

740,000 reasons to get tax advice

Did you know that if a company buys back your shares then for tax purposes you could derive an assessable dividend (rather than a discountable or exempt capital gain)? Neither the solicitor nor client in the recent case of *Ralston v Jurisich* [2017] NSWCA 63 did. The result was that the client had a tax liability it might not have otherwise had leading to a successful \$740,000 negligence claim against the solicitor.

The court stated that it mattered not that the solicitor was a general commercial practitioner and was not specifically retained to provide tax advice. He had a duty to either advise on the tax ramifications of the buyback or obtain specialist tax advice.

All commercial transactions have tax consequences and there are plenty of surprises that the tax laws, be they income tax, CGT, GST or stamp duty, can throw up. Good tax advice may not come cheap. But the alternative is far worse, as the parties in *Ralston v Jurisich* discovered.

For more on this case see Justin Dabner, "Failure to provide tax advice held negligent," (2017) *CCH Tax Week*, forthcoming.