



Did a recent landmark ruling just simplify royalty withholding tax? With the ATO's guidance still pending and more cases on the horizon, the impacts on your supply chain are significant.



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Payment characterization: recent developments and supply chain considerations

“Character of payment” issues (and whether royalty withholding tax is payable) are a major tax compliance issue in Australia, and increasingly in other jurisdictions. In a landmark decision handed down in August (PepsiCo), Australia’s highest court found by majority that a royalty did not exist where not expressly provided for in an agreement between unrelated parties. The decision was also the first where Australia’s Diverted Profits Tax (DPT) has been considered by the High Court. There are other cases involving similar issues yet to be heard and the Australian Tax Office (ATO) is also yet to finalize a Taxation Ruling (first issued in 2021) on the character of payments in respect of software and IP property rights (and when such payments are subject to royalty withholding tax). More generally, this remains a “watch this space” issue both in Australia and elsewhere. Read more here: [Australia's High Court dismisses Tax Commissioner's appeal in PepsiCo](#)

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