



Paul McNab

Partner

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Paul McNab is a tax partner with more than 30 years' experience advising clients on Australian taxation issues. He has extensive private sector experience advising on the interpretation of tax law and helping clients manage relationships with the ATO, statutory auditors and other stakeholders.

Paul has managed significant audits by the ATO, negotiated their settlement and prepared for and managed tax litigation against both State and Federal Governments. Assisted Boards of Directors, Management and statutory auditors in relation to management of revenue risk and their obligations to disclose it.

He is predominately active in the technology, infrastructure, resources and pharmaceutical sectors. With particular experience advising US clients with significant Australian assets on their cross-border tax needs.

- Tax

- Consumer Goods, Food and Retail
- Energy and Natural Resources
- Industrials
- Infrastructure, Construction and Transport
- Life Sciences
- Media, Sport and Entertainment
- Technology

- Leading the team defending treatment of cross border payments under software licence and services agreements for S&P500 group (Australian tax liability at risk AUD100m). This involved identifying new defence approach and case theory, and negotiating agreement treatment that removed all risk.*
- Leading litigation in the Australian Full Federal Court to defend Australian treatment of proceeds on the sale of a corporate group (Australian tax liability risk AUD50m). This resulted in the unanimous Full Court decision in favour of the taxpayer.*
- Leading a team defending joint ATO/IRS value chain transformation for S&P500 company involving identification and re-domicile of intellectual property assets (Australian tax liability at risk AUD500m). This involved identifying new defence approach and case theory.*
- Leading advisor to a foreign telecommunications group from initiation of their AUD2bn investment, through the entire life cycle of acquisitions, reorganisations to eventual exit from the Australian market over a nine year period. The key value delivered was preservation of the original investment basis to ensure exit reflected real economic cost of investment, while ensuring effective tax rate on operations was appropriate on a global consolidated basis.*
- Advising on the business structure adopted by an Australian owned global marketplace for electronic assets, and advising on the

business structure adopted by one of the largest global privately owned online service providers (including migration of business). These structures ensured no double tax, correctly allocated source taxation and appropriately matched tax to period of derivation. Defended both structures in ATO audits.*

- Leading the project to assist the international clients of a Big 4 accounting firm to restructure or defend their Australian operations from Australia's MAAL rules, and advised these clients on the effect of subsequent Australian DPT and anti-hybrid rules on their structures. This involved defending their structures and assisting with negotiation of agreements and APAs providing certainty in future years.*
- Working with a number of clients in several sectors in relation to the ATO review of cross border payments and the question of whether some or all of the payments might be considered a royalty.*

* Denotes experience from a previous firm.

CREDENTIALS

Professional Qualifications

- Solicitor of the Supreme Court of New South Wales

Prior Experience

Prior to joining DLA Piper, Paul was a leading partner in the Tax Controversy group of a 'Big 4' accounting firm and was an experienced Tax partner at another leading accountancy firm. Paul also spent eight years at the Australian Taxation Office.

Recognitions

- Legal500 Asia-Pacific recognises Paul as a Recommended Practitioner for Tax, 2021
- Paul is rated as "Highly Regarded" for Tax Controversy by World Tax 2021

Education

- University of Sydney, Master of Laws (Hons)
- The College of Law, Graduate Diploma of Legal Practice
- Queensland University of Technology, Bachelor of Laws

Memberships

- Entered in the High Court of Australia Register of Practitioners
- Chartered Tax Advisor, The Tax Institute
- Taxation Committee, Law Council of Australia
- Law Society of New South Wales

Pro Bono

- Chair, Governance Committee – NSW Aboriginal Land Council, 2015 – Current
The Governance Committee assists the Council of the NSWALC (the State's peak representative body in Aboriginal Affairs) with strategic advice and direction on its decision making processes and structures.
- Committee member – Sunshine Coast Sports Aviators Inc, 2013 – Current
Assisting with legal advice in relation to the management of operational authorisations required from Local Authority, Police, National Parks and the Civil Aviation Safety Authority.

INSIGHTS

Publications

Legal professional privilege in Australian tax

1 July 2022

On the 22nd of June 2022, the ATO has released an updated version of its voluntary "protocol" for taxpayers who wish to claim legal professional privilege (LPP) when they are asked for certain documents.

Australian Federal Court provisionally rules that some tax documents are privileged, others are not

6 April 2022

On March 22, the Federal Court of Australia delivered judgement in one of two long-running privilege disputes it is conducting against Pricewaterhouse Coopers (PwC) and its clients (Commissioner of Taxation v PricewaterhouseCoopers [2022] FCA 278).

Australia: PepsiCo in diverted profits tax dispute

5 April 2022

In this update we explain why the PepsiCo appeal regarding diverted profits tax (DPT) provisions in the Australian Federal Court is significant.

Australian Federal Budget 2022-2023

29 March 2022

The 2022/23 Federal Budget (**Budget**) was delivered by the Australian Treasurer, the Hon. Josh Frydenberg, on 29 March, 2022 and, while viewed as a 'pre-election Budget', it delivered several important business tax and related initiatives.

Transfer pricing chat: Paul McNab

14 March 2022

Australia is becoming increasingly prominent when it comes to transfer pricing, thanks in part to a huge amount of foreign investment. In recent years the Australian Tax Office, the nation's tax authority, has taken multinationals to court over transfer pricing disagreements in high-profile cases involving Singtel—a win for the government—and Glencore—a government loss.

Australian Federal Court judgment against Singtel in Transfer Pricing dispute

19 January 2022

In this update we discuss the recent landmark court ruling of the Federal Court of Australia in a transfer pricing dispute involving Singapore Telecom and the Australian Taxation Office, in which the Court dismissed the taxpayer's appeal.

Asia Pacific Tax Newsletter December 2021

31 December 2021

Welcome to the fourth issue of our AsiaPac Tax Newsletter.

Australian Corporate Collective Investment Vehicle Regime draft legislation

31 August 2021

On Friday 27 August the Treasurer and the Assistant Treasurer announced the release of draft Legislation for public consultation on tax and regulatory aspects of the proposed new Corporate Collective Investment Vehicle Regime (CCIV) Regime with a view to implementation from 1 July 2022.

Asia Pacific Tax Newsletter July 2021

6 August 2021

Welcome to the third issue of our AsiaPac Tax Newsletter. In this issue, we continue to bring you the latest tax developments in the Asia-Pacific region including governmental policies and updates on case laws.

Australia: Launch of the patent box regime and guidance on intangible arrangements

5 July 2021

In this update we discuss the impact of the patent box regime and consider the changes to intangible arrangements.

Glencore wins in High Court on Transfer Pricing

21 May 2021

The High Court of Australia has today refused to grant the Commissioner of Taxation leave to appeal against the Full Federal Court decision. Glencore won against the ATO in almost all respects in the Full Federal Court, and earlier before a single Judge of the Federal Court of Australia.

Australian Federal Budget 2021-2022

11 May 2021

Australia's COVID-19 'comeback' 2021-22 Federal Budget (**Budget**) was delivered by the Australian Treasurer, the Hon Josh Frydenberg, on 11 May 2021 and provides, amongst other things, several important business tax and related initiatives.

Asia Pacific Tax Newsletter March 2021

7 April 2021

Welcome to the second issue of our AsiaPac Tax Newsletter. In this issue, we bring you the latest tax developments in the Asia-Pacific region including governmental policies and updates on case laws.

ATO wins legal professional privilege dispute and sets new COVID-19 PE risk guidance

24 February 2021

From judicial decisions to ATO guidance updates, Partner Paul McNab summarises the tax-related developments from early 2021 in Australia.

ATO files request for leave to appeal Glencore decision

18 January 2021

Partner Paul McNab takes a closer look at the Glencore appeal, the decision in La Mancha Group, and the key changes to the Australian Tax Office's website.

Glencore wins landmark Australian transfer pricing case over ATO

16 November 2020

We analyse the Full Federal Court of Australia's judgment from commodity company Glencore's partial victory in its dispute with the Australian Tax Office.

Australian Federal Court dismisses ATO appeal in Glencore transfer pricing case

10 November 2020

In a unanimous decision, the Australia Full Federal Court dismissed the ATO appeal in the Glencore transfer pricing matter (except in relation to freight expenses in 2009).

In our update note, we analyse key parts of the judgement, including the role of the Court of Appeal and the relevance of witnesses.

Australian Federal Budget 2020-21

6 October 2020

The Australian Treasurer, the Hon Josh Frydenberg, delivered the 2020/21 Federal Budget on 6 October, 2020 and as widely anticipated, the key focuses were on firstly, bringing forward to 1 July, 2020 the effective date of previously legislated personal income tax cuts and secondly, expanding significant economic stimulus initiatives.

Australian regulators consider the application of legal professional privilege

24 September 2020

We present the tax highlights from September 2020 in Australia, which includes clarifications to the hybrid mismatch rules and wider discussion on legal professional privilege.

Learning from the Addy and Auctus Resources decisions in Australia

26 August 2020

From economic recovery plans to judicial decisions, we summarise the tax-related developments from mid-2020 in Australia.

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- June 28, 2021 Bloomberg Tax - Australian Taxation Office Issues Draft Intangibles Guideline
 - INSIGHT: Australian Tax Office Appeals "Glencore" Transfer Pricing Decision
 - May 1, 2020 Bloomberg Tax Management Transfer Pricing Report
 - What do we learn from the ATO Notice of Appeal in the Glencore transfer pricing dispute?

Events

Previous

Tax treatment of software development and sale: Perspectives from the US, Australia and NZ

28 October 2021
Webinar

DLA Piper & AIBC present: What does the new ATO Draft "software ruling" mean for taxpayers?

22 July 2021
Webinar

- IFA Indian International Tax Conference 2018 Changing World Order and International Taxation, April 27-28, 2018, the Lalit, New Delhi
- Panel Member, Plenary 3 : Introduction and Enhancement of GAARs in Asia and Effect and Consequences for Treaty Shopping / Treaty Abuse – case studies
- Panel Member, Plenary 4: Global tax developments - U.S. tax reform: Base Erosion Anti-Abuse Tax (BEAT); Foreign-derived Intangible Income and Global Intangible Low-Taxed Income; Australian Federal Court decision in the case of Tech Mahindra Ltd.; Exchange of Information, FACTA – real life situations

NEWS

Budget terms of trade bolster revenue

3/29/2022

DLA Piper has welcomed the 2022/23 Federal Budget which contains several important business tax and related initiatives for our clients.
