

Tax Debts, Arrangements and Disputes Services Guide



Tax related issues are now prevalent, arising in all manner and size of business, from simple debt and Court actions to objections and liquidations.

Our firm has assisted many clients to overcome those issues. We have negotiated releases of tax debt and instalment payments, re-structured viable businesses to ensure that they continue to operate, and facilitated introductions to our network contacts for finance to be raised whilst obtaining further time/forbearances from the ATO.

Our taxation team has a long history of involvement with the ATO including:

1. Jason De Silva and Kelly Parker
 - (a) **Negotiations and applications:** All manner of ATO liaison, including applications to pay by instalments, GIC remission applications, and penalty objections;
 - (b) **Restructuring:** Having conducted between them about 20 years of re-structuring businesses whose main or major creditor was the ATO, including negotiating with the ATO in respect of winding-up applications and obtaining time for re-structuring or fund raising, ensuring the continued existence of those businesses; and
 - (c) **Litigation / Disputes:** Representation against the ATO in all manner of disputes, including Director Penalty Notice claims, indemnity claims by the ATO in respect of unfair preference payments made by the ATO to liquidators, defence and settlement of general Court actions for recovery of tax debts.
2. Kevin Morgan having successfully conducted Federal and State taxation matters in the Federal Court of Australia, the Administrative Appeals Tribunal, and the State Administrative Tribunal, most recently as Counsel in *Quito Pty Ltd v Commissioner of State Revenue* [2014] WASAT 8, and much earlier as Counsel in *Steele v Deputy Commissioner of Taxation* [1997] FCA 167, which ultimately led to the seminal decision of the High Court of Australia on tax deductibility of interest payments, and acting for the ATO's Complex Legal Recovery Unit in negotiating an initial outcome that ultimately resulted in the multi-billion dollar recovery in *The Bell Group Ltd (In Liq) v Westpac* [2008] WASC 239 and also as Counsel in related matters such as *Western Interstate P/L v Deputy Commissioner of Taxation (C'ith)* (1995) 13 WAR 479 in order to maximise the return to creditors from any such funds later recovered.



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Here are some examples of matters in which we have assisted clients, working together with our client's financial advisors (accountants and financial planners):

<i>Payment Arrangement notwithstanding non-lodgement for a decade</i>	We successfully negotiated a payment arrangement for a company which had only commenced lodging its returns after almost a decade of trading.
<i>Payment Arrangement notwithstanding non-lodgement, DPNs and Court Action</i>	We successfully negotiated an instalment arrangement with the ATO despite the taxpayer failing to lodge tax returns for 10 years, having at least one expired DPN and the ATO commencing action against the taxpayer in the District Court.
<i>Remission of significant tax debts notwithstanding 20 prior arrangements and defaults</i>	We successfully negotiated total remission for a client in relation to a significant tax debt, comprising Director Penalties notices, General Interest Charges and General penalties. The client had defaulted in 20 payment arrangements in the past. Nevertheless, due to our persistence, legal reasoning and understanding of ATO protocol and procedures, we achieved a total remission of the debt for the client and saved the business from bankruptcy.
<i>Release notwithstanding high income and investment properties</i>	We successfully obtained an "in principle" agreement with the ATO to give a taxpayer partial release of income tax, notwithstanding that he had a relatively high income, and owned a number of rental properties.
<i>AAT dispute</i>	We concluded a settlement of an Administrative Appeals Tribunal matter resulting from an audit, in which the tax in dispute was approximately \$150,000 on the basis that the assessment be reduced to seek tax of approximately \$15,000. As the taxpayer had already paid this amount, the settlement was on a "no more to pay" basis.
<i>Forbearance pending fund-raising</i>	We negotiated for ATO agreement to forbear taking further steps for approximately 6 months in relation to a significant tax debt for a group of corporate taxpayers and their directors, including District Court action, Statutory Demand, and DPNs, pending a refinance, sale of assets and formal submission of a request for a Payment Arrangement.
<i>Winding-up adjournments to allow time to raise funds</i>	We successfully obtained two adjournments (one of which was opposed) of an ATO winding up application in the Federal Court to allow the client time to obtain finance, notwithstanding the client's lodgement were not up to date.
<i>Winding-up adjournments to allow Voluntary Administration</i>	We have successfully obtained adjournments of the ATO's winding up application until shortly prior to the second creditors meeting, and then obtained the ATO's consent to have the administrators appointed as liquidators when no DOCA was proposed.

If you would like more information, please contact us on +61 8 9388 3100 or visit our [website](#).

