Shell sues ATO over disputed $99m tax bill; Taxation

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The biggest company traded on the London Stock Exchange, ***Shell***, is pushing an Australian court to clear it of $99 million in allegedly unpaid taxes that stem from its $3.5 billion exit from the former Woodside Petroleum.

The 2017 share sale ended ***Shell***'s more than 30-year investment in Woodside, completing a near decade-long effort to reduce its 35 per cent shareholding to nil. The sale of its final 13.3 per cent stake netted ***Shell*** about $3.5 billion, but the commissioner of taxation ruled in February it had understated its profits from the sell-down.

Federal Court filings obtained by The Australian Financial Review show the Tax Office believes the company should have declared a capital gain $193.9 million higher than first flagged in the 2017 sale. It also took aim at a 2014 share sale where it found the gain was $135.7 million higher than declared.

Shell has appealed the ruling, with a spokeswoman saying ***Shell*** "complies with all its legal and taxation obligations and is committed to paying the right amount of tax in all countries in which we operate".

"***Shell*** has a co-operative relationship with the ATO, where we discuss business activity and taxation matters on a proactive, transparent basis," she said. "It would not be appropriate to comment further at this time."

The nearly $330 million in additional capital gains would, at the company tax rate of 30 per cent, mean ***Shell*** owes at face value $99 million to the Tax Office for the disputed years.

The major ***oil*** and ***gas*** producers are "now among the largest taxpayers in Australia", the ATO said last November.

"Payments from this sector have grown markedly in the 2022-23 income tax year to in excess of $11 billion," the ATO said at the time. Receipts from the energy sector made up more than two-thirds of the $6.4 billion paid by multinational companies in the period.

An ATO spokeswoman said: "The ATO cannot comment on any current matter before the Federal Court," in response to ***Shell***'s appeal.

The Financial Review understands that ***Shell*** thinks its shares in Woodside should be treated at the lower amount due to transitional changes to the capital gains regime that were introduced in 1997 following the acquisition of its stake in 1985. The matter is set for a case management hearing on July 29.

Shell is one of the world's largest ***oil*** and ***gas*** producers, and is involved in seven major domestic projects, including the Gorgon natural ***gas*** project off the coast of Western Australia.

The Australian outpost posted a profit of $US632.7 million ($947 million) in the 2023 calendar year, filings to the corporate regulator show, less than a third of the $US2.7 billion reported only a year prior.

The accounts also show ***Shell*** Australia paid $US37 million in tax last year.

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