



HUGH PAYNTER

PARTNER

[Sydney](#)
[Australia](#)

Hugh is a commercially sophisticated trusted adviser to sector leading companies and boards, focussing on corporate, tax and finance disputes and investigations.

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BACKGROUND

Hugh conducts matters before Courts and Tribunals across Australia. He holds Bachelor of Commerce (Finance) and Bachelor of Laws degrees from the University of New South Wales and a Master of Laws from the University of Sydney. He holds a postgraduate diploma in Applied Finance and Investment. He is a Chartered Tax Adviser as recognised by the Tax Institute of Australia.

MARKET RECOGNITION

Hugh has significant market recognition in both commercial litigation and tax disputes, having been recognised by Best Lawyers, Legal 500, Doyle's Guide, International Tax Review and Who's Who Legal. Chambers quoting clients who describe him as "top of the top shelf," "absolutely brilliant; and a strategic thinker," and one client who praised Hugh's "clear and concise advice, his responsiveness and his ability to be clearly across the issues."

Hugh also leads Herbert Smith Freehills' Tax Disputes team in Australia which has won multiple awards as the leading the Tax Litigation and Disputes practice in Australia.

KEY SERVICES

[Commercial Litigation](#)
[Tax Investigations and Disputes](#)

KEY SECTORS

[Financial Buyers](#)
[Technology, Media and Telecommunications](#)

EXPERIENCE

Hugh regularly assists sector leading clients to resolve their strategic and high value corporate, tax and finance disputes and investigations. In addition to his commercial sophistication, clients value his depth of financial understanding and commitment to client service.

Hugh has acted for leading companies in banking and insurance, mining and energy, technology, pharma and private equity, across a range of commercial disputes and regulatory investigations involving ASIC and the ATO. His approach is to work closely with clients to develop a strategy to managing and resolving investigations and disputes. This includes conducting litigation in Courts and Tribunals across Australia but also involves resolution through direct negotiation or use of ADR processes such as mediation, arbitration and expert determination.

His experience includes acting for:

Corporate and finance litigation and arbitrations

- Westpac, CBA, NAB and other Banks in High Court proceedings in the Bell litigation. Hugh led the team in the High Court appeal proceedings which led to the settlement of that litigation on behalf of the Banks after around 20 years of litigation.
- Tabcorp in an arbitration in which representatives of the Victorian racing industry claimed the Tabcorp / VicRacing joint venture had been over-charged for the supply of Sky Racing vision. Tabcorp was successful in the arbitration.
- Lend Lease in Supreme Court NSW proceedings against the NSW Government (Barangaroo Delivery Authority) in relation to the valuation of the multi-billion dollar Barangaroo development site in Sydney. Lend Lease prevailed at both first instance and on appeal.
- QBE in relation to a purchase price adjustment claim made by a vendor of a US\$1 billion insurance business, related to the interplay of tax, legal and accounting issues. QBE's case was upheld by Supreme Court of NSW.
- a private equity affiliated corporate group in Supreme Court of NSW proceedings in relation to an M&A transaction, involving allegations of warranty breaches, raising

significant accounting and forensic issues. The matter was settled.

- major corporates in relation to arbitrations conducted under Australian domestic arbitration laws in relation to long term bilateral commercial arrangements with significant financial complexity.

Corporate and finance investigations

- banks, wealth and finance companies in relation to ASIC investigations concerning alleged breaches of corporate and credit laws;
- a finance subsidiary of a major corporate group in relation to alleged breaches of responsible lending laws, which was resolved by negotiating an Enforceable Undertaking with ASIC;
- a senior director in relation to threatened proceedings concerning alleged breaches of directors' duties, which was resolved by an Enforceable Undertaking with ASIC;
- a number of finance companies in relation to contentious issues before AFCA including allegations of systemic issues.

Tax audits and litigation

Hugh also has an extensive tax disputes practice, having practised in the area since 2002. His key focus areas are international tax, transfer pricing and anti-avoidance. Key experience includes acting for:

- BHP in Supreme Court of Queensland proceedings on its \$300m+ dispute with the

Queensland Treasurer on coal royalties;

- CBA on its R&D Incentive dispute with Innovation & Science Australia and the ATO in proceedings in the AAT;
- NAB and Lend Lease on some of the biggest tax litigation in the Federal Court in relation to Part IVA;
- a major mining company across a range of contentious transfer pricing, royalties and PRRT issues;
- leading companies in the technology, pharma and energy sectors on international tax, transfer pricing and tax avoidance issues, including preparation for giving evidence to Senate Inquiries;
- a range of major clients in taxation disputes concerning capital gains tax, GST, and State taxes, including stamp duty, payroll tax and royalty matters.