



Australian Government
Australian Taxation Office

RUNNING A LARGE COMMONWEALTH LEGAL SERVICES TEAM:

THE CHALLENGES AND THE PITFALLS

Presented by

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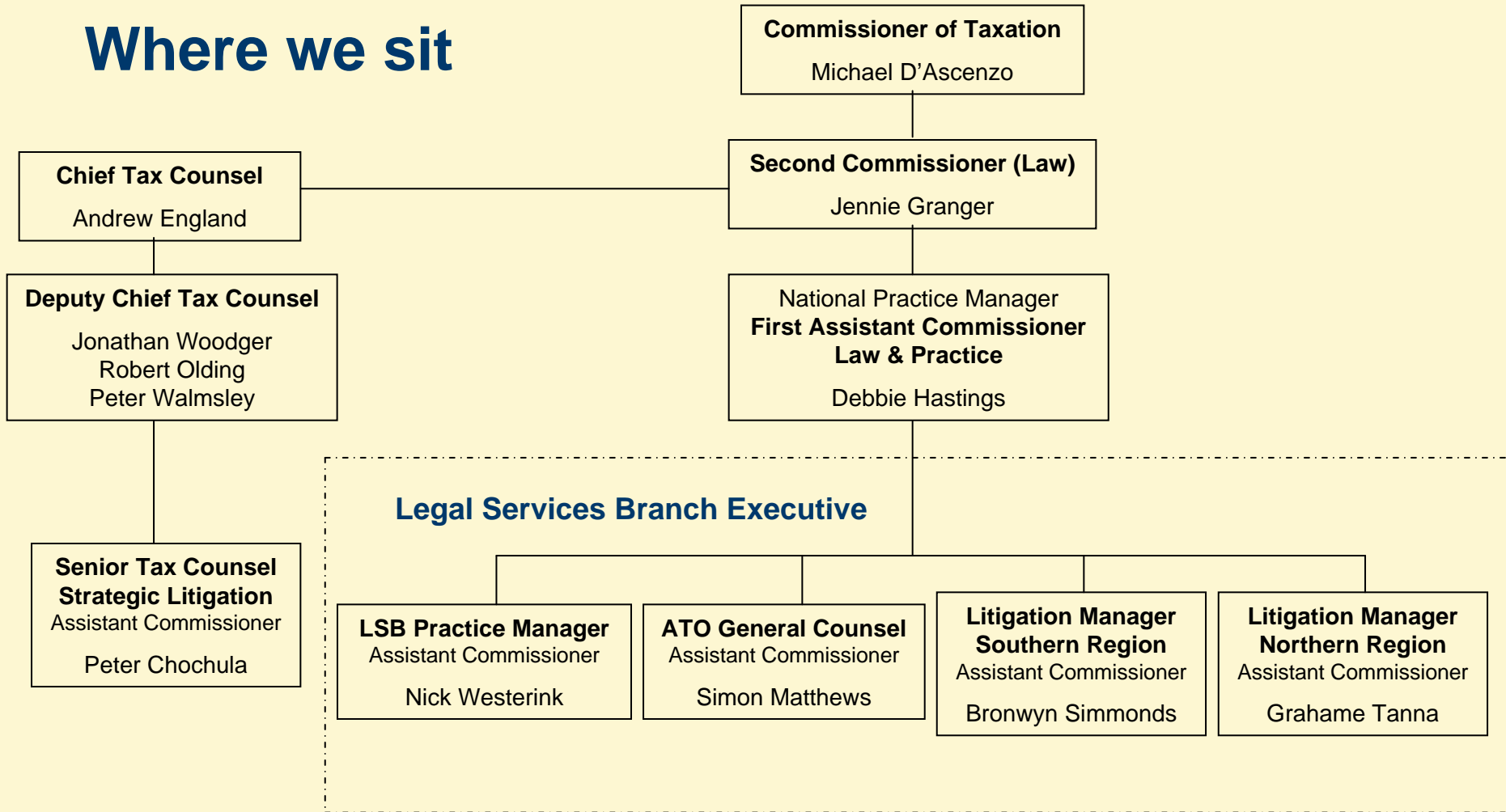
ATO Assistant Commissioner, Legal Services

19 August 2011

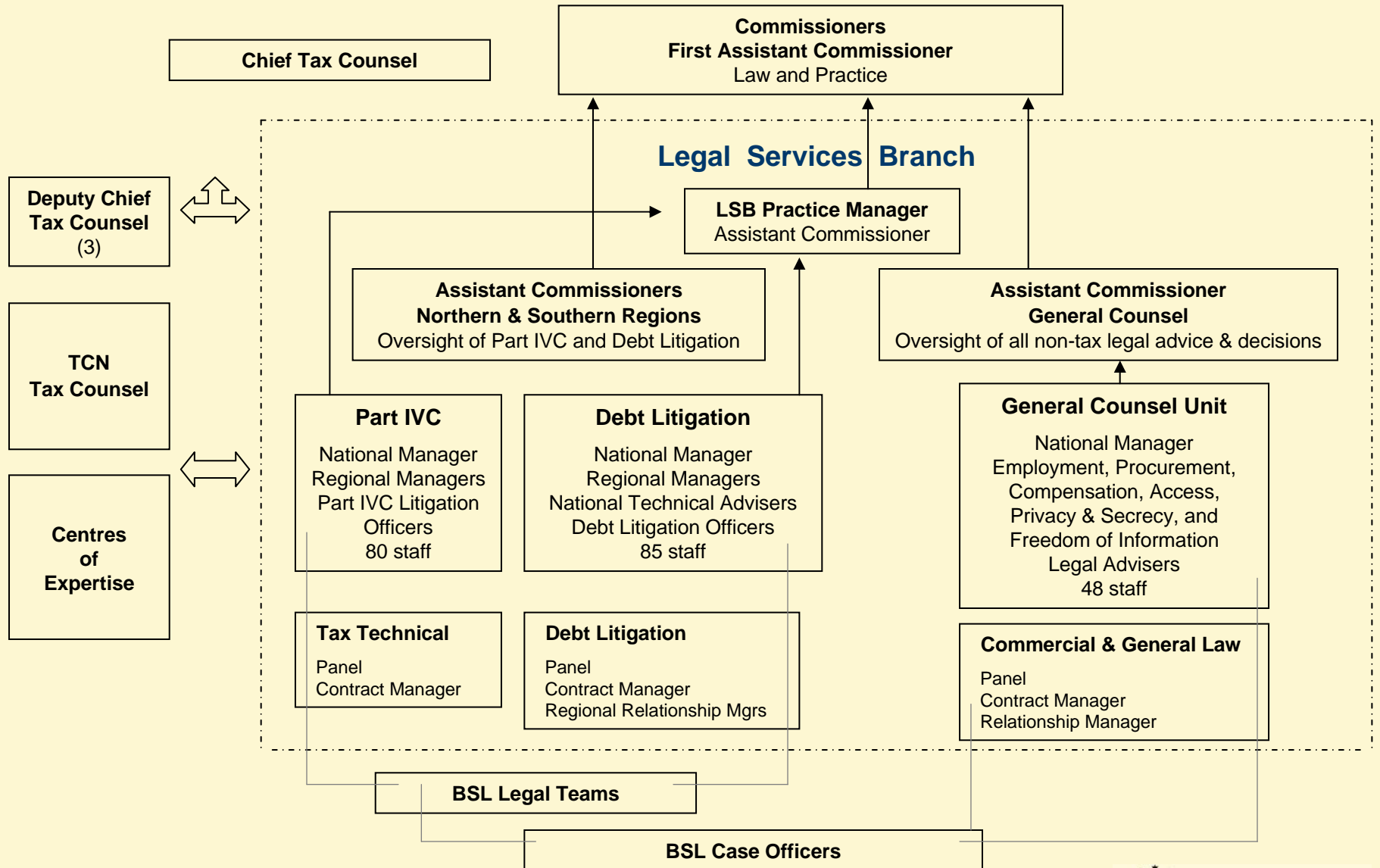
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About us

Where we sit



LSB Structure



About Us (cont.)

- The ATO's Legal Services Branch provides specialised in-house legal services to the ATO and its staff
- Our total budget is around \$84 million

About Us (cont.)

- We have about 215 staff (with a budget for 250)
 - Four SES:
 - Assistant Commissioner Legal Services – responsible for LSB as a whole
 - Assistant Commissioners Litigation (southern and northern regions) – responsible for tax technical and debt litigation
 - General Counsel – responsible for the General Counsel Unit (non-tax legal work)
 - Other staff ranging from APS 1s to EL 2.2s
 - Our main work types are:
 - Part IVC (of the *Taxation Administration Act 1953*) tax disputes
 - Non-tax disputes (e.g. Fair Work Australia)
 - Debt recovery and insolvency
 - Freedom of information requests
 - Claims for compensation (CDDA scheme) and act-of-grace payments
 - In-house legal advice (e.g. tax secrecy, privacy law, commercial law, employment law, etc.)

Opportunities and Benefits

Before getting to the challenges and pitfalls, let's start with the opportunities and benefits

- Broad range of skills/experience
- Critical mass
- Succession planning
- Staff/graduate development
- Opportunities for staff to work in different locations throughout Australia
- Ability to absorb expenses

Challenges and Pitfalls

Disclaimer: neither of us have run a small Commonwealth Legal Services Team, so some of the challenges and pitfalls may not be peculiar to large ones

Recruitment

Ensuring staff have appropriate skills

- Mandatory qualifications
- Rotation policy
- Centralised process for learning and development
- Training
- Technical conferences

Challenges and Pitfalls (cont.)

Providing a career path within the team

- There are 220 positions in LSB, and 22,000 in the ATO
- What if you work in the General Counsel Unit and you don't like tax law?

Remote management

- Orphan policy
- Video hook-ups
- Call-overs

Keeping across the work and management issues of the team

- Delegation is essential
- Regular meetings allow information sharing
- Effective reporting

Challenges and Pitfalls (cont.)

Volume of litigation (2009/10)

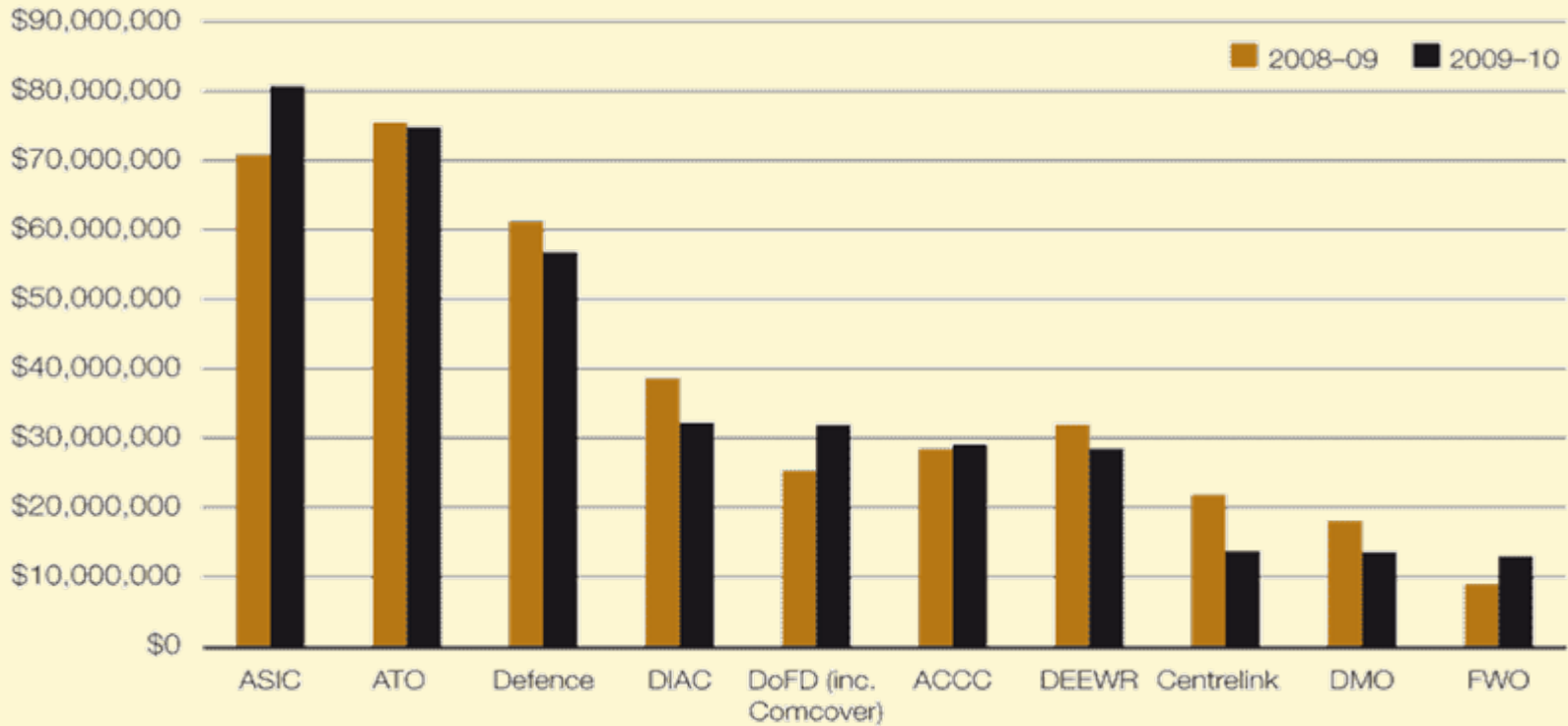
- 2.6 million audit activities
- 21,765 objections
- 1,014 Part IVC Appeals
- 2,790 debt cases

Challenges and Pitfalls (cont.)

- External scrutineers
- Ensuring all key players are involved in decision making
- Ensuring consistency in decision making
 - Call-overs
 - IT systems
 - [Practice Statement 2009/09](#)
 - SILCs
 - Case Management Plans

Effecting cultural change

- Early/Alternative/Appropriate Dispute Resolution
- Dispute Management Plan
- Total expenditure of top 10 FMA agencies 2008 – 09; 2009 - 10



Legal Services Expenditure report 2009-10, Office of Legal Services Coordination, page 8

Challenges and Pitfalls (cont.)

Maintaining independence while acting for the organisation

- Model litigant

Test Case Program

- Law clarification
- Development of legal precedent
- Internet reference
- Funded on basis of public interest considerations
- Annual budget approximately \$2M

Challenges and Pitfalls (cont.)

Being visible and approachable within the organisation

- We want people to come to us when they should
- But we don't want to take on other people's jobs
 - FOI case study

10th floor 'distractions'

- Can the Commissioner sue for defamation?
- Are the Commissioners' 'Personality Inventories' obtainable under FOI
- Can the Second Commissioner be told which of her staff are cheating on their tax?

Challenges and Pitfalls (cont.)

- Managing our three panel firms
- Determining what to outsource
 - Do you need a large legal team at all?
 - Balancing legal budgets and external expertise against convenience and building in-house expertise

Questions?

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This presentation was current in August 2011