

What's ahead

Dates for your diary

May

- 08** **CJEU opinion:** *Finanzamt Frankfurt am Main V-Höchst v Deutsche Bank* AG C-44/11: VAT, whether portfolio management for individuals is exempt.
- 09** **Upper Tribunal hearing:** *Marcus Webb Golf Professional v HMRC* TC 323: VAT – golf tuition.
- 10** **CJEU hearings:** *3D I srl v Agenzia delle Entrate – Ufficio di Cremona* C-207/11: Compatibility with Merger Directive of Italian law taxing capital gain on transfer or exchange of shares except where transferring company carries over in its balance sheet a special reserve fund equivalent to the gain. *RVS Levensverzekeringen N.V. v Belgische Staat* C-243/11: Belgium annual tax on insurance premiums. *Mecsek-Gabona Kft. v Nemzeti Adó- és Vámhivatal Dél-dunántúli Regionális Adó Foigazgatósága* C-273/11: VAT, requirements to be satisfied by seller for intra-community supply of goods to be exempt. *EC v Finland* C-342/10: Favourable tax treatment of Finnish pension funds in comparison to foreign pension funds and other corporations.
CJEU judgments: *Santander Asset Management SGIIC SA, on behalf of FIM Santander Top 25 Euro Fi v Direction des résidents à l'étranger et des services généraux* C-338/11: Withholding tax, dividends paid to UCITS. *EC v Estonia* C-39/10: Estonian legislation taxing pensions paid to low-income non-residents at a higher rate than pensions paid to low-income residents.
- 14** **Upper Tribunal hearing:** *Segesta Ltd (formerly Blackpool Football Properties Club Ltd) v HMRC* TC 534: EIS – return of value to subscribers.
- 15** **Upper Tribunal hearing:** *AL Price v HMRC* [2011] SFTD 52: IHT – valuation of related property.
- 17** **Upper Tribunal hearing:** *HMRC v European Tour Operators Association* TC 965: VAT – whether subscriptions exempt.
- 18** **Consultations:** Revised closing date for comments on HMRC's VAT – *Addressing borderline anomalies*.
- 19** **PAYE:** Filing deadline, employer annual returns P35 and P14 for 2011/12.

In next week's Tax Journal:

- Tax on intellectual property.
- HMRC and dishonest tax agents.
- UK consortium relief and *Philips Electronics*.

One minute with ...

How did you end up specialising in civil and criminal cases involving tax disputes?

My first exposure to tax was through the VAT gold schemes in the early '80s. I can walk along Hatton Garden today, and I still get recognised, because of the number of people I kept at liberty.

Who do you most admire in tax?

I continue to be in awe of John Tiley, David Hayton and John Adams, who as Cambridge dons, taught me my tax law – so if I get anything wrong, it's down to them ...

What's the best piece of professional advice that you've been given?

The one that really sticks in my mind is from Lord Justice Hooper. I've always specialised in cross-jurisdiction work, both criminal and civil, as he did, and one day when he was leading me, he advised me to keep up the civil work. I'm glad I did because with the Revenue making increasing use of their wide powers I am now doing more civil work than criminal.

Where do you stand on the GAAR?

I'm somewhere between agnostic and doubtful. Certainly I am very enthusiastic about the possibility of it throwing up more work, but will it do the trick? I'm not sure.

HMRC has issued several tax 'amnesties'. Do you agree with that policy?

Yes. The notion of a voluntary disclosure programme is, I think, an extremely good one – and it is great to offer a significant reduction in the penalty, provided of course that all the outstanding tax and interest is paid. But do we really need separate schemes for offshore, for Liechtenstein, and for plumbers as well as doctors and Uncle Tom Cobley?

We must be careful not to offer too great an incentive. I profoundly disagree with the deal with Switzerland. It is discriminatory



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Barrister, Devereux Chambers

to treat criminals who dishonestly evade tax more sympathetically than other taxpayers if their money is held in Switzerland!

Do you sense that the judiciary is taking a tougher stance on tax avoidance?

Yes. I'm concerned about recent judicial developments in tax avoidance cases, with the pressure on the public finances generated by the global financial crisis and the recession, that the pendulum doesn't swing too far the other way. We are a society governed by the rule of law, and when people make legitimate arrangements, it seems to me that, unless they are patently sham, they should stand. There was a civil war fought over the power of Parliament to tax, and we should remember that. We are not obliged to pay a penny more than Parliament requires us to pay. It is not morally offensive to say so.

What's your view on HMRC's new contractual disclosure facility?

I'm absolutely 100% behind the rationale of the old Hansard/Code 9 procedure, but I'm concerned about the stricter terms of the new CDF. I think it will work well with small cases because if you haven't got very much to disclose, that can be easily done in 60 days. The timeframe of the CDF is too pressurised for complex cases. The reality is that complex tax cases can take ages to sort out.

If you hadn't gone into tax ...

I would have been an antique dealer.