

## Tax disputes and investigations: Capability Statement

Burges Salmon's nationally recognised contentious tax team regularly deals with disputes and investigations in respect of both direct and indirect taxes. We can be involved at any stage of a dispute and are well equipped to deal with any procedure from initial enquiries to fraud investigations. We undertake litigation (including advocacy) in Courts and Tribunals from the FTT to the Court of Appeal. We are experienced in resolving disputes through mediation and arbitration. We advise both high net worth individuals and corporate clients in respect of their UK tax liabilities, often involving cross-border or international aspects.

Our team of tax litigation specialists also advises in relation to claims arising from contractual tax indemnities and warranties as well as pursuing claims against tax professionals for losses resulting from negligent advice.

### Some of our recent experience

#### Companies and business

- successfully bringing to an end a long-running dispute between HMRC and a corporate taxpayer, achieving dismissal of the claim and securing compensation from HMRC for the way in which the taxpayer had been treated
- settling a dispute with HMRC in relation to taxation of loan financing
- persuading HMRC to withdraw allegations that our clients had under-declared profits from their bar business
- resolving the tax issues involved in contentious demergers and company partitions

#### Employment taxes

- successfully concluding a multi-million pound dispute with HMRC over a s425 ITEPA planning arrangement in which HMRC withdrew its case entirely
- negotiating the complete withdrawal by HMRC of possible back-assessments to PAYE and NICs in a number of employment status disputes
- advising in relation to judicial review of HMRC's refusal to grant relief under s392 ITEPA in relation to a FURBS from which the client had since been entirely excluded from benefit

#### Individuals

- taking a case to the Special Commissioners which has since become a leading authority in determining when HMRC can issue discovery assessments and which has been cited in various subsequent cases
- appealing HMRC's determinations in respect of points of substantive law affecting inheritance tax liabilities
- settling a dispute with HMRC about the availability of main residence relief for property held in a trust just before going to Tribunal

#### International and cross-border

- resolving a dispute with HMRC about the residence status of an individual, in which HMRC withdrew their case
- acting for an international client in a multi-million pound dispute with the Thai tax authorities
- acting for a wealthy non-domiciled client in a detailed enquiry by HMRC into split-contract arrangements
- making disclosures under HMRC's COP9 procedure for a civil fraud investigation in relation to income from offshore bank accounts

#### VAT

- appealing HMRC's decision to deny a business the right to deduct input tax on invoices for the supply of services to the appellant by a third party
- acting for traders in VAT/MTIC fraud appeals at Tribunal
- acting for an individual to recover input VAT on the purchase and charter of a yacht (including accounting under the *Lennartz* principle)
- a successful appeal against HMRC in respect of customs duty classification of imported food products

#### Claims against potentially negligent tax advisors

- achieving a beneficial settlement for a client pursuing an action against a firm of accountants for allegedly faulty advice in relation to income tax on an offshore trust
- negotiating a settlement with HMRC for a group of individuals potentially missold Capital Redemption Contracts in the Isle of Man and unwinding the CRCs

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- negotiating with HMRC on behalf of a group of individuals sold a potentially fraudulent SDLT scheme by a firm of solicitors and simultaneously seeking compensation from the Solicitors' Regulation Authority

### Burges Salmon's enhanced offering

Burges Salmon's excellent tax capability for tax investigations and disputes has recently been further enhanced by the recruitment of Senior Associate Zoe Fatchen. Zoe qualified in 2001 with what is now Pinsent Masons and more recently worked as a Senior Associate in the multi-award winning tax litigation practice at the London office of US firm Dorsey & Whitney. She has taken cases from the point of initial assessment and strategic and technical advice to the Tribunal, High Court and beyond, advising a range of clients from UK individuals to multinational companies and groups. Her recent experience includes:

- Appeals to the First Tier Tax Tribunal in respect of inheritance tax, income tax arising from partnership interests and customs duties
- COP9 (civil fraud) investigations and disclosures
- High Court applications and preparation for hearings at the Court of Appeal in the context of group litigation orders for multinational companies

### Adding value

As a result of their combined experience, Burges Salmon's tax litigation specialists are ideally placed to advise clients in the context of tax disputes of all kinds and tax litigation at all levels.

The team understand that the raising of an enquiry or the commencement of an investigation by HM Revenue and Customs can have a serious effect on the operation of a business or on the life of an individual. It takes up time and resources, and has potentially onerous financial and reputational implications for businesses and individuals. We are sensitive to these issues and strive to achieve the most practical and cost-effective result possible, engaging HMRC in negotiations with a view to avoiding litigation wherever our clients wish to do so and providing robust support in our clients' defence when the circumstances demand it.

### If you have any further questions, please contact:



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