



HELEN M SYMON KC

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PROFILE

Helen Symon KC is a leading advocate with wide experience in taxation law as well as commercial and administrative law.

TAXATION

Helen is one of the most experienced taxation silks in Australia, practising in both an advisory and a disputes context across the full range of tax law. Her unique input in advisory matters stems from her extensive experience in court. She has appeared in courts and tribunals at all levels, representing both taxpayers and revenue authorities alike. That breadth of experience enables Helen to provide objective and informed advice to her clients.

COMMERCIAL LITIGATION

Helen's insight as a commercial litigator stems from her experience in tax cases which have concerned some of Australia's largest transactions and projects as well as most complex corporate structures.

ADMINISTRATIVE AND PUBLIC LAW

As a result of Helen's experience in taxation law, her advice and representation has been sought in other areas of administrative and public law, by individuals, corporate bodies, public authorities and third party intervenors.

Helen is regularly named in Best Lawyers, Doyle's Guide and Chambers and Partners Asia Pacific. In the Legal 500 Asia Pacific 2023 she was praised as a "clever, measured and very compelling advocate."

QUALIFICATIONS

BA, LLB (Hons), University of Melbourne

Admitted to practise: April 1984

Appointed Silk: 28 November 2000

AREAS OF PRACTICE

- Taxation
- General commercial
- Trusts and equity
- Public/administrative law

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PROFESSIONAL EXPERIENCE - SUMMARY

ADVISORY

Helen's recent tax advice work stems from her litigation experience.

For example, she has been sought out and provided ongoing advice to various corporations owing to her experience of the issues in *Ausnet Transmission Group Pty Ltd v Commissioner of Taxation (2015) 231 FCR 59* (valuation of intangibles).

Similarly, she has advised private groups of companies and trusts as to, inter alia, the application of Division 7A (payments and loans by private companies treated as dividends), s 99B (benefits provided to beneficiaries by an offshore trust) and the franking of dividends (Subdivision 207-B).

Early stage disputes in which Helen has been involved include a transfer pricing dispute and, in the state taxes jurisdiction, a payroll tax matter concerning the "contractor" provisions (*Payroll Tax Act (Vic) s 32*).

SELECT CASES

B&F Investments Pty Ltd atf the Illuka Park Trust v Commissioner of Taxation; BBlood Enterprises Pty Ltd v Commissioner of Taxation

Federal Court of Australia, Moshinsky, Colvin and Hespe JJ – heard March 2 and 3 2023.

And see [2022] FCA 1112, Thawley J.

Instructed by Australian Government Solicitor. Junior counsel: Melanie Baker S.C. and Joel Phillips.

Application of specific anti-avoidance provisions (s 100A and s 207-150(1)(e)) to a share buy-back arrangement within a private group of companies and trusts.

Deputy Commissioner of Taxation v Karantzis

Federal Court of Australia, Anastassiou J – heard November 2021 (settled).

Instructed by HWL Ebsworth. Junior counsel: Justin Mereine.

Appearing for applicant seeking discharge of freezing orders on ground of material non-disclosure.

The Buddhist Society of Western Australia Inc v Commissioner of Taxation (No 2)

[2021] FCA 1363, McKerracher J.

Instructed by Australian Government Solicitor. Junior counsel: James Scovell

Appearing for respondent in proceeding concerning revocation of the Applicant's endorsement as a deductible gift recipient. Was the Applicant's Dhammaloka Buddhist Centre a "building used as a school"?

Australian Securities and Investments Commission v GoGetta Equipment Funding Pty Ltd

[2021] FCA 420, Davies J.

Instructed by Jones Day. Junior counsel: Simon Rubenstein

Appeared for respondent in civil penalty proceeding brought under the *National Consumer Credit Protection Act 2009*.

Newmont Tanami Pty Ltd v Secretary, Territory Revenue Office

[2020] NTSC 22, Kelly J.

Instructed by KPMG Law. Junior counsel: Melanie Baker



Appearing for appellant in an appeal concerning mineral royalty payable under the *Mineral Royalty Act 1982* (NT). Whether, in the circumstances of the case, expenditure in respect of a project for the construction of a shaft and minerals handling system constituted “eligible research and development expenditure” as defined in the Act.

Song v Commissioner of Taxation

[2018] FCA 840, Davies J.

Instructed by Arnold Bloch Leibler. Junior counsel: Meredith Schilling

Legal advice privilege including consideration of communications made through third parties and of advice sought and given by a foreign lawyer.

MAJOR CORPORATE INCOME TAX APPEALS

- **Ausnet Transmission Group Pty Ltd v Commissioner of Taxation** [2015] HCA 25
- **Ausnet Transmission Group Pty Ltd v Commissioner of Taxation** (2015) 231 FCR 59
- **Pratt Holdings Pty Ltd v Commissioner of Taxation** [2013] FCAFC 82; and see [2012] FCA 1118
- **FCT v BHP Billiton Ltd and others** [2011] HCA 17; and see [2010] FCAFC 25 and [2009] FCA 279
- **FCT v Ashwick (Qld) No 127 Pty Ltd** [2011] FCAFC 49
- **Pacific Dunlop Limited v Federal Commissioner of Taxation** [1999] FCA 214 (as junior counsel)
- **Bob Jane T-Marts Pty Ltd v Federal Commissioner of Taxation** [1999] FCA 1366 (as junior counsel)
- **Brewing Investments Limited v Federal Commissioner of Taxation** [2000] FCA 34; [2000] FCA 920 (as junior counsel)
- **Dismin Investments Limited v Federal Commissioner of Taxation** [2000] FCA 1703 (as junior counsel)
- **Ashton Mining Limited v Federal Commissioner of Taxation** [2000] FCA 590 (as junior counsel)

OTHER INCOME TAX LITIGATION EXPERIENCE, includes:

General anti-avoidance/Part IVA

- **Vincent v Commissioner of Taxation** [2002] FCAFC 291
- **Puzey v Commissioner of Taxation** [2003] FCAFC 197
- **Sleight v Commissioner of Taxation v Sleight** [2004] FCAFC 94.

Promoter Penalties Legislation (Division 290 of Schedule 1 of the *Taxation Administration Act 1953*)

- **Commissioner of Taxation v Barossa Vines Limited and others** [2014] FCA 20
- **Commissioner of Taxation v Ludekens and Van De Steeg** [2013] FCA 142

Administration of taxation legislation

- **Stewart v DCT** [2011] FCA 336 (accountants' concession)
- **FCT v Starr** [2007] FCAFC 204 (penalties)
- **Ozone Manufacturing Pty Ltd v DCT** [2006] SASC 91 (application to set aside a statutory demand under s 459G of the *Corporations Act* involving questions as to the operation of running balance accounts and the status of certain tax offsets)

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- **Vincent v Commissioner of Taxation** [2002] FCAFC 291; **Puzey v Commissioner of Taxation** [2003] FCAFC 197 and **Sleight v Commissioner of Taxation** [2003] FCA 896 (requirements for effective determinations under Part IVA)

Taxation of charities

- **The Buddhist Society of Western Australia Inc v Commissioner of Taxation (No 2)** [2021] FCA 1363
- **Bicycle Victoria Inc. v FCT** [2011] AATA 444
- **Navy Health Ltd v FCT** [2007] FCA 931
- **FCT v Triton Foundation** [2005] FCA 1319

GST

- **Melbourne Apartment Project Pty Ltd as trustee for Melbourne Apartment Project v Commissioner of Taxation** [2019] FCA 2118
- **International All Sports Pty Ltd and Anor v FCT** [2011] FCA 824
- **Perfek Pty Ltd v FCT** [2011] HCATrans 247

STATE DUTIES

- **White Rock Properties Pty Ltd v Commissioner of State Revenue** [2015] VSCA 77
- **Regis Aged Care Pty Ltd v Commissioner of State Revenue** [2015] VSC 279
- **Snowy Hydro Ltd v Commissioner of State Revenue** [2012] VSCA 145; and see [2010] VSC 221
- **American Express International Inc. v Commissioner of State Revenue** [2004] VSCA 193
- **Aston (Aust) Properties Pty Ltd v Commissioner of State Revenue** [2013] VCAT 1745; and see [2012] VSC 518

PUBLIC/ADMINISTRATIVE LAW

- **Luck v Federal Court of Australia and others; Luck v Secretary of the Department of Human Services; Luck v CEO of Centrelink and others; Luck v Australian Human Rights Commission and others** [2011] HCA Trans 288 – applications for stays of proceedings as vexatious and abusive
- APRA: **Merrell Associates Ltd v HL (Qld) Nominees Pty Ltd** [2011] HCA Trans 19; and see [2010] SASC 155 and [2009] SASC 165 – application for possession of land by trustee of an employee superannuation fund appointed by APRA
- Inspector-General in Bankruptcy: including **Ansett v Pattison** in the Commonwealth Administrative Appeals Tribunal; and advising the Inspector-General from time to time
- ASIC: **YFFM v ASIC** [2010] AATA 340 (insider trading); **Re Coles Group** [2007] VSC 523 (Court's discretion in approving a scheme of arrangement)
- Immigration: **Madafferi v The Minister for Immigration and Multicultural Affairs** [2003] HCATrans 803; [2002] FCAFC 220; [2001] FCA 581; [2001] FCA 47; [2001] FCA 1612; [2000] FCA 158; [2000] FCA 250.
- Anti-discrimination: **McNeil v The Commonwealth**, HREOC, February, 1995
- 1994 senate committee inquiry on sexual harassment in the Navy, representing Dr Carol Wheat

And see **Magill v Magill** [2006] HCA 51; and see [2005] VSCA 51.

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MEMBERSHIP AND APPOINTMENTS

Professional

- Chair of the Victorian Bar Ethics Committee (February 2013 - February 2016, member from 2011)
- Chair of the Leo Cussen Institute (now Leo Cussen Centre for Law): www.leocussen.vic.edu.au (2009-2013; member of the Board from August, 2001). Leo Cussen provides practical legal training (face-to-face and on-line) as well as professional development courses. Over a period commencing in around 2008 the Institute's government funding was withdrawn. Accordingly, Helen presided over a period when the Institute re-invented itself as a business.
- Helen has been involved in teaching advocacy since 1987, first in the Victorian Bar Readers' Course and at Leo Cussen then, from its inception, the Australian Advocacy Institute. She has taught for the ABA's Advocacy Training Council both in Australia and overseas.
- Readers' Course Committee, Victorian Bar (1988-1999).
- Legal Profession Tribunal, advocate member (1997-1999).
- Pro Bono Committee, Victorian Bar (2006-2008).
- Third convenor of the Women Barristers' Association (1996).

Other

- Candidate, on the Women's Ticket – An Equal Say, for the 1998 Constitutional Convention.
- Elected Board member of the Victorian Women's Trust: www.vwt.org.au (July 1999 to June 2002).
- President, Buoyancy Foundation of Victoria, drug and alcohol counselling services - see www.buoyancy.org.au (September 1999 to September 2002).
- Chair, The Hunger Project Australia - empowering women and men to end their own hunger – see www.thp.org (May 2002 to May 2008).
- The Australian Art Orchestra (December 2008 – April 2014): www.aao.com.au
- Tura New music (November 2016 to January 2020): www.tura.com.au
- Punctum Inc (from May 2016, Chair from May 2023 to June 2023): www.punctum.com.au
- Castlemaine Art Museum (from February 2022, Chair from December 2022 to December 2024)

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