



James Newnham

Partner

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James Newnham is a tax professional with over 20 years' experience consulting to leading Australian companies and foreign owned corporations operating in Australia.

His tax structuring experience stems from advising on various transactions including mergers, demergers, capital restructures, IPOs, private equity acquisitions and sales, share buy-backs, employee share schemes, stapling, international restructures and cross-border acquisitions.

His areas of focus include drafting the tax aspects of legal documents, tax consolidation, capital gains tax, the debt/equity rules, debt forgiveness rules, international tax, employee share schemes, company and trust loss rules, and trusts.

James also assists clients by managing interactions with the ATO, including by seeking private and public rulings, making voluntary disclosures and settling disputes. He also lodges submissions with Treasury in relation to tax law design.

James regularly deals with the Department of Treasury in relation to tax law design issues and with the ATO in relation to tax law interpretation and practical implementation issues (eg private and public rulings).

- Tax
- Corporate

- Energy and Natural Resources
- Infrastructure, Construction and Transport
- Technology

- Advising an energy company in relation to the re-commissioning of a power station in Western Australia, including advice on the financing structure
- Advising a major entertainment company on tax consolidation
- Advising one of the world's largest oil and gas companies on employee share schemes, tax consolidation and international tax issues
- Advising a leading travel company on share buy backs, international tax issues and tax consolidation
- Advising one of the world's largest car rental companies on various international tax issues
- Advising a national logistics company on its IPO structure
- Advising a multinational developer of carbon emission reduction projects on international tax issues

- Advising one of the world's largest chemical manufacturers on its acquisition of a Trans-Tasman resin and adhesives business
- Advising a motoring services company on tax consolidation, loyalty programs, profit repatriation and various other tax issues

CREDENTIALS

Professional Qualifications

- Solicitor of the Supreme Court of New South Wales, 2002
- Solicitor of the Supreme Court of Victoria

Prior Experience

James was previously a Partner at BDO and has also worked at Deloitte Touche Tohmatsu.

Recognitions

- Best Lawyers ranked for Tax Law, 2020 - 2021
- Legal500 Asia-Pacific recognises James as a Recommended Practitioner for Tax, 2021

Memberships

- Fellow, Taxation Institute of Australia

INSIGHTS

Publications

Australia: Reform of employee share schemes - tax view

16 September 2021

As part of the 2021–2022 federal budget, the federal government has pledged to remove 'red tape' by introducing a suite of tax and regulatory changes that will assist companies in implementing employee share schemes.

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.

Australia – reforms to Employee Share Scheme rules

13 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, changes to the tax treatment of Employee Share Schemes (ESS).

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.

A look at the changes to the Australian corporate residency test

28 October 2020

In this article we analyse the Australian government's interpretation of the 'corporate residency' test for non-Australian incorporated companies.

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.

DLA Piper achieves a successful result in *Auctus Resources Pty Ltd v Commissioner of Taxation* [2020] FCA 1096

5 August 2020

DLA Piper's tax team has been successful in representing its client, the taxpayer, in *Auctus Resources Pty Ltd v Commissioner of Taxation* [2020] FCA 1096. The case relates to specific tax assessment and tax recovery powers of the Commissioner of Taxation relating to an R&D tax offset refund in the 2013 income year. It is also a reminder to legal practitioners to raise all grounds and contentions during the hearing. This article will explore these issues in further detail.

High Court rules BHP entities were associates

23 March 2020

On 11 March 2020, in an unanimous and landmark decision, the High Court of Australia handed down its decision on the technical meaning of "sufficiently influenced" which is used to determine who is an "associate" under Australia's foreign income attribution rules. The decision has significant impact for large listed groups especially with a dual-listed company (**DLC**) structure and concerns the application of the Australian Controlled Foreign Company (**CFC**) rules.

Whilst the facts and future application of this case may principally be limited to the DLC type structures, the legal analysis of the definition of "associate" impacts on wider applications as this definition is used outside of the CFC provisions including the thin capitalisation rules, the debt/equity tests and the withholding tax rules.
