

LEVEL

TWENTY
SEVEN

C H A M B E R S

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Trouble in Paradise: Protecting privilege after Glencore

Judgment Summary of *Glencore v The Commissioner of Taxation* [2019] HCA 26

Sophie Gibson (Level Twenty Seven Chambers)

Liability limited by a Scheme approved under professional standards legislation

>> *Glencore v The Commissioner of Taxation* [2019] HCA 26

- LPP is not a right
- LPP is a “shield”, rather than a “sword”
- Equity *will* restrain an apprehended breach of confidential information and will do so with respect to documents which are the subject of LPP and which are confidential
- Glencore did not run an action for breach of confidence.
The Court observed it may have had difficulties in doing so because:
 - > Glencore documents were in the public domain
 - > no allegation made about the Commissioner's conduct or knowledge