

# DAVID LEWIS

Sixth Floor Selborne Wentworth Chambers  
174 Phillip Street, Sydney NSW 2000  
T: +61 2 8915 2607  
dlewis@sixthfloor.com.au

## PROFESSIONAL EXPERIENCE

---

2018 – Present	<b>Sixth Floor Selborne Wentworth Chambers</b> Barrister
2014 – 2018	<b>Allens</b> Solicitor, Tax and Banking and Finance
2014 – 2015	<b>University of Sydney</b> Tutor, Real Property
2013	<b>Supreme Court of New South Wales</b> Tipstaff, the Hon. Justice R White

## EDUCATION

---

2022	<b>Master of Laws</b> University of Sydney
2012	<b>Bachelor of Laws (Honours I)</b> University of Sydney <ul style="list-style-type: none"><li>• High Distinction Average</li><li>• First Place in Taxation Law, Advanced Taxation Law, Equity and Torts</li></ul>
2010	<b>Bachelor of Science (Advanced Mathematics) (Honours I, University Medal)</b> University of Sydney

## SELECTED CASES

---

*Uber Australia Pty Ltd v Chief Commissioner of State Revenue* [2024] NSWSC 1124

Payroll tax – relevant contracts

Led by J Lockhart SC and C Burnett SC, with B Mostafa, for the taxpayer

*PepsiCo, Inc v Commissioner of Taxation* (2024) 303 FCR 1

Royalty withholding tax; diverted profits tax

Led by K Deards SC and T Phillips for the Commissioner

*Commissioner of Taxation v Bazzo* [2024] FCA 452

Income tax – default assessments; rejection of the “all or nothing” approach

Led by C Burnett SC for the taxpayer

*PepsiCo, Inc v Commissioner of Taxation* [2023] FCA 1490

Royalty withholding tax; diverted profits tax

Led by K Deards SC and T Phillips for the Commissioner

*Automotive Invest Pty Ltd v Commissioner of Taxation* [2023] FCAFC 129

Luxury car tax – use or intended use of cars as trading stock “and for no other purpose”

Led by C Burnett SC for the Commissioner

*Hannover Life Re of Australasia Ltd v Commissioner of Taxation* [2023] FCA 680

GST – creditable purpose of acquisitions; insurance and reinsurance

Led by D Thomas SC for the Commissioner

*B & F Investments Pty Ltd as trustee for the Illuka Park Trust v Commissioner of Taxation* [2023] FCAFC 89

Income tax – s 100A of the *Income Tax Assessment Act 1936* (Cth); dividend stripping

Led by N Young KC and A de Wijn for the taxpayers

*Integrated Trolley Management Pty Ltd v Chief Commissioner of State Revenue* [2023] NSWSC 557

Payroll tax – employment agency contracts

Led by M O’Meara SC for the taxpayer

*Chief Commissioner of State Revenue v E Group Security Pty Ltd (No 3)* [2023] NSWCA 63

Costs – *Calderbank* letters

Unled for the taxpayer (on the papers)

*VTBL v Commissioner of Taxation* [2023] AATA 168

Income tax – default assessments under the asset betterment methodology; beneficial ownership of real property; sham

Led by C Burnett SC for the taxpayer

*Chief Commissioner of State Revenue v E Group Security Pty Ltd (No 2)* [2022] NSWCA 259

Payroll tax – employment agency contracts

Led by J Hmelnitsky SC for the taxpayer

*Willard v Commissioner of Taxation* [2022] AATA 3723

Income tax – whether Australian Border Force is a “disciplined force”

Appeared unled for the Commissioner

*BBlood Enterprises Pty Ltd v Commissioner of Taxation* [2022] FCA 1112

Income tax – s 100A of the *Income Tax Assessment Act 1936* (Cth); dividend stripping

Led by A de Wijn for the taxpayers

*Chief Commissioner of State Revenue v E Group Security Pty Ltd* (2022) 109 NSWLR 123

Payroll tax – employment agency contracts

Led by J Hmelnitsky SC for the taxpayer

*Commissioner of Taxation v Carter* [2022] HCA 10; (2022) 399 ALR 521

Income tax – whether disclaimers effective for the purposes of s 97 of the *Income Tax Assessment Act 1936* (Cth)

Led by B Walker SC and J Evans QC for the taxpayers

*Automotive Invest Pty Limited v Commissioner of Taxation* [2022] FCA 281

Luxury car tax – use or intended use of cars as trading stock “and for no other purpose”

Led by C Burnett SC for the Commissioner

*E Group Security Pty Ltd v Chief Commissioner of State Revenue* [2021] NSWSC 1190

Payroll tax – employment agency contracts

Led by J Hmelnitsky SC for the taxpayer

*Peter Greensill Family Co Pty Ltd (trustee) v Commissioner of Taxation* [2021] FCAFC 99

Income tax – whether foreign resident beneficiaries of trusts are subject to CGT

Led by M O’Meara SC for the Commissioner

*Barsoum v Chief Commissioner of State Revenue* [2021] NSWCATAP 266

Costs – appeal from costs decision

Appeared unled for the Chief Commissioner

*Lennox v Chief Commissioner of State Revenue* [2021] NSWCATAD 81

Land tax – exemption for low cost accommodation

Appeared unled for the Chief Commissioner

*BSRJ v Commissioner of Taxation* [2021] AATA 333

GST – attribution of input tax credits; penalties – remission

Led by C Peadon for the taxpayer

*ZBFF v Commissioner of Taxation* [2021] AATA 275

Income tax – whether agreement by vendor to on-pay proceeds of sale to another reduces capital proceeds from sale or increases cost base of asset

Appeared unled for the Commissioner

*Barsoum v Chief Commissioner of State Revenue* [2020] NSWCATAD 282

Surcharge land tax – whether taxpayer a “foreign person”

Appeared unled for the Chief Commissioner

*Carter v Commissioner of Taxation* [2020] FCAFC 150

Income tax – disclaimers of interests in trusts; whether valid disclaimers and whether effective for the purposes of s 97 of the *Income Tax Assessment Act 1936* (Cth)

Led by J Evans QC for the taxpayers; addressed the Court on the construction of s 97

*N & M Martin Holdings Pty Ltd v Commissioner of Taxation* [2020] FCA 1186

Income tax – whether foreign resident beneficiaries of trusts are subject to CGT

Led by M O’Meara SC for the Commissioner

*Peter Greensill Family Co Pty Ltd (trustee) v Commissioner of Taxation (No 2)* [2020] FCA 597

Income tax – whether foreign resident beneficiaries of trusts are subject to CGT; practice and procedure – reconsideration of reasons for decision and orders

Led by M O’Meara SC for the Commissioner

*Peter Greensill Family Co Pty Ltd (trustee) v Commissioner of Taxation* [2020] FCA 559

Income tax – whether foreign resident beneficiaries of trusts are subject to CGT

Led by M O’Meara SC for the Commissioner