

Tax Fraud

See list of offences and penalties at end of table

	Case (age if known)	Offence	Amount	Plea	Sentence	Appeal	Record	Facts
1.	Chait (62) NSWCCA 17.9.1993	31 x s.29A (Cth) [5y]	350,000	PG (SI)	400h CSO	Crown AD Manifestly inadequate but discretion exercised	other taxation offences	False sales tax returns over two years - company in financial trouble. Long delay between offences and charging.
2.	Karaiskakis (30) NSWCCA 3.4.1998	29 x s.29B (Cth) [2y]	\$226,971	PG	14m released on recog after 2m	AD	nil	Used position and knowledge as tax auditor to obtain false tax refunds - opened false bank account. All money recovered - good subjective features - young daughter suffering serious illness
3.	Lambrinos NSWCCA 17.7.1998	s.29D (Cth) [5y]	\$598,952	PG	12m PD 3y GBB	Crown AA 3y PD 2y GBB		Chartered accountant prepared false tax return for company - scheme required extensive premeditation Suffered depressive condition and undergoing continuing psychiatric treatment.
4.	Stitt (54) (1998) 102 A Crim R 428	s.29D (Cth) [10y] s.29B (Cth) [2y]	\$624,509 \$55,392	PG	5y 6m NPP 5y 12m (concurr)	AA 5y 6m NPP 3y 8m	On recog and CSO for dishonesty offences	Two sophisticated schemes over five years - fraud on Tax Department using fictitious names and companies no longer trading - similar application on Social Security - full time occupation. Little mitigating circumstances.
5.	Hamman NSWCCA 1.12.1998	3 x s29B (Cth) [2y] 2 x s29D (Cth) [10y]	\$656,363	PG	2y PD	Crown AD Appellant's AA 14mths PD	nil	Understated income for taxation purpose for three years - did not include 168 cheques received from solicitors for work done as barrister - co-operated with tax office, all tax and penalties paid. Good character - delay in proceedings.
6.	McKenna [1999] NSWCCA 358	22 x s.29D (Cth) [10y]	\$555,668	PG	6y NPP 3y	AA only to adjust starting date for PSC	Dishonesty offences	Accountant defrauded tax office HIV positive

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7.	Caradonna (38) (2000) 118 A Crim R 312 [2000] NSWCCA 398	3 x s.29D (Cth) [10y]	\$46,373.04	PG (5-10%)	2y PD	Crown AA FT 6m	minor	Defrauded tax office on three tax returns using forged group certificates - matters investigated before third cheque sent out. Supporting intellectually disabled brother and mother - wife expecting second child.
8.	Pearce (45) [2001] NSWCCA 447	3 x s.29D (Cth) [10y]	\$6.5m	VG	5y 4m NPP 3y 4m	AA 5y 4m NPP 3y	Nil	Middle manager of large company - company failing - over three years failed to remit PAYE tax to ATO – submitted false information and failed to send employment declarations - money used to finance company - did not receive any personal benefit Active in surf lifesaving - good references - adverse effect upon family
9.	Walters (55) [2001] NSWSC 640 Sully J [2002] NSWCCA 291	10 x s.29D (Cth) [10y] Sched: 5 x breach restraining order	\$7,302,221	VG	7y 8m NPP 6y	AD	minor record from 31 years ago	Owner of successful bricklaying company failed to account for tax deducted from wages of employees - money deducted to finance affluent lifestyle then company wound down when clear could not pay tax debt - offences committed over 9 years. Good work record - unlikely to re-offend - single father to young son
10.	D Cappadona (female) (49) T Cappadona (male) (51) (2001) 122 A Crim R 52 [2001] NSWCCA 194	8 x s.29D (Cth) [10y] 8 x s.29D (Cth) [10y]	\$3,550,774	PG PG (25%)	12m suspended sentence 2y PD	Crown AD Crown AA 18m	nil nil	Systematic tax fraud over 5 years - company paid contractors and employees cash and failed to pay tax - carefully planned offences - use of false documentation. Assistance to authorities – contrition - hardship on family - arrangements made for repayment. Culpability of wife less than husband.
11.	O'Connor (25) (2002) 129 A Crim R 505 [2002] NSWCCA 156	2 x s.29D (Cth) [10y] 2 x s.302A (NSW) [10y]	Tax loss nearly \$1.5m	PG	3y NPP 18m 2y NPP 18m (concurrent)	Crown AD	Nil	Provided tax evasion service to building industry over 2 years – fraudulent use of Zero Percent Variation Certificates – gained \$468,000 Irish

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12.	Gay [2002] NSWCCA 6	10 x s.29D (Cth) [10y]	\$242,089	PG	3y NPP 12m	AA 3y NPP reduced to allow immediate release - effectively halved NPP.		Failed to declare personal income and company tax over 5y period. 3y delay in laying charges
13.	O'Driscoll [2003] NSWCCA 281	2 x s.29D (Cth) [10y]	Received \$1.1m Total tax evaded: \$3,280,419	VG	7y 6m NPP 5y	AD		Tax evasion by payment of wages in cash in construction industry – operated two companies – defrauded ATO for \$2,606,029 and \$674,390 in respect of each company.
14.	Ouyang Lo [2004] NSWCCA 382	2 x s.29D (Cth) [10y] 2 x Knowingly concerned in s.29D (Cth) [10y]	\$263,692	PG	18m Home Detention \$60,000 fine	Crown AD		Customs fraud – underpaid customs duty and GST on imported windscreens Husband and wife – exceptional hardship to young children
15.	Walsh [2004] NSWCCA 435	4 x s.29D (Cth) [10y]		PG	3y 6m NPP 2y	AD		Failed to declare income for tax purposes as director of company – false / incorrect tax returns – charges related to both personal and company tax returns Contribution – restitution made

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16.	<p>I Ronen (Mrs) (72 at sentence)</p> <p>I Ronen (46 at sentence)</p> <p>N Ronen (47 at sentence)</p> <p>[2005] NSWSC 991 Whealey J</p> <p>(2006) 161 A Crim R 300 [2006] NSWCCA 123</p>	<p>Consp s.29D / s.86(2) (Cth) [20y]</p> <p>s.86A (Cth) [20y]</p> <p>s.31 (Cth) [5y]</p> <p>Consp s.29D / s.86(2) (Cth) [20y]</p> <p>s.86A (Cth) [20y]</p> <p>Consp s.29D / s.86(2) (Cth) [20y]</p> <p>s.86A (Cth) [20y]</p>	Over \$8million tax withheld	<p>VG</p> <p>PG</p> <p>VG</p> <p>VG</p>	<p><u>Total:</u> 6y 6m NPP 4y 6m</p> <p><u>Total:</u> 8y 6m NPP 5y 6m</p> <p><u>Total:</u> 8y 6m NPP 5y 6m</p>	<p>Crown AD AD</p> <p>AD Crown AD</p> <p>AD Crown AD</p>	<p>Nil</p> <p>Nil</p> <p>Nil</p>	<p>1991-2001 Two offences represented one conspiracy – change of legislation - Mother and two sons owned retail stores – cash takings from retail business skimmed and concealed – tax withheld – money sent overseas - worst category of offence</p> <p>Substantial financial penalty paid – agreement to repay tax – late demonstration of contrition</p> <p>significant good character</p> <p>Mrs R in poor health</p> <p>IR and NR married with children</p>
17.	<p>Ly (33 at first offence 40 at sentence)</p> <p>[2007] NSWCCA 28</p>	<p>18 x s.29D (Cth) [10y]</p> <p>5 x Att s.29D (Cth) [10y]</p> <p>18 x s.134.2(1) (Cth) [10y]</p> <p>Att s.134.2 (Cth) [10y]</p>	\$328,692	PG (25%)	6y NPP 4y 6m	AD	Nil	<p>Tax agent filed false tax returns – degree of planning</p> <p>Gambling addiction – partial repayment to be made</p>

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18.	Robertson (2007) 177 A Crim R 121 [2007] NSWCCA 270	s.29D (Cth) [10y] Att s.29D (Cth) [10y] Sched: 2 x s.29D	\$322,934 \$319,077	PG	5y 6m NPP 3y 6m	AA same effective sentence imposed		Male false claims to Australian Tax Office for GST refunds – received rebate of \$322,934 – second claim not paid out On appeal: amend commence date of NPP
19.	Ridley (2008) 192 A Crim R 139 [2008] NSWCCA 299	9 x s.29D (Cth) [10y] 3 x Att s134.2 (Cth) [10y]	\$442,000	VG	8y NPP 5y	AD	Nil	Made false claims to Tax Office for GST refunds.
20.	O'Meara (65) [2009] NSWCCA 90	s.134.2(1) (Cth) [10y] 4 x Att s.134.2(1) (Cth) [10y]	Over \$500k - almost received payment of \$15m	VG	8y NPP 5y 4m	AD	Prior to 2000 fraud, firearms drugs	From July 2001 to September 2002 made false claims for refunds of GST in Business Activity Statements submitted to Tax Office in names of companies controlled by offender - statements contained false information concerning alleged purchases claimed to have been made that incurred GST
21.	Hay 62 [2009] NSWCCA 228	5 x Knowingly concerned in s.29D (Cth) [10y]		VG	3y 6m NPP 2y 1m	AD Crown AD	Nil	Filmmaker set up partnership to fund films with accountant allowing investors to claim tax deductions for investment in Australian film - allowed accountant to lodge five tax returns claiming for amounts greater than amounts actually expended in films
22.	Thorn (19) (2009) 198 A Crim R 135 [2009] NSWCCA 294	s.400.4(1) (Cth) [20y] 11 x s.134.2(1) Att s.134.2(1)	\$114,586	PG (25%)	3y 4m 2y 6m 2y 6m <u>Total:</u> 5y 4m NPP 3y	AA 2y 8m 6-18m 6m <u>Total:</u> 4y 2m NPP 2y 4m	Committed and dealt with for other dishonesty offences during period of offending	Made false claims for tax refunds totalling \$114,586.92 – money laundering offence related to use of \$103,512.50 of refunds claimed – unusual use of s.400.4 offence – very low form of offending Gambling and drug use – lengthy delay Reparation order - \$114,586.92
23.	Guo (2010) 201 A Crim R 403 [2010] NSWCCA 170	s.400.4(2) (Cth) [10y]	\$716,394	PG (15%)	2y 6m 18d 1y 10m PD released on recognizance	Crown AA 3y 10m NPP 2y 5m		Involved in elaborate and sophisticated scheme using phantom companies - avoidance of tax and exploitation of workers – significant degree of planning and deceit - pivotal role as sole director, secretary and shareholder of company – high level of criminality Number of significant subjective factors

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24.	Hili Jones [2010] NSWCCA 108 (2010) 242 CLR 520 [2010] HCA 45	s134.2(1) (Cth) [10y] s.134.2(1) (Cth) [10y] s.29D (Cth) [10y] s.400.4(1) (Cth) [20y]	Tax shortfall \$398k	PG (50% combined)	18m NPP 7m 18m NPP 7m	Crown AA 3y NPP 18m 3y NPP 18m High Court AD	nil	From 2001 – 2003 sole directors of company submitted false invoices to avoid GST and income tax – financial loss to ATO \$376k Strong subjective features
25.	Schembri [2010] NSWCCA 149	9 x s.134.2(1) (Cth) [10y] 6 x att s.134.2(1) (Cth) [10y] s.400.4(1) (Cth) [20y]		VG	<u>Total:</u> 7y NPP 4y	AA <u>Total:</u> 7y NPP 3y 5m		Female lodged false Business Activity Statements with ATO making false GST claims – proceeds offence related to use of funds On appeal commented on inappropriateness of proceeds offence – appeal allowed to make sentence of 2y concurrent with remaining sentences
26.	Kertebani (30) [2010] NSWCCA 221	s.134.2(1) (Cth) [10y] Sched: s.400.4(1)	\$307,555	PG (15%)	2y NPP 1y 2m Reparation \$307,555	Crown and sentence AD	nil	Lodged two false Business Activity Statements to ATO – claimed proposed \$5.7million expenditure for two companies – co-offender worked at ATO and used position to verify false claims – ATO paid \$494,669 into offender's account – co-offender paid \$130k Sentence towards bottom range.
27.	Dwayhi (25) Bechara (42) [2011] NSWCCA 67	4 x s 134.2(1) (Cth) [10y] Sched: 4 offences s.134.2(1) (Cth) [10y] s.400.4(1) (Cth) [20y]	\$857,357 - received \$135,000	PG (25%) VG	5y NPP 3y Reparation order \$135,000 <u>Aggregate:</u> 4y 9m NPP 3y Reparation order \$101,632	AD AA 3y conditional release after 2 yrs on recog		D - ATO employee - verified four false tax refund claims in Business Activity Statements submitted to ATO - - received \$135,000 from co-offenders - concealed primary offences by making false entries in electronic reports, creating paper trails and lodging forged documents - grave breach of trust of position as public officer of ATO B and co-offender provided false ATO statements – co-offender took almost two thirds of proceeds.

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28.	McMahon (49) [2011] NSWCCA 147	15 x s.134.2(1) (Cth) [10y] 24 x Att s.134.2(1) (Cth) [10y] 5 x s.10(1)(a) <u>Passports Act</u> [2y] 7 x Bankruptcy offence [3y] 2 x s.29(4)(aa) (Cth) [5y] 28 x s.24(1) (Cth) [2y] 35 x Electoral roll offences	\$676,620	PG	5y 4y 12m 18m 12m 12m 6m <u>Total:</u> 6y NPP 4y	AD	Nil significant	Undischarged bankrupt embarked on course of accumulating false identification documents over ten years – obtained passports, bank accounts and registered false names with electoral commission – rented premises, leased boxes and travelled overseas Used documents to gain control of companies and lodge false tax statements over 10 months Sophisticated and well planned offences \$100,000 repaid
29.	Boughen Cameron [2012] NSWCCA 17	Consp s.29D / s.86(2) (Cth) [20y] s 135.4(3) (Cth) [10y] Consp s.29D / s.86(2) (Cth) [20y] s 135.4(3) (Cth) [10y]	Approx \$500k	PG (40% on appeal)	2y ICO 2y ICO	Crown AA: 3y NPP 18m 3y NPP 18m	Nil	Offenders successful owners of TV production company – wrote and produced TV shows – in 1990 accountant suggested tax evasion scheme – offenders did not know of illegality of scheme at first but both realised it was illegal in 1997 – continued with the scheme until 2004 – evaded taxable income of around \$500k each. Middle-class – good character – middle aged – poor health – delay in proceedings.

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30.	Agius (63 at sentence) [2012] NSWSC 978 Simpson J [2015] NSWCCA 200 Zerafa (36 at sentence) [2012] NSWSC 978 Simpson J [2013] NSWCCA 222	Consp s.29D / s.86(2) (Cth) [20y] s.135.4(5) (Cth) [10y] Consp s.29D / s.86(2) (Cth) [20y] s.135.4(5) (Cth) [10y]	\$5m loss to Cth	VG VG	9y NPP 6y 8m 500h CSO	AD Crown AA 3y 6m NPP 2y 3m	Nil Nil	Tax fraud scheme A involved in deliberate, calculated, systematic and repeated frauds over ten years – close to worst case – financial advantage Z – became involved as young and naïve accountant due to employment over 7 years – influenced by corrupt employer – no direct financial benefit – made some attempt to stop involvement – good character – married with young children – delay caused significant stress to family – loss of profession
31.	Liles (65 at sentence) [2012] NSWSC 1249 Schmidt J [2014] NSWCCA 289	2 x Consp s.29D / s.86(2) (Cth) [20y] 2 x s.135.4(3) (Cth) [10y] Sched: 2 x consp to defraud	Over \$2m	PG (37% combined)	8y 3m NPP 4y 11m	AA 5y 9m Recognizance release order 3y 6m	Nil	Female accountant committed offences over 9 years 1997-2006 – international tax avoidance schemes – did not establish schemes but continued to assist clients after advising of illegality – later became effective operator – took active steps to conceal offences – received some financial benefit in way of professional fees Senior accountant – past President of National Institute of Accountants and involved in National Tax Liaison Group - principal carer for husband – chronic physical and mental medical problems – reduced life expectancy
32.	Milne (late 50s) [2012] NSWSC 1538 Fullerton J	s.135.1(1) (Cth) [5y]	Tax liability \$415,474	PG	2y (partially accum to existing sentence)		Sentenced for fraud / money laundering shortly prior	Lodged three income tax returns at same time – failed to declare consultancy fees of over \$900,000 Delay – major depressive disorder – motivated by personal greed
33.	Edwards [2013] NSWCCA 54	4 x s.134.2 (Cth) [10y] Sched: 4 offences	\$380k	PG	4y 3m NPP 2y 2m	AD		July 2004 - January 2006 – director and shareholder of companies lodged 27 Business Activity Statements with ATO - lodged on behalf of three companies of which offender was sole director and shareholder and on behalf of himself personally - falsely claimed GST refunds of \$540,898 - received \$380,724

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34.	J Sakovits (62) R Sakovits (64) [2013] NSWSC 464 Hall J [2014] NSWCCA 109	Consp s.29D / s.86(2) (Cth) [20y] s.135.4(3) (Cth) [10y] Consp s.29D / s.86(2) (Cth) [20y] s.135.4(3) (Cth) [10y]	\$1,177,893	VG	5y NPP 2y 6m 5y NPP 2y 6m	AD	Nil	Husband and wife directors of company – tax avoidance scheme over 5y 5m – false invoices and false records – sophisticated planning – multiple acts – greed - lengthy, persistent and calculated fraud Ill health – delay See also Liles [2012] NSWSC 1249; [2014] NSWCCA 289
35.	Hawkins [2013] NSWCCA 208	s.29D (Cth) [10y] 7 x s.134.2(1) (Cth) [10y]	\$600,000	VG	3y 4m NPP 1y 8m	Crown AA 6y NPP 3y 6m	Nil	Computer consultant agreed to join tax scheme proposed by accounting firm – scheme continued over three years and involved claims for false expenses and failure to disclose all income – started innocently but came to understand illegality – immediately co-operated with police
36.	Giourtalis [2013] NSWCCA 216	49 x 29D (Cth) [10y] 7 x Att 29D (Cth) [10y]		VG	9y NPP 6y 3m	AD		Accountant – during 1998 - 2001 arranged for preparation of false tax returns, having them lodged electronically by another accountant who was a registered tax agent and retaining refunds received from the Taxation Office – clients generally unsophisticated members of Greek community who came to offender for assistance for financial affairs - some clients did not authorise offender to prepare tax returns – others authorised returns but details false
37.	Mereb Younan [2014] NSWCCA 149	s.135.4(3) (Cth) [10y] s.135.4(3) (Cth) [10y]	\$1m	VG VG	4y NPP 2y 4y NPP 2y	Crown AD		Business owners agreed to participate in tax fraud scheme proposed and organised by accountants – participated over 5 years Repaid tax shortfall – will make penalty payments requiring sale of houses – largely co-operated – delay

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38.	Ly [2014] NSWCCA 78	s.400.4(1) (Cth) <i>[20y]</i>	\$357,568	VG	3y 6m NPP 2y 4m	Crown AA 8y NPP 4y 6m		Female - falsely caused ATO to pay refunds of 21 taxpayers into offender's accounts - used funds to support extravagant lifestyle Virtually no mitigating circumstances Consideration of operation of federal money laundering offences - comparison with comparable cases
39.	Dickson (No.18) (50) [2015] NSWSC 268 Beech-Jones J [2016] NSWCCA 105 Co-offender: ISSAKIDIS	Consp s.400.3(1) (Cth) <i>[25y]</i> s.135.4(5) (Cth) <i>[10y]</i>	\$135 million	VG	11y NPP 7y	Crown AA 14y NPP 9y 3m	nil	Tax fraud in worst category of offence – conspiracy to deal with proceeds of crime very serious example of offence - offender and co-conspirator were directors of company - agreed to make false depreciation claims in company tax returns – sham agreements to acquire medical technology as basis for depreciation claims – submission of false material to Australian Tax Office to support claims – extent of loss or risk of loss \$135 million – personal benefit - dishonest and fraudulent tax scheme on a large scale - high degree of planning and sophistication. Prior good character – well-educated, employed
40.	Bennett (51) [2015] NSWCCA 56	s.29D (Cth) <i>[10y]</i> s.135.4(3) (Cth) <i>[10y]</i>		VG	4y 9m NPP 2y 4m	AD		Participated in a scheme which enabled participants to evade company tax and income tax - false deductions amounted to \$112,000 producing a tax shortfall of \$40,320 - conduct perpetrated over five years - involved considerable deliberation and dishonesty. Good character – hard-working professional – supportive family
41.	Chen [2015] NSWCCA 122	23 x s.134.2(1) (Cth) <i>[10y]</i> 4 x Att s.134.2(1) (Cth) <i>[10y]</i>	\$1,396,285	VG	10y NPP 6y	AD		2004-2007 - 27 fraudulent Business Activity Statements lodged with ATO for two companies controlled by offender - each BAS falsely claimed GST refund - significant planning – greed
42.	Pratten [2016] NSWSC 539 Rothman J [2017] NSWCCA 42	7 x s.134.2(1) (Cth) <i>[10y]</i>	\$2m	VG	5y NPP 2y	Crown AA 6y 4m NPP 3y 9m	Nil	2003-2009 –director of insurance company – moved company to Vanuatu – deliberate scheme of understating income by \$5 million dollars to avoid tax liability – above mid-range On appeal also sentenced for breaching proceeds of crime restraining order Carer for two daughters – tax penalties constitute extra-curial punishment - delay

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43.	Chang [2016] NSWCCA 296	s.135.4(3) (Cth) [10y]	2,994,990	VG	5y NPP 3y	AD		Involved in scheme inflating and receiving GST funds – employee with intimate knowledge of, and involvement in, scheme – co-conspirators owner of companies and internal accountant
44.	Yunan (21-22 at offence - 31 at sentence) [2016] NSWCCA 248	s.400.4(1) (Cth) [20y]	\$322,600	VG	6y NPP 4y Reparation \$322,600.			2007 offence – arranged for accountant with whom offender had intimate relationship to fraudulently submit business activity statements to Taxation Office (ATO) - caused refund to be paid to self
45.	Conklin [2017] NSWCCA 275	s.134.2(1) (Cth) [10y] s.29D (Cth) [10y]	\$701,057	PG (25%)	5y NPP 2y 2m	AD		1999, 2000-2001 - fraudulent tax avoidance – offender's role was to introduce new "investors" - received commission through complex overseas structure comprised of several companies, a trust, and two debit cards taken out in false names – failed to declare commission income for taxation purposes, despite receiving income over three financial years.
46.	Issakidis (74) [2018] NSWSC 378 Co-offender: DICKSON	s.400.4(1) (Cth) [25y] s 135.4(5) (Cth) [10y]	\$135 million	VG	8y 3m 7y <u>Aggregate:</u> 10y 3m NPP 7y 6m		Nil relevant	Tax fraud in worst category of offence - conspiracy to make false depreciation claims in company tax returns and conspiracy to launder proceeds of crime through offshore accounts - loss to Commonwealth exceeded \$100M - intended loss to Commonwealth approximately \$135M – offences involved intricate planning and preparation over a number of years - worst category offences – motivated by greed – no contrition - role marginally less significant than co-accused - less involved in production of documents than in dealing with people to maintain semblance of legitimacy - share of proceeds smaller than co-offender but still in excess of \$15M. Good prospects of rehabilitation –significant delay – hardship to offender and his wife – mental and physical health problems – advanced age
47.	Noble (49 at sentence) [2018] NSWCCA 253	s.134.2(1) (Cth) [10y] Att s.134.2(1) (Cth) [10y]	\$394,500 \$563,550	PG	4y 6m 4y 6m <u>Total:</u> 5y NPP 2y 6m	AD	Nil	Female – lodged 140 false business activity statements over 5 years – had been expressly warned against fraudulent lodgings

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48.	Issakadis [2019] NSWCCA 302	Consp s.400.3(1) (Cth) [25y] s.135.4(5) (Cth) [10y]	\$100 million	VG	8y 3m 7y <u>Total</u> 10y 3m NPP 7y 6m	Conviction AD		2007-2010 - Director of company with co-offender – tax fraud - false depreciation claims in tax returns to avoid tax liabilities – both agreed to deal with ‘proceeds of crime’ (cash distributions from trusts) for own purposes
49.	Kitson (37) [2019] NSWSC 1109 Payne JA [2022] NSWCCA 166 Co-offenders: A.CRANSTON ONLEY L.CRANSTON HAMMOND ANQUETIL MENON WILLMOTT	s.135.4(3) [10y]	Over \$105m	PG (50% - combined)	4y 6m NPP 3y		Nil	Involved Plutus in tax fraud conspiracy over three years – payroll service company set up and used to misappropriate money taken from clients for tax payments – high level of sophistication, premeditation and dishonesty – total loss to ATO \$105,625,304.36 – not designer of scheme but actively involved from early stage – responsible for sourcing clients and building up business – later employed as manager – attempted to destroy records to conceal offence – personally received \$1.3m – slightly below principals: essential facilitator – aware at least \$80m involved – towards top of range Prior good character – remorse

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50.	Anquetil [2020] NSWSC 995 Payne JA [2021] NSWCCA 59 Co-offenders: A.CRANSTON ONLEY L.CRANSTON HAMMOND KITSON MENON WILLMOTT	s.135.4(3) [10y] s.400.3(1) [25y] Sched: s.400.3(1)	See facts	PG (50% - combined)	4y 8m 6y <u>Total:</u> 7y 6m NPP 5y	Crown AD	Nil	Involved in Plutus tax fraud conspiracy over three years – payroll service company set up and used to misappropriate money taken from clients for tax payments – high level of sophistication, premeditation and dishonesty – one of the most serious tax fraud offences seen by the courts – total loss to ATO \$105,625,304.36 – a principal and one of four to establish scheme – performed critical role throughout scheme – at apex of hierarchy – money laundering offence well above mid-range – sophisticated, organised and diverse – use of false entities and business records – involved in laundering over \$28m with ultimate personal benefit of \$12,218,148.55 – schedule offence involved payment \$24,244,760.64 in response to blackmail threats (see <i>Hausman / Rostankovski</i> [2022] NSWCCA 24) Genuine remorse and contrition – prior good character – good prospects of rehabilitation
51.	Hammond (22 at beginning of offence) [2020] NSWSC 888 Payne JA Co-offenders: A.CRANSTON ONLEY L.CRANSTON ANQUETIL KITSON MENON WILLMOTT	s.135.4(3) [10y] Consp s.400.3(1) [25y]	See facts	PG (50% - combined)	<u>Indicative:</u> 2y 3y <u>Aggregate:</u> 4y NPP 2y		Nil	Involved in Plutus tax fraud conspiracy that used payroll service company to misappropriate money taken from clients for tax payments – scheme high level of sophistication, premeditation and dishonesty – offender employed by company for several months before becoming aware of scheme – continued involvement aware of illegality and extent of fraud – involved in accounting and financial transactions - total loss to ATO during involvement of offender \$101,584,952.81 – took active steps to conceal conspiracy – bottom of hierarchy – money laundered \$49,084,316.55 – received small financial benefit compared to co-conspirators - role placed offence at just below mid-range Female - youth and inexperience – acted from misguided sense of trust and loyalty – remorse and contrition – prior good character

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	Case (age if known)	Offence	Amount	Plea	Sentence	Appeal	Record	Facts
52.	<p>Rostanovski (27 at offence)</p> <p>Hausman (51 at sentence)</p> <p>[2022] NSWCCA 24</p> <p>Co-offender: CHALABIAN</p>	<p>Aid and abet s.135.1(3) [5y]</p> <p>Jointly commit s.400.3(1) [25y]</p> <p>Blackmail: s.249K(2) Crimes Act [14y]</p> <p>Blackmail: s.249K(2) Crimes Act [14y]</p> <p>Jointly commit s.400.3(1) [25y]</p>	See facts	<p>PG (20%)</p> <p>PG (50% combined)</p>	<p><u>Indicative:</u> 1y 7m</p> <p>9y 6m</p> <p><u>Aggregate:</u> 8y</p> <p>4y NPP 2y 5m</p> <p><u>Total:</u> 10y 5m NPP 7y 2m</p> <p>5y</p> <p>7y 6m</p> <p><u>Total:</u> 8y NPP 6y</p>	<p>Crown AD AD</p> <p>Crown AD (except to vary sentence order) AD</p>	<p>Nil</p> <p>Nil</p>	<p>R aided A.Cranston in Plutus tax fraud conspiracy that used payroll service company to misappropriate money taken from clients for tax payments over 3 years – recruited and managed straw directors – received at least \$192,000 – not member of inner circle – mid-range</p> <p>H and R blackmailed directors of scheme – extensive planning – greater role played by H – well above mid-range</p> <p>Used co-offender solicitor to launder money received from blackmail demands – over \$24m and \$19m – sophisticated planning – H architect and lead role – well above mid-range – R above mid-range</p> <p>Both – remorse – good prospects of rehabilitation – little likelihood of re-offending – special circumstances</p> <p>On Crown appeal: no error in application of totality – not manifestly inadequate – variation required in sentence order for H</p> <p>On appeal: errors - parity for H – failure to take into account good character for R – no lesser sentence</p>
53.	<p>L.Cranston (21-24)</p> <p>[2023] NSWSC 454</p> <p>Payne JA</p> <p>Co-offenders: A.CRANSTON ONLEY HAMMOND ANQUETIL KITSON MENON WILLMOTT</p>	<p>s.135.4(3) [10y]</p> <p>Consp s.400.3(1) [25y]</p>	See facts	VG	<p>4y</p> <p>6y</p> <p><u>Total:</u> 8y NPP 5y</p>		<p>Nil</p>	<p>Involved in Plutus tax fraud conspiracy that used payroll service company to misappropriate money taken from clients for tax payments over 3 years – scheme high level of sophistication, premeditation and dishonesty – towards highest range of objective seriousness - offender trusted and responsible although subordinate role – became aware of illegality after working for 11m and continued involvement – persistent course of conduct - total loss to ATO during involvement of offender \$101,584,952.81 – at or near bottom of hierarchy – money laundered \$49,084,316.55 – received financial benefit of \$181,639.96 – similar culpability to Hammond</p> <p>Female - primarily motivated by misguided loyalty to brother – no contrition – prior good character – prospects of rehabilitation fair – 5y daughter – assistance in conduct of trial - delay</p>

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	Case (age if known)	Offence	Amount	Plea	Sentence	Appeal	Record	Facts
54.	Wilmott [2023] NSWSC 474 Payne JA Co-offenders: A.CRANSTON ONLEY HAMMOND L.CRANSTON ANQUETIL KITSON MENON	s.135.4(3) [10y] Consp s.400.3(1) [25y]	See facts.	VG	5y 7y <u>Total:</u> 9y NPP 6y		Nil	Involved in Plutus tax fraud conspiracy that used payroll service company to misappropriate money taken from clients for tax payments – scheme high level of sophistication, premeditation and dishonesty - offender involved in transfer of \$31 million to second-tier companies, representing about 30 per cent of total \$105 million misappropriated by group – received direct financial gain of \$498,272- reward significantly less than principals – role well below some but greater than L.Cranston and Hammond - not an instigator or architect of conspiracies and acted under instructions - central role as knowing active participant for 2 years - effective ‘chief managing officer’ of second-tier companies - not involved in destroying records and computers University educated – no contrition - prospects of rehabilitation good - prior good character
55.	Menon (39) [2023] NSWSC 768 Payne JA Co-offenders: A.CRANSTON ONLEY L.CRANSTON HAMMOND ANQUETIL KITSON WILLMOTT	s.135.4(3) [10y] Consp s.400.3(1) [25y]	See facts	VG	8y 6m 12y <u>Total:</u> 14y NPP 9y		Nil	Solicitor - involved in Plutus tax fraud conspiracy using payroll service company to misappropriate money taken from clients for tax payments – scheme high level of sophistication, premeditation and dishonesty - total loss to ATO \$101,584,952.81 – money laundered \$49,084,316.55 – not principally motivated by greed - received \$248k in shares - very significant role - provided advice to principal conspirators, instrumental in appointing vulnerable drug addicted persons as directors for second-tier companies and manipulating them to carry out fraud - had directors sign documentation knowing exposed to risk of substantial personal tax liabilities, used expertise and standing as solicitor in correspondence and drafting legal documentation, overseeing forgery of documents, lying in interview with NSW Office of State Revenue, facilitating transfer of large sums, pivotal in dealing with blackmail and payment of \$25 million to blackmailers, being monies which should have been paid to ATO - culpability only slightly below principals – not principally motivated by greed. Used prior good character and professional standing – no remorse - extra curial punishment including will never again practise law - prospects of rehabilitation fair

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	Case (age if known)	Offence	Amount	Plea	Sentence	Appeal	Record	Facts
56.	A.Cranston (36) [2023] NSWSC 1003 Payne JA Co-offenders: ONLEY L.CRANSTON HAMMOND ANQUETIL KITSON WILLMOTT MENON	s.135.4(3) [10y] Consp s.400.3(1) [25y]	See facts	VG	9y 12y <u>Total:</u> 15y NPP 10y		nil	Involved in Plutus tax fraud conspiracy that used payroll service company to misappropriate money taken from clients for tax payments over 3 years – over \$105m misappropriated with loss to ATO of over \$101m - scheme high level of sophistication, premeditation and dishonesty and towards highest range of objective seriousness – money laundered through bank accounts owned by companies associated with conspirators – offender an instigator of scheme and a main financial beneficiary receiving not less than \$6,861,782.17 – blackmail taken into account as limited non-exculpatory duress – role towards upper range of objective seriousness – course of conduct over three years – use of good character and knowledge of tax system No contrition – co-operation – some delay – effect of medical conditions on custody – prospects of rehabilitation only fair
57.	Onley (53) [2023] NSWSC 1008 Payne JA Co-offenders: A CRANSTON L.CRANSTON HAMMOND ANQUETIL KITSON WILLMOTT MENON	s.135.4(3) [10y] Consp s.400.3(1) [25y]	See facts	VG	9y 12y <u>Total:</u> 15y NPP 10y		nil	Involved in Plutus tax fraud conspiracy that used payroll service company to misappropriate money taken from clients for tax payments over 3 years – over \$105m misappropriated with loss to ATO of over \$101m - scheme high level of sophistication, premeditation and dishonesty and towards highest range of objective seriousness – money laundered through bank accounts owned by companies associated with conspirators – offender an instigator of scheme and a main financial beneficiary receiving not less than \$4,692,585.56 – blackmail taken into account as limited non-exculpatory duress – role towards upper range of objective seriousness – course of conduct over three years No contrition - co-operation – some delay – good character facilitated offence – childhood trauma – prospects of rehabilitation fair – poor physical health

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	Case (age if known)	Offence	Amount	Plea	Sentence	Appeal	Record	Facts
58.	Kelu (48)	s.135.4(3) [10y] s.135.4(3) [10y]	\$40,911,68 5	VG	5y 6y <u>Total:</u> 8y NPP 4y 6m		Nil	2012-2013 – large-scale tax fraud - defrauding Commonwealth of goods and services tax (GST) revenue, through purchase and sale of gold bars – gold bars purchased then melted in furnaces at M's premises - new bars sold as 'scrap gold' to gold dealers, avoiding GST as not a precious metal – co-opted persons who allowed bank accounts to be established in their names and operated by the offenders, unknowing as to criminal activities - motivated by financial greed, made substantial gain - \$16,795,280 recovered – did not lead lavish lifestyle. M: excellent prospects of rehabilitation - unlikely to re-offend - good character. K: more important role but stronger subjective case - autism spectrum disorder, health issues – highly educated - good character - good prospects rehabilitation - unlikely to re-offend
	Millner (47; 56 at sentence) [2023] NSWSC 1537 Cavanagh J	s.135.4(3) [10y] s.135.4(3) [10y]			5y 6y <u>Total:</u> 8y NPP 4y 6m		No significance	

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	Case (age if known)	Offence	Amount	Plea	Sentence	Appeal	Record	Facts
59.	Alex (47)	s.135.4(3) [10y] Consp s.400.3(1) [25y]	\$10,706,588	VG	8y 8y <u>Total:</u> 9y 3m NPP 6y 2m		Use carriage service threat to kill	2018-2020 - conspiracy to defraud Commonwealth of PAYG tax and conspiracy to deal with proceeds of crime - object of conspiracy was non-remittance of PAYG amounts withheld from wages paid in connection with a labour hire business in Queensland; two companies jointly operating the business – estimated total of PAYG not remitted, \$10,706,588 (total after monies recovered by ATO \$10,120,000) – proceeds of crime offence relates to channelling of money obtained by tax fraud through various companies Alex owner of business – Loccisano acted as channel of communication between Alex and Kirschberg and McAndrew - McAndrew a director of the two operating companies for all but five months of charge period – Kirschberg a director for first year, up to July 2019 – Bryers joined conspiracy in April 2019 as a consultant to the other offenders.
	Kirschberg (60)	s.135.4(3) [10y] Consp s.400.3(1) [25y]			7y 7y <u>Total:</u> 8y NPP 5y 6m		Nil	
	McAndrew (56)	s.135.4(3) [10y] Consp s.400.3(1) [25y]			7y 7y <u>Total:</u> 8y NPP 5y 6m		Nil	
	Loccisano (47)	s.135.4(3) [10y] Consp s.400.3(1) [25y]			7y 6m 7y 6m <u>Total:</u> 8y 6m NPP 6y		Dishonesty	
	Bryers (61) [2024] NSWSC 1565 Fagan J	s.135.4(3) [10y] Consp s.400.3(1) [25y]			7y 6m 7y 6m <u>Total:</u> 8y 6m NPP 6y		Fail fulfil statutory obligations as company director	

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Table of Offences

Offence	Section	Status	Maximum Penalty
Crimes Act 1900 (NSW)			
Possess false instrument	s.302A	16.8.1996-22.2.2010	10 years
Crimes Act 1914 (Cth)			
Obtains valuable thing from Commonwealth by false pretences	s.29A	29.3.1926-24.5.2001	5 years
Imposition on Commonwealth	s.29B	29.3.1926-24.5.2001	2 years
Defraud Commonwealth	s.29D	25.10.1984-24.5.2001	10 years
Conspiracy to Defraud Commonwealth	s.29D / s.86(2)	15.9.1995-24.5.2001	20 years
Conspiracy to defraud	s.86A	25.10.1984-15.9.1995	20 years
Criminal Code (Cth)			
Obtain financial advantage by deception	s.134.2	24.5.2001-current	10 years
Dishonestly intend to gain or cause loss to Commonwealth entity	s.135.1	24.5.2001-25.8.2018 25.8.2018-current	5 years 10 years
Conspiracy to defraud Commonwealth entity	s.135.4	24.5.2001-current	10 years
Intentionally dealing in proceeds of crime - \$1,000,000 or more	s.400.3(1)	1.1.2003-current	25 years
Intentionally dealing in proceeds of crime - \$100,000 or more	s.400.4(1)	1.1.2003-current	20 years
Recklessly dealing in proceeds of crime - \$100,000 or more	s.400.4(2)	1.1.2003-current	10 years
Financial Transactions Reports Act 1988 (Cth)			
Open account / operate account in false name	s.24(1) / 24(2)	1.7.1988-current	2 years
Make statement capable of misleading an identifying cash dealer	s.29(4)(aa)	1.2.1999-current	5 years
Conduct transactions to avoid reporting requirements	s.31	1.7.1988-current	5 years

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