



ENPRIS

FINANCE • TAXATION • STRATEGY

ENPRIS™ CONSULTING
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TAXATION SERVICES

BACKGROUND

ENPRIS is a consulting firm which has been operating since 2002 and provides financial, taxation and strategic advice to government and private sectors. ENPRIS is a Registered Tax Agent (Tax Agent Licence No. 82986006). ENPRIS provides advice internationally in the following areas:

Taxation

- Taxation compliance services
- Taxation of financial products & arrangements
- Valuations for taxation purposes
- Transfer pricing

Finance

- Business valuations
- Intellectual property/intangible asset valuations
- Financial product & derivatives pricing
- M&A, Capital raisings and capital management

Strategy

- Intellectual property commercialisation
- Corporate development
- Business & strategic planning

ENPRIS has extensive experience in the administrative application of commonwealth taxation law relating to the taxation of financial arrangements, financial products, financial transactions, and valuation of businesses, securities, financial products, derivatives, intellectual property and intangible assets; having been engaged by the Australian Taxation Office (ATO) since 2004.

This experience includes the provision of specialist advice to the ATO on the implementation of TOFA Stages 3 & 4 (Division 230 of the Income Tax Assessment Act 1997).

SERVICES

ENPRIS provides the following taxation services, with a focus on compliance and cooperative interaction with the ATO:

Taxation compliance - Large Business and International

Assistance across all areas of the active compliance framework, including the following:

- Communication of the commercial and business rationale for structures and transactions with the ATO, through the ATO's cooperative compliance model
- Preparation of ATO Compliance Questionnaires
- Risk Differentiation Framework (RDF) ratings and risk filters
- Preparation of Reportable Tax Positions schedule (RTP)
- Preparation of Reasonable Arguable Position papers (RAPs)
- Addressing Part IVA counterfactuals presented by the ATO
- Negotiation and implementation of Annual Compliance Arrangements with the ATO

Taxation of financial products & arrangements

- Implementation of Division 230 of the ITAA 1997
- Compliance assistance in relation to the application of Division 230 of the ITAA 1997
- Interpretation and technical application of Division 230 of the ITAA 1997
- Valuation, pricing and characterisation of financial products and derivatives and the application and workings of domestic and international financial markets; in the context of the interpretation, administration and application of the law
- Application and interpretation of international accounting standards and practices to taxation law

Valuations for taxation purposes

- Advice regarding the ATO's Valuation practices and processes
- Advice in relation to the ATO's Interpretative Advice (IA) function covering products such as class rulings, private rulings and market valuation rulings
- Advice in relation to the ATO's active compliance products and functions including client risk reviews, consolidation reviews, specific issue audits and large business audits
- Implementation of the Minerals Resource Rent Tax (MRRT)

Transfer Pricing

- Valuation of intangible assets and intellectual property
- Pricing of intragroup loans & guarantees
- Advice regarding foreign bank profit allocations
- Pricing of services provided between international parties

EXAMPLES

Examples of work undertaken by ENPRIS include the following:

Valuation, pricing and characterisation of financial products and derivatives and the application and workings of domestic and international financial markets; in the context of the interpretation, administration and application of the law:

- Advice on case-specific issues relating to the pricing and character (including economic substance) of financial arrangements arising in private ruling requests and compliance activities (e.g. annual compliance agreement disclosed risks) applicable to large corporations and financial institutions, regarding the application of sections 6-5, 8-1, Divisions 230, 247 and 974 of the *ITAA 1997*;
- Advice in relation to trading and structuring of derivatives for the purposes of appropriately bringing to account income and deductions under the application of Australian taxation law;
- Consulting member of the ATO's Financial Markets Working Group on the character and pricing of intra-group loans and guarantees;
- Author of the ATO's Market valuation for tax purposes (business valuation);
- Development of ATO Financial Products Guide: This product was developed for use by the 20,000+ employees across the ATO to provide knowledge in relation to the commercial use, character, valuation, accounting, tax application, legislative application and taxation risks for over 50 financial products and financial arrangements;
- Training to ATO Officers on the valuation, pricing and characterisation of financial products and derivatives in the taxation context of Division 230 *ITAA 1997* and taxation law more broadly.

Interpretation and technical application of the *Tax Laws Amendment (Taxation of Financial Arrangements) Act 2009*.

- Advice to the ATO's interpretative advice area relating to the Private Rulings process and application of the Commissioner's powers of discretion (in various TOFA elections e.g. hedging election, financial reports election) in relation to the application of the taxation law to large corporations and financial institutions;

- Advice to the ATO's Law sub-plan in relation to the Public Rulings process on the application of the taxation law;
- Advice to the ATO Compliance sub-plan in relation to the administration of the taxation law, e.g. application of Division 230, to large taxpayers in the context of Annual Compliance Agreements;
- Advice in the context of the ATO's consultation process with external parties (see below) in relation to the interpretation and technical application of Division 230 of the ITAA 1997.

Complex interpretative and compliance issues in relation to TOFA Stages 3 and 4. Examples include:

- Advice provided to the ATO and Taxpayers in relation to the application of the taxation law. Application of Subdivisions 230-A, 230-B, 230-C, 230-D, 230-E and 230-F across a number of products/projects including the following:
 - securitisation arrangements
 - joint venture arrangements
 - public/private partnerships (PPPs)
 - energy contracts
 - structured products
 - derivative products
 - commodities
 - fixed income products
 - equity products
 - hybrid products
 - loans and facilities
- Advice provided to the ATO on structured and synthetic arrangements, onshore and offshore to generate exempt income, interest deductions and foreign tax credits;
- Advice provided to the ATO on structured and synthetic arrangements to re-characterise capital as revenue and to accelerate deductions or defer assessable income.

Advice to Treasury in relation to the development of the TOFA Stages 3 and 4.

- Advice provided in relation to the policy intent and formulation of Division 230 of the ITAA 1997 and interactions, including

interactions with Division 247 and Part 3-90 of the ITAA 1997, covering policy issues such as:

- accruals treatment
 - financial reports
 - hedging
 - balancing adjustments
 - transitional items
- Advice provided to Treasury on a number of specific financial arrangements including:
- derivatives
 - securitisation arrangements
 - repurchase agreements
 - capital protected loans
 - structured products
- Drafting advice and examples provided to Treasury in relation to the development of the *Tax Laws Amendment (Taxation of Financial Arrangements) Act 2009* and Explanatory Memorandum.

Consultation process with the ATO, Treasury and external representatives in relation to the development of the law and implementation of TOFA Stages 3 and 4.

- Advice in relation to the formulation and implementation of the ATO's TOFA Stages 3 and 4 compliance plan and strategy;
- Advice provided to the ATO regarding compliance process for Taxpayers in relation to the application and administration of the law;
- Technical advice provided to taxpayers in relation to the technical application of the law;
- Formulation of risk and compliance guides for ATO officers in relation to the application and administration of the taxation law covering issues such as financial products, financial reports accounting and taxation risks;
- Advice provided to the ATO and Treasury on the taxation risks resulting from the application of the law including intended and unintended policy outcomes;
- Advice provided to the National Tax Liaison Group, TOFA Working Group on a number of taxation issues relating to the technical interpretation, application and administration of the law;

- Member of the TOFA Working Group Securitisation, Swaps and Hedging Sub-Groups in the context of the application of Division 230 of the *ITAA 1997*;
- Advice provided in the Treasury/Australian Bankers Association/Institute of Chartered Accountants consultation processes in the relation to the technical interpretation, application and administration of the law.

Application and interpretation of international accounting standards and practices:

- Policy advice on the interaction between taxation law and accounting standards, including advice provided for the Henry Review;
- Technical advice on the interaction between taxation law and accounting standards, including the application of the law for the purposes of bringing accounting gains and losses to account for taxation purposes;
- Advice in relation to the accounting of specific financial products and interaction with the taxation law. Examples include bonds, repurchase agreements, securitisation structures and derivatives;
- Provision of training to the ATO in relation to the interaction between accounting standards and practice and taxation law;
- Advice to the ATO and Treasury in relation to the potential impact of proposed accounting changes on policy intent, formulation and application of taxation law.



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WORK WITH ENPRIS™

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