

IN THE HIGH COURT OF AUSTRALIA

SYDNEY REGISTRY

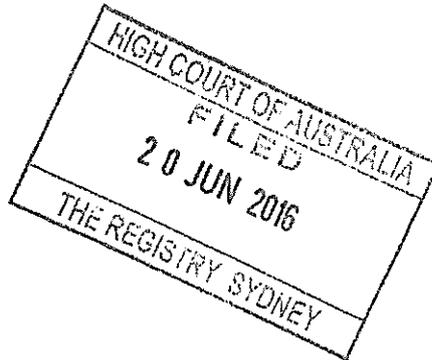
No. S144 of 2016

ON APPEAL FROM THE FULL COURT OF THE FEDERAL COURT OF AUSTRALIA

BETWEEN:

VAUGHAN RUDD BLANK  
Appellant

AND:



COMMISSIONER OF TAXATION  
Respondent

**APPELLANT'S CHRONOLOGY**

**Part I: Internet Certification**

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1. The appellant certifies that this chronology is suitable for publication on the Internet.

**Part II: Chronology**

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Date	Event	Evidence Reference
January 1991 to November 1991	The appellant was employed in a corporate finance role at Investec Bank in Johannesburg.	
November 1991	The appellant commenced employment with SA Ore Pty Limited as a Trader in the Coal Division. SA Ore Pty Limited later changed its name to Glencore SA Pty Limited.	
May 1994	The appellant executed a Profit Participation Agreement (PPA 1993) with Marc Rich & Co AG (MRAG) pursuant to which he was granted 50 genuss-scheine (GS) of MRAG.	

Date	Event	Evidence Reference
circa May 1994	The appellant executed a Shareholders' Agreement with Newgen AG ( <b>Newho</b> ) ( <b>SA 1994</b> ), a company incorporated in Switzerland. Under the Newho Shareholders' Agreement, the appellant purchased 50 shares from Newho at their par value of CHF 50 per share.	
1994	The appellant executed an Equity Participation Agreement with MRAG.	
1994	MRAG changed its name to Glencore International AG ( <b>GI</b> ).  Newho changed its name to Glencore Holding AG ( <b>GH</b> ).	
31 March 1995	GI sent the appellant a letter stating that he had been granted an additional 150 shares of GH, and (as of 1 January 1995) an additional 150 GS of GI. Soon afterwards, the appellant paid the purchase price for the shares, being the par value of CHF 50 per share.	
1 February 1996	The appellant commenced employment as a Trader with Glencore SA's head company, GI, and became a resident of Switzerland.	
29 March 1996	GI sent the appellant a letter stating that he had been allocated an additional 100 GS of GI, which were treated for the purposes of the PPA 1993 as having been allocated on 1 January 1996, and 100 shares of GH. Soon afterwards, the appellant paid the purchase price for the shares, being the par value of CHF 50 per share.	
August 1996	The appellant executed the Amendment to The Profit Participation Agreement 1993 with GI ( <b>PPA 1993 Amendment</b> ).	
25 June 1997	GI sent the appellant a letter stating that he had been allocated an additional 125 GS of GI, which were treated for the purposes of the PPA 1993 as having been allocated on 1 January 1997, and 125 shares of GH. Soon afterwards, the appellant paid the purchase price for the shares, being the par value of CHF 50 per share.	

Date	Event	Evidence Reference
29 June 1998	GI sent the appellant a letter stating that he had been allocated an additional 175 GS of GI, which were treated for the purposes of the PPA 1993 (as amended) as having been allocated on 1 January 1998, and 175 shares of GH. Soon afterwards, the appellant paid the purchase price for the shares, being the par value of CHF 50 per share.	
31 May 1999	GI sent the appellant a letter stating that he had been allocated an additional 200 GS of GI, which were treated for the purposes of the PPA 1993 (as amended) as having been allocated on 1 January 1999, and 200 shares of GH. Soon afterwards, the appellant paid the purchase price for the shares, being the par value of CHF 50 per share.	
8 July 1999	The appellant commenced employment as a Trader at Glencore Asia Ltd and became a resident of Hong Kong.	
15 October 1999	The appellant executed a new Profit Participation Agreement with GI (PPA 1999).	
20 June 2000	GI sent the appellant a letter stating that he had been allocated an additional 200 GS of GI, which were treated for the purposes of the PPA 1999 as having been allocated on 1 January 2000, and 200 shares of GH. Soon afterwards, the appellant paid the purchase price for the shares, being the par value of CHF 50 per share.	
30 April 2001	GI sent the appellant a letter stating that he had been allocated an additional 200 GS of GI, which were treated for the purposes of the PPA 1999 as having been allocated on 1 January 2001, and 200 shares of GH. Soon afterwards, the appellant paid the purchase price for the shares, being the par value of CHF 50 per share.	
2 January 2002	<p>The appellant commenced employment as a Senior Trader, Coal Trading at Glencore Australia Pty Limited and became a resident of Australia.</p> <p>At all material times, Glencore Australia was a wholly owned subsidiary of GI.</p>	
6 May 2002	GI sent the appellant a letter stating that he had been allocated an additional 300 GS, which were treated for the purposes of the PPA 1999 as having been allocated on 1 January 2002, and 300 shares of GH. Soon afterwards, the appellant paid the purchase price for the shares, being the par value of CHF 50 per share.	

Date	Event	Evidence Reference
June 2003	The appellant executed the Incentive Profit Participation Agreement 2003 ( <b>IPPA 2003</b> ) with GI and Glencore AG.	
7 July 2003	GI sent the appellant a letter stating that he had been allocated 100 Phantom Units under the IPPA 2003, which were treated for the purposes of that agreement as having been allocated on 1 January 2003, and 100 shares of GH. Soon afterwards, the appellant paid the purchase price for the shares, being the par value of CHF 50 per share.	
Late 2004	The appellant executed an Amendment to A Profit Participation Agreement 2003 (IPPA 2003 Amendment).	
2005	The appellant entered into the Shareholders' Agreement (GH) ( <b>SA 2005</b> ) with GH.	
2005	The appellant entered into the Incentive Profit Participation Agreement 2005 with GI and GH ( <b>IPPA 2005</b> ).	
31 December 2006	With effect from 31 December 2006, the appellant resigned from his role as a Senior Trader and his employment at Glencore Australia was terminated.	
15 March 2007	The appellant executed a Declaration of Assignment and General Release ( <b>Declaration</b> ).	
15 January 2008	The appellant entered into an agreement with GI to vary the schedule of the payments to be made to me by GI.	
31 January 2008	GI paid US\$30,222,210.80 to the Swiss Federal Tax Administration in respect of the appellant's withholding tax liability in Switzerland.	
10 March 2008 (or shortly thereafter)	The appellant claimed relief from the Swiss Federal Tax Administration under the Australia- Switzerland Double Tax Agreement which limits withholding tax on dividends to 15%.	
30 April 2008	The appellant lodged his income tax return for the 2007 year, returning a capital gain \$100,802,046 (after applying the 50% discount capital gains concession) as a capital gain arising from the disposal of his contractual rights against GI. He disclosed the cost base of those rights as nil.	
19 May 2008	The appellant received a refund of CHF 19,571,879.32 from the Swiss Federal Tax Administration.	

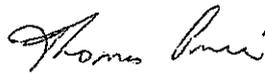
Date	Event	Evidence Reference
17 June 2008	An assessment was issued to the appellant for the 2007 income year in accordance with his tax return as lodged. This assessment is the subject of the appellant's objection.	
20 November 2008	GI paid a further CHF136,325 to the Swiss Federal Tax Administration, representing the final adjustment of the appellant's withholding tax liability in Switzerland.	
29 April 2009	The appellant lodged his income tax return for the 2008 year.	
2 June 2009	An assessment was issued to the appellant for the 2008 income year.	
17 December 2009	An amended assessment was issued for the 2008 income year.	
18 December 2009	The respondent issued a notice described as an amended assessment for the 2007 income year.	
21 May 2010	The appellant lodged his income tax return for the 2009 year.	
27 May 2010	An assessment was issued to the appellant for the 2009 income year.	
12 May 2011	The appellant lodged his income tax return for the 2010 year.	
24 May 2011	An assessment was issued to the appellant for the 2010 income year.	
26 May 2011	The respondent issued a further amended assessment for the 2008 income year which is the subject of the appellant's objection.	
26 May 2011	The respondent issued an amended assessment for the 2009 income year which is the subject of the appellant's objection.	
23 June 2011	The respondent issued amended assessments for the 2010 income year which is the subject of the appellant's objection.	
7 May 2012	The appellant lodged an objection to the assessment dated 18 June 2008 for the 2007 income year, the further amended assessment for the 2008 income year, and the amended assessments for the 2009 and 2010 income years.	

Date	Event	Evidence Reference
28 September 2012	The respondent issued Notices of Objection Decision disallowing the objections in full and Reasons for Decision. The respondent treated the objection to the assessment for the 2007 income year, as having been duly lodged pursuant to section 14ZW(2) of the <i>Income Tax Assessment Act 1936</i> .	
23 November 2012	The appeal to the Federal Court was filed by the appellant.	

**Dated: 20 June 2016**



M Richmond  
T: (02) 9223 7473  
F: (02) 9232 7626  
mrichmond@elevenwentworth.com.au



T O Prince  
T: (02) 9151 2051  
F: (02) 9233 1850  
prince@newchambers.com.au