

ISHITA SETHI

Barrister, Strategic Advisor, Executive Director

| 2 Selborne Chambers
Level 2 | 174 Phillip Street NSW 2000 |
isethi@selbornechambers.com.au



“Accomplished barrister with over 16 years of legal experience, including over 11 years practising as a barrister from chambers in Sydney.

Experienced in a diverse range of practice areas including taxation and administrative appeals.

Dedicated to upholding the rule of law and improving access to justice.

Committed to leveraging extensive expertise to serve the community and promote equitable legal representation for all.

| Professional Qualifications

- 2013 Admitted to the Register of Practitioners of the High Court of Australia
- 2013 Called to the NSW Bar
- 2011 Obtained designation of Chartered Tax Advisor (The Tax Institute)
- 2008 Obtained a practicing certificate to practice as a solicitor and barrister of the Supreme Court of NSW
- 2008 Admitted to the Roll of NSW Lawyers

| Education

- 2014 Master of Taxation (University of Sydney)
- 2013 Bar Practice Course, NSW Bar
- 2013 Advanced Advocacy Workshop (Australian Advocacy Institute)
- 2008 Practical Legal Training Program (The College of Law)
- 2007 Bachelor of Laws (University of New South Wales)
- 2007 Bachelor of Commerce (University of New South Wales)

| Areas of Practice

- Administrative & Public
- Appeals and Appellate
- Commercial
- Equity and Trusts
- Property Settlement
- Guardianship and Elder Law
- Professional Negligence
- Succession and Family Provision
- Superannuation
- Taxation & Revenue

| Professional Experience

- 2013- Barrister – 2 Selborne Chambers, Sydney (ongoing)
- 2011 Solicitor – Tax, Schurgott & Noolan, Sydney
- 2008 Solicitor – Commercial, Kreisson Legal, Sydney

| Interests

- Community legal services
- Policy and Politics
- Family, health and fitness

| Achievements

- 2023- Management Committee, Toongabbie Community Legal Centre, NSW (ongoing)
- 2023 Guest panellist on Sky News Australia, Law and Politics
- 2022 Elected to NSW Liberal Women's Council General Management Committee
- 2021- Mentor, NSW Bar Association Bar Mentoring Program
- 2020- Executive Board Member and Treasurer, 2 Selborne Chambers, Sydney NSW
- 2020- Sessional Academic, Law Extension Committee, University of Sydney
- 2020- Chair, Australian Chapter, The Indian National Bar Association
- 2020- Mentor to law students, University of Technology Law Faculty Mentoring program
- 2019- Appointment to Tax Advisory Panel, Commonwealth of Australia, Australian Small Business and Family Enterprise Ombudsman
- 2018- Australian Legal Advisor, United Sikhs Australia, Civil and Human Rights Advocacy
- 2017- International Legal Advisor, United Sikhs, International Civil and Human Rights Advocacy
- 2017- Speaker on taxation law, Continuing Legal Education Program, LegalWise CLE Provider
- 2016- Speaker, MCLE (Tax and Equity) & Community Legal Education Programs, Toongabbie Legal Centre, Toongabbie NSW
- 2016- Pro Bono Legal Services Provider, Toongabbie Legal Centre, Toongabbie NSW
- 2015- Advisory Committee Member, Revenue Liaison Group, The Tax Institute, Australia
- 2014 Master of Taxation, Sydney University
- 2014 Contributor, Taxation Discussion Group, The Tax Institute, Australia
- 2014 Elected Councillor and Director, NSW Bar Association
- 2014 Member of Professional Conduct Committee, NSW Bar Association
- 2014 Member of Equal Opportunity Committee, NSW Bar Association
- 2014 Executive Sub-Committee Member, Women Barristers' Forum, NSW Bar Association
- 2013- Member, NSW Bar Association
- 2013- Member of Women Barristers' Forum, NSW Bar Association
- 2011- Chartered Tax Advisor, The Tax Institute, Australia (ongoing)
- 2007 Bachelor of Commerce and Bachelor of Laws

| Examples of Work

- Represented clients in complex administrative appeals in the Guardianship Division of the NCAT involving multi-generational parties, ongoing commercial contracts, elder abuse, gambling addictions, property sales and disputes around authenticity of competing powers of attorney and wills and more.
- Represented clients in mediations in guardianship related disputes including capacity and ensuring person's best interests.
- Prepared submissions to Government on proposed legislation on behalf of community based public interest groups to facilitate meaningful participation in the public consultation process
- Provided advice to NFP regarding applying for governmental grants
- Advised class of Australian professionals on rights to seek review of administrative decisions made by Government pertaining to their membership of, and ability to continue to be part of representative professional body – interplay with newly enacted legislation
- Advised Significant Global Entity (\geq \$1B income per annum) regarding income taxation
- Prepared Report in anticipation of presentation to the United Nations Human Rights Council in Geneva
- Advised Australian Chapter of an international human rights organisation on administrative and judicial review options about discriminatory administrative decision

- Advised on a constitutional law matter in the Federal Court of Australia based on inconsistency between State and Federal laws
- Advised multi-\$B international investment fund regarding tax implications of structures
- Advised corporate and individual trustees of superannuation funds in relation to trustee duties and taxation implications of a failure to comply with the governing legislation and industry regulations
- Represented parties in complex multi-issue parenting and financial settlement applications and family provision claims
- Advised large property development company in relation dispute with Revenue NSW
- Advised and represented family group in relation to off-the plan property investments
- Advised property development start-up in relation to legal facets, council applications, contracts, etc
- Advised and appeared (unled) in complex international intellectual property litigation in the Federal Circuit Court of Australia involving trademark, patents, parallel importation, copyright infringement disputes
- Advised and appeared for taxpayers against the Deputy Commissioner of Taxation in bankruptcy proceedings in the Federal Circuit Court of Australia
- Appeared for individual in defamation proceedings to re-open default judgment to avert bankruptcy in the Federal Circuit Court of Australia
- Advised and represented clients in immigration Applications and Appeals in the Federal Circuit Court of Australia and Federal Court of Australia
- Advised in relation to Personal Services Income of professional medical and accounting practices in anticipation of litigation proceedings in the Federal Court of Australia
- Represented corporate and individual taxpayers in criminal proceedings and prescribed taxation offences in the Local Court
- Advised and acted (unled) in a payroll tax litigation, in which parties settled upon filing of my submissions and evidence
- Advised and appeared in a number of joined payroll tax applications for review which settled part way through the hearing
- Advised and appeared in a mediation against NAB and obtained favourable settlement of dispute
- Represented a multi-\$B Australian corporate group in respect of corporate refinancing arrangement subject to audit by the ATO
- Advised high wealth private group in relation to the issue of notices of assessment by the Commissioner of Taxation concerning CFCs, transferor trusts and offshore pension funds
- Advised a high wealth private group in relation to the issue of a notice of assessment in the range of \$200 million held in a controlled foreign trust (CFT)
- Advised national corporate regarding CGT implications of royalty streams worth >\$100M
- Advised the ATO as to prospects of success in a number of anticipated actions
- Prepared objection to a notice of assessment of GST issued to an Australian export company
- Provided advice to an Australian legal practice regarding an indemnity claim regarding GST liabilities
- Advised and represented in many bankruptcy proceedings in the Federal Court of Australia
- Advised and represented a trustee of a self-managed superannuation fund (SMSF) regarding trustee obligations, taxation of benefits compliance status and roll-over in anticipation of ATO audit

| Selected Cases

- *BRKK & Ors v Commissioner of Taxation (awaiting judgment)*
NSW Civil and Administrative Tribunal – Unled against SC, for the Applicants
Interlocutory Application by the Respondent – Legal Professional Privilege
- *Widdup & Ors v Deputy Commissioner of Taxation [2023] FCAFC 145*
Federal Court of Australia (Full Court) – for the Respondents
Family Trust Distribution Tax – Income Tax – Life Insurance – *Ex Parte* Injunctions
- *Bevan v Bingham – Application for Special Leave to Appeal*
High Court of Australia – Led, by P.Herzfeld SC, for the Applicant
Uniform Civil Procedure Rules - Legal Professional Costs – Practitioner Costs
- *Bingham v Bevan [2023] NSWCA 186*
Court of Appeal of New South Wales – Led, by P.Herzfeld SC, for the Respondent
Motion for Stay – Restitution – Pending determination of Special Leave to HCA
- *Bingham v Bevan [2023] NSWCA 86*
Court of Appeal of New South Wales – Led, by M.Cashion SC, for the Respondent
Uniform Law - Legal Professional Costs – Practitioner Costs – Defended an appeal
- *Bevan v Bingham [2022] NSWSC 863*
Supreme Court of NSW – Unled, for the Plaintiff
Legal Professional Costs - Defended a motion to set aside – Motion refused with costs
- *Chief Commissioner of State Revenue v Benidorm Pty Ltd [2021] HCATrans 67*
High Court of Australia – Led, for the Respondent
Application for Special Leave by the Applicant – Refused with costs
- *Chief Commissioner of State Revenue v Benidorm Pty Ltd [2020] NSWCA 285*
Court of Appeal of New South Wales – Led, for the Respondent
Stamp duty, statutory interpretation, subsequent declaration of trust is dutiable transaction
- *Benidorm Pty Ltd v Chief Commissioner of State Revenue [2020] NSWSC 471*
Supreme Court of New South Wales – Led, for Plaintiff
Stamp duty, whether declaration of trust a dutiable transaction
- *Deputy Commissioner of Taxation v Collins (2015/331068) (settled post interlocutory hearings)*
District Court of New South Wales – Unled, for the Deputy Commissioner of Taxation
Directors’ penalty notices for federal revenue obligations of corporation, defences
- *Lloyd v Chief Commissioner of State Revenue [2016] NSWCATAD 230*
NSW Civil and Administrative Tribunal – Unled, for the Chief Commissioner of State Revenue - Land tax, exemption for unoccupied land
- *Theophilus v Chief Commissioner of State Revenue [2016] NSWCATAP 111*
NSW Civil and Administrative Tribunal (Appeal Panel) – Led, for the Chief Comm of State Revenue - Land tax, exemptions, defending an appeal, notice of contention
- *Theophilus v Chief Commissioner of State Revenue [2015] NSWCATCD 121*
NSW Civil and Administrative Tribunal (Appeal Panel) – Unled, for the Chief Commissioner of State Revenue - Land tax, exemptions, PPR, successfully defended
- *Coshott v Commissioner of Taxation [2015] FCAFC 71*
Federal Court of Australia (Full Court) - Unled, for the Appellant
Capital gains tax, appeal on errors of law – prepared entire appeal to the Full Court, appeal effectively dealt with on the papers

- *Cosbott v Commissioner of Taxation* [2014] FCA 1417
Federal Court of Australia – Unled, for the Appellant
Capital gains tax, appeal on errors of law
- *Chief Commissioner of State Revenue v Danny & Steven Knezevic* [2015] NSWCATAP 98
NSW Civil and Administrative Tribunal (Appeal Panel) – Led, for the Chief Commissioner of State Revenue - Duties, exemption, appeal on errors of law
- *Spirios Theophilas v Chief Commissioner of State Revenue* [2015] NSWCATAP 39
NSW Civil and Administrative Tribunal (Appeal Panel) – Led, for the Chief Commissioner of State Revenue - Land tax, exemptions, defending an appeal
- *Hunter v Hanson* [2015] HCATrans 16
High Court of Australia – Led, special leave application
- *Morrison v Commissioner of Taxation* [2015] AATA 114
Administrative Appeals Tribunal - Led, for the taxpayers
Income tax, jurisdiction to amend, sham arrangements
- *Canty v PaperlinX Australia Pty Ltd* [2014] NSWCA 309
Supreme Court of New South Wales (Court of Appeal) – Led, for the Appellants
- *Deputy Commissioner for Taxation v Hallacq* (settled following first day of hearing)
District Court of New South Wales – Unled, for the DCT, Significant Debt
- *Agricultural & Rural Finance Pty Ltd v Atkinson & Ors (No. 2)* [2014] NSWSC 1397
Supreme Court of New South Wales – Led, for the Plaintiff - Contracts review, Costs
- *Knezevic v Chief Commissioner of State Revenue* [2014] NSWCATAD 183
NSW Civil and Administrative Tribunal – Unled, for the Chief Commissioner of State Revenue
Duties, exemptions
- *Spirios Theophilas v Chief Commissioner of State Revenue* [2014] NSWCATAD 100
NSW Civil and Administrative Tribunal – Unled, for the Chief Commissioner of State Revenue
Land tax, principal place of residence exemption
- *Laviva Nominees atf The Laviva Trust v Chief Commissioner of State Revenue* [2014] NSWCATAD 84
NSW Civil and Administrative Tribunal – Unled, for the Chief Commissioner of State Revenue
Land tax, tax default and interest
- *BQRW v Federal Commissioner of Taxation* [2014] AATA 410
Administrative Appeals Tribunal – Led, for the taxpayer - In both interlocutory and substantive proceedings - Deductibility of contributions, leave to re-open
- *In the matter of Allted Pty Ltd* (2014)
Supreme Court of New South Wales – Unled – insolvency
- *RepairCo v Commissioner of Taxation* [2014] AATA 414
Administrative Appeals Tribunal - Unled, for the taxpayer
In both interlocutory and substantive proceedings
Deductibility of contributions, jurisdiction to make assessment
- *In the matter of Employees of BHP Mutual Benefits Fund* [2013] NSWSC 1497
Supreme Court of New South Wales – Led, for the Applicant
Application for judicial advice.