Ermelinda Kovacs

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Education

2017	Master of Laws (Taxation), University of Sydney
2010	Bachelor of Laws, University of Technology Sydney (UTS)
2008	First Place in Revenue Law, Thomson Reuters Award, UTS
2008	Bachelor of Business with Distinction (Accounting), UTS
2004	Bethlehem Ladies' College - School Captain, Dux

Admissions to Practice

2018	Barrister
2010	Solicitor

Professional Experience

2018 - present	Barrister, Ground Floor Wentworth Chambers
2005 - 2018	Ernst & Young, Sydney – Director, Tax Controversy

Professional Memberships

Secretary, Australian Bar Association - Taxation Committee (2019 - present)

Floor Secretary, Ground Floor Wentworth Chambers (2020 - 2021, 2022 - 2026)

New South Wales Bar Association

Law Council of Australia, Taxation Committee

The Tax Institute of Australia, National Dispute Resolution Technical Committee

International Fiscal Association

Australian Insurance Law Association

Publications

Deep dive into derivation of income (2024) – The Tax Institute – The Tax Summit

The importance of rulings (2021) – The Tax Institute - 21st Annual States' Taxation Conference

Dealing with a BEPS based tax review (2014) - The Tax Institute - International Masterclass Seminar Paper

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Selected matters

Tax

Charles Apartments Pty Limited v Commissioner of Taxation [2026] HCADisp 104	Special leave application; construction and application of s 8-1 of the *Income Tax Assessment Act 1997* (Cth)	Acted for the successful respondent; led by Kristen Deards SC, with Lindsay Muir; instructed by the Australian Government Solicitor
SSRM v Commissioner of Taxation (ART – ongoing)	Cross-border GST dispute; electronic distribution platform; construction and application of s 84-55 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth)	Acting for the taxpayer (unled and against silk); instructed by Mallesons
Evolution Mining Limited v Commissioner of Taxation [2026] FCA 935	Utilisation of tax losses ($32 million); consolidation regime; application of the same business test	Acted for the Commissioner of Taxation (unled and against silk); leading Justen Nixon; instructed by the Australian Government Solicitor
FMCH, YTKS, RVMK & LDVV v Commissioner of Taxation (ART – ongoing)	Part IVA of the *Income Tax Assessment Act 1936* (Cth); circa $45 million in dispute	Acting for the taxpayer (unled); leading Alexander Schatz; instructed by Brown Wright Stein
Charles Apartments Pty Ltd v Commissioner of Taxation [2025] FCAFC 180	Appeal to the Full Court of the Federal Court of Australia; construction and application of s 8-1 of the *Income Tax Assessment Act 1997* (Cth)	Acted for the successful respondent (unled and against silk); leading Lindsay Muir; instructed by the Australian Government Solicitor
Australian Investment Holding Group Pty Ltd v Commissioner of Taxation (ART – ongoing)	Substantiation case; whether certain deposits are assessable or loans; circa $7 million in dispute	Acting for the taxpayer (unled); leading Matthew Meng and Alexander Schatz; instructed by MinterEllison
NPJT v Commissioner of Taxation (ART – ongoing)	Part X of the *Income Tax Assessment Act 1936;* attribution of income in respect of controlled foreign companies; evasion opinion formed by Commissioner; circa $4 million in dispute	Acting for the taxpayer (unled); leading Michael Long
Yaleson Corporation Pty Ltd ATF Cikes Family Trust & Ors v Chief Commissioner of State Revenue (Supreme Court of NSW – ongoing)	*Payroll Tax Act 2007* (NSW); grouping; employment agency contract; section 42 determination	Acting for the fourteen plaintiffs (taxpayers) (unled and against silk); leading Michael Long; instructed by Newey Bond Lawyers
Australian Investment Holding Group Pty Ltd v Commissioner of Taxation [2025] ARTA 1185	Interlocutory decision; Commissioner's objection to the taxpayer being granted access to documents concerning the preparation of a revised expert report; legal professional privilege	Acted for the successful taxpayer (unled); leading Alexander Schatz; instructed by Brown Wright Stein
Samadi v Commissioner of Taxation (FCA - resolved)	Small business relief provisions contained in Division 152 of the *Income Tax Assessment Act 1997* (Cth) in connection with a $20 million capital gain	Acted for the taxpayer (unled); leading Justen Nixon; instructed by Ernst & Young (resolved favourably at mediation).

Charles Apartments Pty Ltd v Commissioner of Taxation [2025] FCA 461	Appeal/cross-appeal to the Federal Court of Australia under s 44 of the *Administrative Appeals Tribunal Act 1975* (Cth); deductibility of interest	Acted for the successful Commissioner of Taxation (unled) on the appeal and cross appeal; leading Lindsay Muir; instructed by the Australian Government Solicitor
Confidential investigations in connection with certain advisers (ongoing)	Promoter penalty provisions; Division 290 of Sch 1 to the *Taxation Administration Act 1953* (Cth); mass marketed schemes	Acting for the Commissioner of Taxation (unled); led by Simon Fitzpatrick, with Christopher Beshara and Courtney Raad; instructed by the Australian Government Solicitor
Ironhand Pty Limited v Deputy Commissioner of Taxation (FCA – ongoing)	Application to set aside statutory demand (circa $5m claim)	Acting for the taxpayer (unled); leading Alexander Schatz; instructed by Brown Wright Stein
Cape Cod Pty Ltd v Chief Commissioner of State Revenue (NCAT – decision reserved)	Payroll tax; relevant contracts; section 32 of the *Payroll Tax Act 2007* (NSW)	Acting for the Chief Commissioner of State Revenue (unled); leading Alexander Schatz; instructed by the Crown Solicitor's Office
XL Retail Services Pty Ltd v Chief Commissioner of State Revenue [2025] NSWCATAD 22	Payroll tax; application of the employment agency provisions; s 37 of the *Payroll Tax Act 2007* (NSW)	Acted for the taxpayer (unled); led Justen Nixon; successful in having penalties assessments revoked; instructed by Brown Wright Stein. Currently acting for the taxpayer (unled), leading Justen Nixon, in the appeal.
High wealth individual – audit (resolved)	Alleged dividend stripping scheme; section 177E of the *Income Tax Assessment Act 1936* (Cth)	Acting for the taxpayer (unled); instructed by Smailes Krawitz; briefed to appear before the General Anti-Avoidance Rules (GAAR) Panel
WCVB v Commissioner of Taxation [2024] AATA 1259	Constructive derivation of income by a special purpose vehicle; deductibility of interest; deductibility of construction costs; penalties	Acted for the successful Commissioner of Taxation (unled) against silk; instructed by the Australian Government Solicitor
Commissioner of Taxation v ACN 154 520 199 Pty Ltd (In Liquidation) [2025] FCAFC 146	Appeal to the Full Court of the Federal Court of Australia; GST; application of Division 165 to negate input tax credits ($73 million)	Acted for the taxpayer; led by Bret Walker SC and Bradley Jones SC; instructed by Polczynski Robinson
ACN 607 537 548 Pty Ltd v Commissioner of Taxation (FCA)	GST; application of the anti-avoidance provisions in Division 165 to negate input tax credits ($25 million)	Acted for the taxpayer; led by Bradley Jones SC; instructed by Clayton Utz (resolved favourably).
CTJC Holdings Pty Ltd atf Makari Unit Trust v Chief Commissioner of State Revenue (NCAT)	Land tax; primary production exemption	Acted for the Chief Commissioner of State Revenue (unled); taxpayer withdrew day before final hearing; instructed by the Crown Solicitor's Office
Niu v Chief Commissioner of State Revenue [2023] NSWCATAP 123	Surcharge purchaser duty	Acted for the Chief Commissioner of State Revenue (unled); the Chief Commissioner was successful at trial and on appeal; instructed by the Crown Solicitor's Office
Willmott v O'Neill (No 2) [2023] FedCFamC1F 345	Property settlement; recovery of unpaid taxation liabilities	Acted successfully for the Commissioner of Taxation (intervening) (unled); instructed by HWL Ebsworth

High wealth individual - audit and objection stages	Application of the general anti-avoidance rules; Part IVA of the *Income Tax Assessment Act 1936* (Cth)	Appeared for the taxpayer before the GAAR Panel (unled); instructed by Brown Wright Stein
Fidge v Commissioner of Taxation [2023] AATA 4245	Genuine redundancy payment; s 83-175 of the *Income Tax Assessment Act 1997* (Cth)	Acted for the successful taxpayer (unled); instructed by Jones Day

Insurance, professional negligence and disciplinary matters

Confidential (pre-litigation)	Firm of solicitors; negligence claim arising from assessments issued pursuant to Part IVA of the *Income Tax Assessment Act 1936* (Cth)	Led by Stuart Donaldson SC
Remlaps Brother Pty Ltd & Ors v Zoras & Ors (FCA – ongoing)	Accountant and tax agent; negligence claim	Acting for the second defendant; leading Alexander Schatz
Seymour Whyte Construction Pty Ltd v Liberty Mutual Insurance Company t/as Liberty Specialty Markets [2026] NSWCA 154	Appeal to New South Wales Court of Appeal concerning construction of insurance policy	Acted for the successful respondent; led by Stuart Donaldson SC; instructed by Carter Newell
Seymour Whyte Construction Pty Ltd v Liberty Mutual Insurance Company t/as Liberty Specialty Markets [2025] NSWSC 1597 *Seymour Whyte Construction Pty Ltd v Liberty Mutual Insurance Company t/as Liberty Specialty Markets (No 2)* [2026] NSWSC 281.	Claim under a Contractors Pollution Legal Liability Policy	Acted for the successful insurer (successful defendant); led by Stuart Donaldson SC; instructed by Carter Newell
Trustees of the Roman Catholic Church for the Archdiocese of Sydney & Anor v Insurance Australia Ltd & Zurich Property Pty Ltd (Supreme Court of NSW – ongoing)	Claims under legacy insurance policies in connection with historical abuse settlements	Acting for the second defendant; led by Michael Jones SC, with Samantha Langan; instructed by Sparke Helmore Lawyers
DTZ Worldwide Limited v AIG Australia Limited [2025] NSWSC 12	Claim under a number of Buyer's Warranty & Indemnity Insurance Policies; alleged breach of warranty; $234 million claim	Acted for the successful second to sixth defendants (excess insurers – the primary insurer had settled with the plaintiff prior to hearing); the plaintiff's claim was dismissed; led by Michael Jones SC; instructed by Norton Rose Fulbright Australia
The Leaders Advisory Network Pty Ltd & Ors ats Mayne & Ors (Supreme Court of NSW – resolved)	Chartered Accountant / tax agent; professional negligence claim; $3 million claim	Acted for the defendants (unled); instructed by Gilchrist Connell; (resolved favourably for the defendants at mediation)
CIMIC Group Limited v AIG Australia Limit (No 2) [2023] NSWSC 640	Costs where insured proceeded against two insurance towers of different policy years	Acted for second defendant; led by Stuart Donaldson SC; instructed by Lander & Rogers

Intersnack Australia Holding Company Pty Ltd t/as Snack Brands Australia v AIG Australia Limited (FCA)	Acts of dishonesty committed by an employee resulting in Direct Financial Loss	Acted for the insured; led by Stuart Donaldson SC; resolved successfully for the insured pre-hearing; instructed by Gillis Delaney Lawyers
IBM Australia Limited v Nextgen Networks Pty Ltd & Anor (Supreme Court of NSW)	Negligence; statutory misleading conduct ($35 million claim)	Acted for the second defendant; led by Stuart Donaldson SC (resolved); instructed by Norton Rose Fulbright Australia
Bannerman & Anor v Carr & Ors (Supreme Court of NSW)	Chartered Accountant / tax agent; professional negligence	Acted for plaintiff; led by Stuart Donaldson SC; resolved successfully for the plaintiff pre-hearing
Willcocks v Croft & Ors (Supreme Court of NSW)	Chartered Accountant and tax agent; professional negligence	Acted for first and fifth defendants; led by Stuart Donaldson SC; instructed by Norton Rose Fulbright Australia (resolved)
Mihajlovic and Tax Practitioners Board [2022] AATA 342	Review of decision of the Tax Practitioners Board to terminate tax agent registration	Acted for the successful Tax Practitioners Board (unled)
Territory Asset Management Services Pty Ltd v Theunissen Trollip Pty Ltd & Anor (Supreme Court of NSW)	Solicitor; breach of fiduciary duty and professional negligence	Acted for plaintiff; led by David Marks KC (resolved favourably for the plaintiff at mediation)