devereux

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# David Bedenham KC

SILK 2025 CALL 2005



## Areas of Expertise

• Tax • Investigations • Judicial Review • Tax Investigations • VAT and Customs Duties • Sports Law • Administrative and Public Law • Regulatory & Professional Discipline

David Bedenham KC specialises in tax litigation. He has appeared in hundreds of tax appeals in the Tax Tribunals, Court of Appeal and Supreme Court. As well as appeals, he defends actions brought against directors (including personal penalties, directors' duty/misfeasance claims and director disqualification claims). He also has extensive experience of tax related judicial review claims and applications for interim relief (to suspend the effect of HMRC decisions).

David's cases range from those involving discrete points of law to factually heavy, multi-week appeals.

**Recent work includes:**

- Appeals against Halifax, Kittel, Fini and Ablessio decisions.
- VAT disputes (including relating to food/drink categorisation, vouchers, the scope of various exemptions and invalid invoice/alternative evidence issues).
- Excise duty disputes (including product categorisation matters, claims under movement guarantees and approval revocation/conditions)
- Customs duty disputes (including relating to classification and preferential tariff arrangements).
- Appeals against section 8 NIC decisions (including against secondary contributors based on alleged provision of "fraudulent documents").
- Penalty appeals (including s69C VATA, Schedule 24 FA 2007 and Schedule 41 FA 2008.
- Assessment time limit challenges (including the circumstances in which HMRC can rely on extended time limits on the basis of "deliberate" conduct).

- Challenges to personal liability claims (including s69D VATA, paragraph 50 of Schedule 36 FA 2008, and Schedule 24 FA 2007).
- Judicial review of HMRC decisions (including claims based on legitimate expectation and breach of the ECHR).
- Director disqualification (CDDA) proceedings based on alleged tax wrongdoing.

David has also conducted a number of independent investigations/inquiries.

Please use the drop down menus below to see further details of a selection of the matters David has acted in.

**In the legal directories David has been described as:**

“The go to Silk in the City for fact-heavy or complex VAT disputes, especially cases involving allegations of fraud. He is the leading expert on VAT fraud, Kittel cases, avoidance, abuse and penalties”, as well as:

“Approachable and highly intelligent”, “Excellent to work with”, “Down to earth and decent”, and “Great with judges and clients with a knack of knowing how to say what needs to be said”.

**Other recent directory entries state:**

“David Bedenham KC is tremendously supportive. He is responsive and very good at positioning cases in just the right way.”

“David is extremely easy to work, well organised and liked by clients. In terms of his advocacy, he's truly brilliant as he pitches his arguments so well to judges.”

“As far as his advocacy in court is concerned, David is very well polished and well presented. He has the ear of the judge and is able to think through matters quickly and rationally.”

“One of the most impressive barristers in contentious tax”

“Solicitors go back to David time and time again. He is a brilliant advocate, very good with lay clients, responsive and has a great attention to the detail of cases. He is friendly, approachable and always helpful”

“He has a really sharp mind and is good on strategy”

“He is thorough in his preparation and very commercial as well.”

“He is superb with clients and judges alike, incisive and commercial in his advice and a top advocate.”

“Has a comprehensive knowledge of Tax Tribunal procedure.”

# Recommendations

The below quotes are taken from the Legal 500 and Chambers and Partners:

“The go to Silk in the City for fact-heavy or complex VAT disputes, especially cases involving allegations of fraud. He is the leading expert on VAT fraud, Kittel cases, avoidance, abuse and penalties”

“Approachable and highly intelligent”, “Excellent to work with”, “Down to earth and decent”, and “Great with judges and clients with a knack of knowing how to say what needs to be said”.

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“Has a comprehensive knowledge of Tax Tribunal procedure.”

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# Expertise

## Tax

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David has been instructed in hundreds of tax appeals (FTT, UT, Court of Appeal and Supreme Court) as well as many judicial reviews of HMRC decisions. He has also been involved in various associated proceedings including claims brought against directors (penalties and misfeasance/breach of duty) and disqualification proceedings (CDDA).

**David’s experience includes many significant cases relating to VAT, Excise Duty and Customs Duty - ranging from classification appeals to approval revocation appeals to appeals against**

**multi-million pound assessments. He has also dealt with countless cases in which fraud and/or abuse is alleged (MTIC/Kittel/Mecsec/Halifax/Fini/Ablessio).**

David also acts for directors in penalty appeals and/or where breach of duty/misfeasance proceedings are brought often involving allegations of negligence, recklessness or fraud.

David is a former editor of the Customs Duties chapter in De Voil Indirect Tax Service and has contributed numerous articles to De Voil Indirect Intelligence. He has been described in Chambers and Partners as having "a compendious knowledge of indirect tax law" and being "very experienced and knowledgeable on indirect tax matters". In the Legal 500 David is said to "know VAT and excise better than any other junior barrister".

**Notable cases include:**

**T Ltd v HMRC: Acting for the taxpayer in this ongoing appeal in relation to the correct categorisation for VAT purposes of a well-known food/drink product.**

**M Ltd v HMRC: Providing advice to a taxpayer in relation to the VAT treatment of weight loss medication and wider weight loss programmes.**

**Ducas v HMRC :** Acted for the taxpayer in this successful appeal against a £171m assessment issued under the agency legislation (the NICs equivalent of s. 44 ITEPA 2003). As well as issuing the assessment, HMRC obtained freezing orders against Ducas and other associated companies. Following various interlocutory hearings (including an appeal to the UT in relation to disclosure) and the service of extensive evidence, and shortly before a 4 week trial was due to commence, HMRC conceded that the appeal should be allowed in full and the freezing orders discharged.

**B Ltd v HMRC**: **Acting for the taxpayer in this ongoing appeal in relation to the correct categorisation for excise duty purposes of a well-known alcoholic beverage.**

**Deos v HMRC [2025] UKFTT 1018 (TC):** Acted for the taxpayer in this successful appeal against a £1.2 VAT assessment and associated penalty.

**Redrose Payroll v HMRC [2025] UKFTT 00878 (TC):** Acted for the taxpayer in this successful appeal against a £7m Kittel VAT assessment and £2.1m s69C penalty.

**Baxendale-Walker v HMRC [2024] UKUT 00154 (TCC):** Acted for the taxpayer and successfully struck out HMRC's application for a £14 million "tax related" penalty (under paragraph 50 of schedule 36 to the Finance Act 2008)

**Ulster Metal Refiners v HMRC [2024] UKUT 00184 (TCC):** Acted for the successful taxpayer in an appeal against an FTT decision refusing to make an award of costs in favour of the taxpayer following a successful Kittel appeal (in which David had also acted for the taxpayer).

**CD v HMRC [2023] UKFTT:** Acted for the taxpayer in this successful appeal against a denial of input tax and £15 million VAT assessment. The taxpayer was an employment intermediary that had purchased (and on-supplied) labour from thousands of mini-umbrella companies. HMRC subsequently denied the intermediary's input tax under the Kittel and Fini principles. The appeal was listed for a 10-day hearing before the Tax Tribunal. On day 1, HMRC opened their case by setting out their detailed basis for applying the Kittel and Fini principles. On day 2, David opened the Appellant's case. This included drawing on the extensive evidence filed on behalf of the Appellant and raising numerous other challenges to highlight the flaws in HMRC's case. On day 3,

HMRC applied for an adjournment. That application, which was opposed by the Appellant, was refused by the Tribunal. HMRC then announced in open court that they were withdrawing their Kittel/Fini decision and VAT assessment in full. The Tribunal then ordered HMRC to pay the Appellant's costs.

**Bachra v HMRC [2023] UKFTT 91 (TC):** Acted for the taxpayer in this successful appeal against a £1.2million Personal Liability Notice issued to the director of a company under paragraph 19 of Schedule 24 FA 2007. HMRC had denied a company input tax on the Kittel basis and issued it with penalties under Schedule 24 of the Finance Act 2007. HMRC had then issued Personal Liability Notices (in the amount of £1.2 million) to the director of the company on the basis that inaccuracies in the company's vat returns were deliberate and attributable to the director. David acted for the director and successfully argued that the inaccuracies were not deliberate. The FTT allowed the appeal and quashed the Personal Liability Notices in full.

**Pavan Trading v HMRC:** Acted for the taxpayer in this successful appeal against HMRC's decision to refuse the right to zero-rate supplies made to customers in the United States on the basis that the Appellant did not hold sufficient evidence of export. HMRC issuing a corresponding assessment to output tax. David successfully argued that the Appellant did have sufficient evidence of export and that HMRC had made multiple errors in their approach to the case. The FTT allowed the appeal in full.

**AB v HMRC [2022] UKFTT:** Acted for the taxpayer in this successful appeal against a £1.5million Personal Liability Notice issued to the director of a company under paragraph 19 of Schedule 24 FA 2007. HMRC alleged that the company has suppressed large volumes of sales and thereby under-declared its VAT liability. HMRC further alleged that the suppression and under-declaration was deliberate and attributable to the director. Following submission of written arguments, HMRC conceded that the appeal should be allowed.

**Lynton Exports (Alsager) Ltd v HMRC [2022] UKFTT 224 (TC):** Acted for the taxpayer in this successful appeal against a denial of input VAT (on the Kittel basis) and a denial of the right to zero-rate (on the Mecsek basis) in relation to purchases and sales of soft drinks and confectionery. As a result of these decisions, HMRC assessed the taxpayer for £9.8 million of VAT. The Tribunal allowed the appeal in full and discharged the assessments.

**International (Plywood) Importers Ltd v HMRC:** Acted for the taxpayer in this appeal against C18 assessments issued because HMRC had formed the view that certain goods imported from Brazil should be classified as "plywood" rather than "shuttering" (to be used for concrete formwork).

**YZ v HMRC:** Acted for the taxpayer in this appeal relating to the correct customs duty classification of certain machine parts.

**Hare Wines v HMRC [2022] UKFTT (TC):** Acted for the taxpayer in this appeal against a decision refusing to grant registration under the AWRS. The Tribunal allowed the appeal finding the decision was one that could not reasonably have been arrived at.

**Z Ltd v HMRC [2022]:** Acted for the taxpayer in this appeal against a £1.2 million VAT assessment (raised on the Facet basis). After a multi-day hearing, HMRC conceded the case and the appeal was allowed in full.

**PTGI v HMRC [2022] UKFTT 00020 (TC):** Acted for the taxpayer in this appeal against a denial of £19 million of input VAT (on the Kittel basis) incurred on the purchase of telecommunication services/airtime. The Tribunal allowed the appeal in full.

**Cantina Levorato v HMRC [2021] UKFTT 0461 (TC):** Acted for the taxpayer in this appeal against £1.3 million of excise duty assessments relating to duty suspended movements of wine (Italy to the UK). The Tribunal allowed the appeal in full.

**Ulster Metal Refiners v HMRC [2021] UKFTT 0286 (TC):** Acted for the taxpayer in this appeal against a denial (on the Kittel basis) of input VAT incurred on purchases of soft drinks. The Tribunal allowed the appeal in relation to the vast majority of the denied input tax, finding that HMRC had not properly traced the transaction chains and had therefore not established a connection with fraud.

**HMRC v Martyn Perfect:** Acted for the taxpayer (in the Upper Tribunal, Court of Appeal and CJEU) in this case relating to the liability of "innocent agents" for unpaid excise duty.

**R Ltd v HMRC [2021]:** Acted for the taxpayer in this appeal against a penalty for alleged breach of the AWRS Regulations. The Tribunal allowed the appeal in full finding that there had been no such breach.

**Casa Di Vini v HMRC [2021] UKFTT 0011 (TC):** Acted for the taxpayer in this appeal against a decision refusing to grant registration under the AWRS. The Tribunal allowed the appeal finding the decision was one that could not reasonably have been arrived at.

**Logfret v HMRC [2020] EWCA Civ 569:** Acted for the taxpayer in the Court of Appeal in this case relating to the liability of a guarantor in respect of goods moved under duty suspension arrangements.

**R (OAO JJ Management) v HMRC [2020] EWCA Civ 784:** Acted for the Claimants in the Court of Appeal (and High Court) in this judicial review challenge to HMRC's powers to conduct "informal investigations".

**HMRC v Smart Price [2019] EWCA Civ 841:** Acted for the taxpayers in the Court of Appeal (and Upper Tribunal and FTT) in this case concerning the circumstances in which HMRC can be required to disclose all documents reviewed by the decision making officer (rather than simply the documents relied on).

**OWD and Anr v HMRC [2019] UKSC 30:** Acted for the traders in the Supreme Court and Court of Appeal in this case relating to the ability of HMRC to grant (or the High Court to order) a temporary approval to a trader pending an appeal to the FTT against a decision that would otherwise prohibit trading. Following this decision, the law was changed to introduce a statutory temporary approvals regime for certain trade sectors.

**Ulster Metal Refiners v HMRC [2017] NICA 26:** Acted for the taxpayer in this Court of Appeal case relating to HMRC's pleading obligations. David was called to the Bar of Northern Ireland on a temporary basis specifically to deal with this case. The Court of Appeal allowed the appeal and referred the case back to the FTT for a rehearing.

**Abbey Forwarding Ltd:** Acted for Abbey and its directors in various aspects of this long running litigation (including the successful defence of the misfeasance claim brought against Abbey's directors and the successful challenge to excise and VAT assessments raised against Abbey)

**R (OAO) Millennium Cash and Carry v HMRC:** Acted for the successful taxpayer in this judicial review of HMRC's decision to detain in excess of £1m of trading stock.

**Swanfield and QN Hotels v HMRC [2017] UKUT 88:** Acted for QN Hotels in the Upper Tribunal. QN was successful in arguing that payments made to HMRC can be allocated to a current VAT period (even if that VAT period has not yet closed) which can greatly reduce the level of default penalties a taxpayer is liable for.

**X Ltd v HMRC:** Acted for HMRC in this VAT appeal about the correct treatment of pre-paid telephone calling cards.

**HMRC v Asda Stores Ltd [2013] UKUT 223 (TCC):** Acted for HMRC in this Upper Tribunal customs duty appeal concerning articles 29 and 32 of the Community Customs Code and valuation of imported goods.

**GFT UK Retail Ltd v HMRC [2012] UKFTT 481 (TC):** Acted for HMRC in this excise duty appeal about whether alcoholic spirits in 'gel' form are exempt from Article 27 of Directive 92/83/EEC.

**HMRC v Roll Your Own Ltd:** Acted for the taxpayer in this challenge to a seizure of tobacco and 'rolling' machinery worth in excess of £400,000. In issue was whether tobacco products produced by RYO were 'smokeable' such as to create a duty point.

**Orlight Ltd v Revenue & Customs [2013] UKFTT 732 (TC):** Acted for the taxpayer in this Customs duty appeal relating to the correct classification of LED light bulbs.

**Ilford Cellular v HMRC [2013] UKFTT 435 (TC):** Acted for HMRC in this VAT appeal against a denial of input tax on the basis that the relevant taxable supply was connected with MTIC fraud and the Appellant should have known of that connection.

**Big Misters Shipping Co v HMRC [2011] UKFTT 790 (TC):** Acted for HMRC in this appeal relating to import VAT and eligibility for Onward Supply Relief.

**Opticare Ltd v Revenue & Customs [2013] UKFTT 266 (TC):** Acted for HMRC in this VAT appeal concerning s26A VATA and disallowance of input tax where consideration not paid.

**TL Smith Properties Ltd & Anor v Revenue & Customs [2011] UKFTT 528 (TC):** Acted for HMRC in this VAT appeal relating to whether building works constituted an extension or enlargement of an existing building for the purposes of Group 5 of Schedule 8 of VATA.

**R (OAO Seabrook Warehousing Ltd & Ors) v HM Revenue and Customs**

**[2010] EWCA Civ 140:** Acted for the Claimants in this Judicial review of HMRC's decision to abolish the WFE scheme in relation to alcohol export.

**HMRC v Livewire Telecom Limited [2009] EWHC 15 (Ch):** Acted for HMRC in one of the first appeals concerning the Kittel test.

## Administrative and Public Law

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David's public law work focuses on challenges to regulatory decisions (including HMRC, Data Protection and decisions by professional bodies/regulators).

David has also secured numerous injunctions/temporary approvals to allow businesses in the regulated sector to continue to operate pending the determination of associated statutory

appeals.

## Investigations

Between 2016 and 2021, David was instructed as the senior member of the counsel team assisting Clive Sheldon KC in the Independent Review into Sexual Abuse in Football.

David has been involved with investigations where concerns about misconduct, impropriety or other wrongdoing were in issue, as well as cultural/practice reviews. He is adept at interviewing witnesses and preparing accessible and user-friendly investigation reports.

## Sports Law

Between 2016 and 2021, David was instructed as the senior member of the counsel team assisting Clive Sheldon KC in the FA's Independent Review into Sexual Abuse in Football.

David was also for a number of years a member of the Sport Resolutions panels hearing a variety of sports disciplinary cases and being involved in various investigations/reviews.

## Additional Information

As well as being admitted in England and Wales, David is admitted in the High Court of Australia and the Supreme Court of Western Australia. In addition, he has experience of the American legal system having completed an LL.M in Virginia. David has also appeared before the Court of Appeal of Northern Ireland (having been granted temporary admission).

David also holds appointments as a Judge of the Tax Tribunal and as a Recorder of the Crown Court.

# Education

Albion Richardson Scholarship, Gray's Inn (BVC)

LLM – College of William and Mary, Virginia (Drapers' Company Scholarship)

LLB – University of London

# Appointments

Judge of the Tax Tribunal

Recorder of the Crown Court.

# Awards






# For enquiries & instruction please contact



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