land Company P/L v DFCT (2017) 104 ATR 784; [2017] FCA 28: application to quash assessments as tentative or provisional (“Stokes”) (led by M Robertson QC)
- DFCT v King [2016] FCA 1281: personal tax debts – bankruptcy – setting aside personal insolvency agreement (instructed by Hunt & Hunt) (\*)
- Oswal v FCT [2015] FCA 1366: leave to appeal interlocutory order (led by Tom Thawley SC – instructed by Minter Ellison)
- MNWA Pty Ltd v DFCT (2015) 109 ACSR 265; [2015] FCA 1128: setting aside statutory demand for tax debt (led by M Robertson QC)
- Bell Group Ltd (in liq.) v DFCT (2015) 339 ALR 348: successful application to set aside garnishee notice (\$298 million) (led by Mark Richmond SC – instructed by Ashurst))
- Oswal v FCT [2015] FCA 1394: income tax – interlocutory application (instructed by Minter Ellison) (\*)
- Davies v FCT (2015) 234 FCR 93; [2015] FCA 773: taxation of employee share schemes – transitional provisions (led by Mark Richmond SC – instructed by McCullough Robertson).
- News Corp FX case (Messenger Press) (2012) 90 ATR 69: foreign exchange losses (\$2.2 billion) (led by Neil Young QC and Mark Richmond SC – instructed by Allens + Linklaters).
- Macquarie Bank v FCT (2011) 85 ATR 409; [2011] FCA 1076: income tax – consolidation – Part IVA (led by A Slater QC and J Hmelnitsky – instructed by Clayton Utz).



**State & Territory Supreme Courts**

- YWCA (formerly Young Women's Christian Association) v CCSR (NSWSC, ongoing): charitable exemption (led by M Richmond SC - instructed by Norton Rose Fulbright)
- Deputy Commissioner of Taxation v Malone [2020] ACTSC 44: Directors Penalty Notice - privilege against exposure to penalties (\*)
- Salvation Army (NSW) Property Trust v Chief Commissioner of State Revenue (2018) 96 NSWLR 119; [2018] NSWSC 128: charitable exemption from duty – relief of poverty (led by M Richmond SC - instructed by Dentons).
- Winston-Smith v Chief Commissioner of State Revenue [2018] NSWSC 773: landholder duty - "just and reasonable" exemption (led by B Sullivan SC at hearing (previously T Thawley SC) – instructed by Piper Alderman).
- Tay v CCSR (No 2) [2017] NSWSC 504: application to vary or set aside orders - \$30 million duty dispute (instructed by Allens + Linklaters) (\*).
- Tay v CCSR (2017) 105 ATR 583; [2017] NSWSC 338: landholder duty (\$30 million) - deceased estate exemption (with Mark Richmond SC – instructed by Allens + Linklaters)
- DFCT v Caudle [2017] ACTSC 216: directors' penalty notices for unremitted withheld amounts (instructed by McInnes Wilson) (\*)
- Milstern Nominees Pty Ltd v CCSR (NSW) (2015) 89 NSWLR 43: landholder duty - "just and reasonable" exemption (with J Hmelnitsky SC - instructed by JMA Legal)
- Gloucester Coal v CCSR (NSWSC, resolved): acting for corporate taxpayer in \$30m dispute concerning landholder duty on acquisition of mining company (led by M Richmond SC – instructed by Minter Ellison):
- Temporary Holding Clubs (No. 1 and 2) v CCSR: acting for "Panthers" Group of licenced clubs in relation to club amalgamation / de-amalgamation exemptions (NSWSC, resolved, led by Mark Richmond SC – instructed by John de Mestre & Co)
- CTI Joint Venture Company Pty Ltd v CCSR (NSW) (2013) 87 ATR 709; [2013] NSWSC 20: stamp duty – whether options to acquire land were dutiable transfers or non-dutiable novations (led by Mark Richmond SC – instructed by King & Wood Mallesons)

**Tribunals (Administrative Appeals Tribunal / NCAT)**

- Corporate Taxpayer v FCT (AAT, resolved): bad debt deductions – Part IVA (led by B Sullivan SC – instructed by Minter Ellison)
- Foreign corporate taxpayer v FCT (AAT, ongoing): divestiture of interest in Australian mining company - income / capital – TARP – Tax Treaties - transfer pricing (by M Richmond SC – instructed by Minter Ellison)
- Lakes Oil Ltd v Innovation Australia (AAT, ongoing): R&D claim for activities to develop fracking technologies to exploit tight gas reserves in Victoria (instructed by Piper Alderman) (\*)
- Corporate Taxpayer v FCT (AAT, resolved): GST - retirement village development – dual intention (instructed by Dentons) (\*)
- Ariss v FCT [2019] AAT 2958: personal services income – Part IVA (instructed by AGS) (\*)
- Racing NSW v Chief Commissioner of State Revenue [2019] NSWCATAD 172: charitable exemption for land acquisitions (\*)
- GST Gold Case (ACN 154 520 199) [2018] AATA 2404: Interlocutory application – Summons to Produce Documents – instructed by Minter Ellison for WA State-owned Gold Corporation) (\*)
- Mall v FCT [2018] AATA 1621: unexplained income (instructed by ATO Review and Dispute Resolution) (\*)
- SMSFs v FCT (AAT, resolved): superannuation - non-arm's length income from reorganization of large private corporate group (led by B Sullivan SC – instructed by AGS).
- Corporate Taxpayer v FCT (AAT, resolved 2017): derivation of interest income/Part IVA (led Mark Richmond SC – instructed by Allens + Linklaters).
- Foreign Corporate Taxpayer v FCT (AAT, resolved 2017): capital gains tax (\$110 million) - disposal of interest in large listed Australian mining company – TARP - goodwill (led by Mark Richmond SC – instructed by Minter Ellison).
- Fowler (dec'd) v FCT (2016) 103 ATR 243; [2016] AATA 416: income / capital – profit making purpose - small business capital gains tax concessions – active assets – rent (instructed by ATO Legal) (\*)

**Commercial & regulatory matters (NSW Supreme Court and Federal Court)**

- In the matter of Century Sunshine (NSWSC, ongoing): breach of directors' duties – derivative action (instructed by Danny Simmons, PWC)
- Re Tiaro Coal (resolved, NSWSC): acting for D&O underwriters - insolvency exclusion (led by Stuart Donaldson SC - instructed by CBP)
- Babcock & Brown litigation ("Coinmach") [2019] NSWSC 527 – Breach of Directors Duties –D&O Insurance – Notification (*Insurance Contracts Act 1984* (Cth), s54) - Professional Indemnity Exclusion (led by Stuart Donaldson SC – instructed by Moray & Agnew and CBP)
- Feldspar v Presidio Partners (NSWSC, resolved): acting for defendants to professional negligence claim re tax advice (instructed by CBP) (\*)
- Sutherland v GHR (NSWSC, finalised): acting for defendants to professional negligence claim re financial advice (instructed by CBP) (\*)
- Dominion WFS P/L v Phillpot & Andrews (NSWSC, resolved 2018): acting for former Chairman of Trio Capital in claim for breach of duties - \$400 million fraud (instructed by HWL Ebsworth) (\*)
- Re NSW Surf Lifesaving (NSWSC, resolved): acting for insured defendant in relation to claim arising out of fraud at NSW Surf Lifesaving (instructed by HWL Ebsworth) (\*)
- Narromine Irrigation Board v Pauci Pty Ltd (NSWSC, finalised): dispute concerning unpaid rates for cotton farm irrigation (instructed by HWL Ebsworth) – interlocutory application [2017] NSWSC 1103 (\*)
- Acting for liquidators of ABC Learning Centres in defence of \$400m misleading and deceptive conduct claim (resolved, with J Lockhart SC).
- Sliteris v Ljubic [2014] NSWSC 1632 - corporate insolvency: successful defence of validity of administrator's appointment (instructed by Lander & Rogers) (\*).
- Proposed \$50m class action re property damage (NSWSC, resolved, with Ian Jackman SC and Tom Thawley SC)
- ABC Learning Centres (in liq) v CBA, Westpac, ANZ & NAB – (FCA, settled, with Ian Jackman SC and Mark Richmond SC) – corporate insolvency: acting for liquidators of former ABC Learning Centres in \$80 million unfair preference claim against secured lenders.

Chris has acted in numerous other proceedings in the Federal Court, the NSW Supreme Court, the NSW District Court, the Federal Magistrates Court and various Tribunals. He also regularly acts pro bono in applications by persons claiming refugee status.



## Publications

Chris regularly presents papers to professional associations (including the NSW Law Society and the Tax Institute) and to individual professional services firms and clients. Recent seminar topics concerned appeal rights from the AAT to the Federal Court (see Haritos), the importance of credibility in regulatory proceedings, and legal professional privilege in the context of providing tax advice.

- The Year's Key Corporate Tax Cases, NSW TIA Conference, 23 May 2019.
- Chair of panel session at Law Council (BLS) National Tax Workshop (September 2016), "Foreign investment".
- Presentation, Tax Institute National Infrastructure Conference (27 May 2016), "Division 6C Property Funds: land in the context of infrastructure". Paper presented subsequently published in *The Tax Specialist*, Vol 20(1) August 2016, p11.
- Presentation (Ethical obligations of tax advisors), NSW Law Society Continuing Education Program, "Practising the Dark Arts in the Age of Enlightenment" (September 2016).
- Co-author of Submissions for LCA to Treasury and House of Representatives & Senate Committees in relation to reforms of client legal privilege, Part IVA and transfer pricing; LCA representative on ATO consultation in relation to Commissioner's remedial powers.
- "Scope for Future Development of Constitutional and Administrative Law Aspects of Tax Appeals", paper presented to NSW Bar Association Constitutional and Administrative Law Section (27 February 2014) (Chair: Neil Williams SC).
- " 'Shareholder' lost in Cross City Tunnel" (2014) 32 *Companies & Securities LJ* 145.
- "The importance of being earnest ... when recording oral advice" (2013) 48(3) *Taxation in Australia* 143 (paper presented in March 2014 at Tax Institute seminar).
- Presentation, "The Importance of Credibility in Regulatory Proceedings" (2013) (presented at NSW Law Society CLE session with Jacqueline Gleeson SC); subsequently published in 2 parts in *Taxation in Australia*, Vol 50(7), p388 (Feb 2016) and Vol 50(8), p467 (March 2016)
- "Part IVA and loss of privilege" (2011) 46(4) *Taxation in Australia* 142
- "Withholding tax on partial assignments of copyright" (2011) 15(2) *The Tax Specialist* 88.
- "Dividend stripping: the life and times of s177E" (2011) 26(1) *Aust. Tax Forum* 51.
- "NSW stamp duty anti-avoidance measure" (2011) 40 *Aust. Tax Review* 52.