

Select Cases

- *Commissioner of Taxation v [Respondent]* [2023] FCA 1176 – representing the Commissioner in promoter penalty proceedings for civil penalties against a former partner of Ernst & Young who sought suppression orders.
- *Widdup v Deputy Commissioner of Taxation* [2023] FCAFC 145 – representing the Deputy Commissioner in the Full Court which refused the taxpayer’s application for leave to appeal.
- *Incollingo v Tax Practitioners Board* [2023] FCA 878 – an application under s 39B *Judiciary Act 1903* from a decision of the Tax Practitioners Board in respect of the use of evidence of Mr Incollingo in other proceedings protected by the self-incrimination privilege.
- *Commissioner of Taxation v Wood* [2023] FCA 574 – on appeal from *XPTC and Commissioner of Taxation* [2022] AATA 4147 on the deductibility of a settlement amount and whether it was incurred in gaining or producing assessable income.
- *Deputy Commissioner of Taxation v Widdup (No 2)* [2023] FCA 377 – having represented the Deputy Commissioner in obtaining freezing orders against the taxpayers and third parties including offshore third parties in respect of Notices of Liability for family trust distribution tax and income tax, the Commissioner successfully resisted the respondents’ application to have the moneys paid out of court. This is the first case in Australia to have considered aspects of the operation of the family trust distribution tax regime.
- *Hornsby Shire Council v Commonwealth of Australia* [2023] HCA 19 – representing the applicant in the High Court who held that notional amounts of GST paid by the States were voluntary payments, therefore the prohibition in s 114 of the Constitution did not apply.
- *Deputy Commissioner of Taxation v Widdup* [2022] FCA 1403 – where the applicants sought an urgent stay of notices to be examined as issued under sch 1 of the *Taxation Administration Act 1953* (Cth), s 353-10.
- *BSA Ltd v Chief Commissioner of State Revenue* [2022] NSWCATAD 275 – a case concerning whether payments to technicians for the installation of Foxtel, Optus and NBN were subject to payroll tax. It is the first decision in New South Wales to consider the scope of amendments to the “relevant contract” provisions of the *Payroll Tax Act* by the introduction of s 32(2B) in 2014.
- *Peter Greensill Family Co Pty Ltd as Trustee for the Peter Greensill Family Trust v Commissioner of Taxation; Martin v Commissioner of Taxation; N & M Martin Holdings Pty Ltd ATF Martin Family Trust v Commissioner of Taxation* [2022] HCATrans 19; *Peter Greensill Family Co Pty Ltd (Trustee) v Commissioner of Taxation; Nicholas Martin & N & M Martin Holding Pty Ltd atf Martin Family Trust v Commissioner of Taxation* [2021]

FCAFC 99; *N & M Martin Holding Pty Ltd v Commissioner of Taxation* [2020] FCA 1186 – the first cases to consider whether a non-resident beneficiary of a resident trust can disregard capital gains of the trust estate under s 855-10 *Income Tax Assessment Act 1997*.

- *Young v Chief Commissioner of State Revenue* [2020] NSWSC 330 a dispute concerning the primary production exemption in the *Land Tax Management Act 1956* for land on which dressage horses were maintained, in particular whether they were maintained for the purpose of selling them or their natural increase.
- *Almona Pty Ltd v Parklea Corporation Pty Ltd* [2019] NSWSC 1868 a matter concerning fraud under s42 of the *Real Property Act* in the mortgagee’s exercise of its power of sale; duties, rights and remedies of mortgagee; misleading conduct; unconscionable conduct; indefeasibility of title of newly registered mortgagee; equitable interests in real property.
- *Almona Pty Ltd v Parklea Corporation Pty Ltd* [2019] NSWSC 579 in relation to the fraud exception and whether legal professional privilege applies to documents.
- *Onley v Commissioner of the Australian Federal Police; Menon v Commissioner of the Australian Federal Police; Anquetil v Commissioner of the Australian Federal Police* (2019) 367 ALR 291; [2019] NSWCA 101 in relation to whether to stay or limit the scope of examinations under the *Proceeds of Crime Act 2002*.
- *Wickham Hill Investments v Ding* [2019] NSWSC 631 a dispute over purported loans; onus of proof under the *Personal Property Securities Act 2009*; judicial process for considering amendment demand under s 182 of the PPSA.
- *Craig & Shuttle v Chief Commissioner of State Revenue* [2019] NSWCATAP 264; [2019] NSWCATOD 8 dispute over primary production exemption (in particular commerciality tests in s 10AA(2) *Land Tax Management Act 1956* for a commercial enterprise conducted on a small parcel of land.
- *Chief Commissioner of State Revenue v Metricon QLD Pty Ltd* (2017) 105 ATR 11; [2017] NSWCA 11 concerning non-physical and intangible uses of land for the purpose of s 10AA of the *Land Tax Management Act 1956*.
- *Hawkins v Commissioner of Taxation* (2017) 106 ATR 753; [2017] FCA 1247 application for judicial review where matter remitted to Tribunal as the correct test had not been applied.
- *UNSW Global v Chief Commissioner of State Revenue* (2016) 104 ATR 577; [2016] NSWSC 1852 concerning statutory interpretation of the “employment agent” provisions in the *Payroll Tax Act 2007*.
- *Oswal v Commissioner of Taxation* litigation spanning 2014 to 2016 representing the taxpayers in relation to Part IVC proceedings in the Federal Court of Australia brought by temporary resident beneficiaries of a resident Australian trust. Settled after hearing.
- *Ferella v Chief Commissioner of State Revenue* (2014) 96 ATR 875; [2014] NSWCA 378 which highlighted the necessity for a question of law to be raised to enliven the Court of Appeal’s jurisdiction on an appeal from the New South Wales Civil and Administrative Tribunal.

- *Maraya Holdings Pty Ltd v Chief Commissioner of State Revenue* (2013) 97 ATR 818; [2013] NSWCA 408, the first case to consider the business tests in s 10AA(2) of the *Land Tax Management Act 1956*.
- *Centro (CPL) Limited v Chief Commissioner of State Revenue* [2012] HCATrans 056: concerning s 24 of the *Duties Act 1997* (NSW) from NSW Court of Appeal *Chief Commissioner of State Revenue v Centro (CPL) Ltd* (2011) 81 NSWLR 462.
- *Leda Manorstead v Chief Commissioner of State Revenue* (2011) 85 ATR 775; [2011] NSWCA 366: one of the leading cases concerning the “dominant use” test in s 10AA(3) of the *Land Tax Management Act 1956*.
- *Chief Commissioner of State Revenue v Platinum Investment Management* (2011) 80 NSWLR 240; [2011] NSWCA 48 concerning the scope of declarations of trust over future property for stamp duty purposes.
- *Bruton Holdings Pty Ltd (in liquidation) v Commissioner of Taxation* (2009) 239 CLR 346 concerning whether the Commissioner of Taxation is able to gain priority over other creditors by serving garnishee notices after the commencement of the winding-up of the debtor company.