

DANIEL MCINERNEY

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Admissions

- 2015 - Admitted to the Bar (New South Wales)
- 2007 - Admitted to the Bar (Victorian)
- 1997 - Admitted as a solicitor of the Supreme Court of the Australian Capital Territory

Qualifications & Education

- 2002 - Masters of Taxation: University of New South Wales
- 1995 - Bachelor of Laws: Australian National University
- 1993 - Bachelor of Economics: Australian National University

Professional Experience

- 2015 - Barrister, New South Wales Bar
- 2007 - Barrister, Victorian Bar
- 2004 - 2007 - Senior Associate, PricewaterhouseCoopers Tax Controversy (Melbourne)
- 2002 - 2004 - Senior Lawyer, Australian Government Solicitor (Sydney, Melbourne)
- 1997 - 2000 - International Taxation Officer (National Office), Senior Litigation Office (Melbourne), Australian Taxation Office

Areas of Expertise

- Administrative Law
- Appellate
- Corporations
- Equity & Trusts
- Superannuation
- Taxation and Revenue

Professional Memberships

- Member, The New South Wales Bar Association
- Member, The Victorian Bar Incorporated
- Vice President, Tax Bar Association
- Chartered Tax Adviser, The Tax Institute
- Senior Fellow, Melbourne Law School
- Fellow, Tax Institute of Australia
- Member, International Fiscal Association

Publications

- National transfer pricing conference – “Transfer Pricing Defined/Legal Questions on Interpretation of 815A–815B”, The Tax Institute, 8 August 2018
- “Burden of Proof in Transfer Pricing Matters”, presented at the NSW 9th Annual Tax Forum, The Tax Institute, 2 June 2016
- “Expert Evidence and Valuations – Obtaining Useful Valuations for Corporates”, presented at the Victorian 4th Annual Tax Forum, The Tax Institute, 6 October 2016
- “Current Issues in Cross-border Financing”, presented at the Victorian 3rd Annual Tax Forum, The Tax Institute, 8 October 2015
- “Evidence: Defending your position paper”, presented at the Victorian 1st Annual Tax Forum, The Tax Institute, 10 October 2013
- “Capital Gains Tax and GST on Judgments and Settlements” (2008), co-authored by Michael Y Bearman and presented at the Victorian Tax Bar Association (cited with approval by Gzell J in *Padstow Corporation Pty Ltd v Fleming (No 3)* [2013] NSWSC 24)

- As well as numerous other publications for the Leo Cussen Institute, The Tax Institute and the Victorian Bar

Cases

- *Fitzpatrick Investments Pty Ltd v DXC Technology Australia Pty Ltd* [2018] VSC 290, a leasing dispute, lead by Brendan Sullivan SC
- *Pintarich v Deputy Commissioner of Taxation* [2018] FCAFC 79, regarding the remission of general interest charge (unlead)
- *Sharpcan Pty Ltd and Commissioner of Taxation (Taxation)* [2017] AATA 2948, a capital/revenue taxation dispute (lead by Terry Murphy QC)
- *Commissioner of Taxation v Normandy Finance and Investments Asia Pty Ltd & Ors* (2016) 344 ALR 589, regarding taxation of cross border transfers (lead by Simon Steward QC)
- *Gadens Lawyers Sydney Pty Limited v Symond* (2015) 89 NSWLR 60 a decision on professional negligence relating to taxation advice (led by John de Wijn QC)
- *Howard v Commissioner of Taxation* (2014) 253 CLR 83, a decision regarding the fiduciary duties of directors (led by A H Slater QC)
- *Commissioner of Taxation v Noza Holdings Pty Ltd* (2012) 201 FCR 445, regarding s 25-90 deduction, declaration of dividends (led by John de Wijn QC and Simon Steward SC)
- *Federal Commissioner of Taxation v SNF Australia Pty Ltd* (2011) 193 FCR 149 regarding transfer pricing (led by John de Wijn QC)
- *GE Capital Finance Australasia Pty Ltd v Federal Commissioner of Taxation* (2011) 84 ATR 128, regarding operation of the consolidation provisions, rectification (led by Alan Archibald QC and Simon Steward QC)
- *Noza Holdings Pty Ltd v Commissioner of Taxation* [2010] FCA 990, regarding admissibility of evidence on foreign law (led by John de Wijn QC and Simon Steward QC)
- *SNF (Australia) Pty Ltd v Commissioner of Taxation* [2010] FCA 635, regarding transfer pricing (led by John de Wijn QC)
- *Roy Morgan Research Pty Ltd v Commissioner of Taxation* (2010) 184 FCR 448, regarding the superannuation guarantee charge, Commonwealth's taxation power (led by Jennifer Batrouney QC)
- *Asciano Services Pty Ltd v Commissioner of Taxation* (2009) 174 FCR 140, regarding energy grant credits (led by John de Wijn QC)