



## Scott Redpath

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Call 1996

### PRACTICE

I have a substantial litigation practice, and provide advocacy services at all levels. I advise widely in proposed actions, on-going litigation and settlement, and have experience in mediation.

I specialise in all areas of revenue law, both corporate and personal, direct and indirect.

I have extensive experience in pensions and employment litigation, advice and drafting. I advise on all commercial and trust aspects of corporate and executive pensions, public sector and overseas arrangements.

I am a prominent civil and criminal asset recovery practitioner, and have acted in a number of high profile recovery cases. I have been instructed in criminal confiscations, cash forfeitures, and civil recovery matters with an emphasis on complex fraud, money laundering, direct and indirect tax and duties evasion, MTIC, pensions fraud and acquisitive regulatory offences.

Appointed Junior Counsel to the Crown (Regional Panel: Northern Circuit).

**An illustration of topical matters that I have recently been instructed on:**

### REVENUE

· *Eatough v HMRC* [2011] UKFTT 335 (TC); Excise Duty – HODA 1979 – section 108 CEMA 1979 - Whether assessment to excise duty lawfully raised – Council Directive 92/12/EEC - whether review decision upholding assessment reasonable

· High Court (QBD) tax indemnity; in wake of *Drummond v HMRC* [2009] EWCA Civ 608

· FTT: Share Valuation – CGT

· FTT: Duties & Excise – HODA - Road construction industry

- Advising: Partnership remuneration
- Advising: Employee Car Ownership Scheme
- High Court - enforcement proceedings – in wake of *Tower MCashback* appeals
- High Court - EIS – negligence/breach of contract – misrepresentation – (settled)
- IT and PAYE implications for professional sports team – overseas players – temporary contracts
- CT, IT, CGT and regulatory compliance implications for proposed agreement - annuity – EBT - EFRBS
- Enforcement and Part 20 claim – failure to follow CPC and IPR procedures – post clearance demand notes – in wake of ECJ appeals in *Terex* and *Wilson*
- Insolvency - Pre-pack administration – TUPE implications
- Succession planning - IP rights – company shares – CT - CGT – IHT – BPR implications
- NI – oriental carpet schemes – tribunal and on-going enforcement proceedings – limitation/Article 6 – trial in reasonable time

## PENSIONS

- *Department for Children, Schools and Families v Molyneux* [2010] All ER (D) 213 – (Pensions Ombudsman jurisdiction – maladministration – Teachers' Pension Scheme Regulations – exercise of discretion - evidence)- (on appeal)
- High Court - occupational pension scheme, dead-locked trustees, commercial property valuation, winding up, death benefits, in specie transfers, taxation (pre and post A-Day): (settled at mediation)
- High Court – claim to pension provision – concealment (trial of evidence) – *res judicata* – successful limitation defence
- Proposed proceedings: bankruptcy – personal pension policy – validity of forfeiture clause – claim brought by estate of deceased bankrupt
- Proposed High Court proceedings - construing pension scheme documentation – successive pre/post 'section 67' variations to early leaver provisions in foreign-owned multi-employer scheme
- High Court - negligent legal advice – ancillary relief proceedings – pension sharing order advised contrary to lay parties' desire for earmarking order (settled)

- High Court – occupational pension scheme - defending employer and Part 20 claim against intermediary – breach of contract – misrepresentation – negligence - restitution (settled)
- Industrial disease compensation scheme – for claimant – dispute as to proper construction of formula benefits payable (settled)
- Advising foreign Government on UK Pension arrangements – Pensions Regulator
- Advising – mortgage lending – equity participation – SIPPs – compliance
- HMRC dispute – Qualifying Recognised Overseas Pensions Scheme (QROPS)
- Advising on use of QROPS in a proposed investment structure
- Advising SIPP – anti-avoidance - recycling provisions – Schedule 35 FA 2009 - anti-forestalling measures - corporation tax deductions
- Commercial drafting – Sch 29A FA 2004 – pension scheme acquisition and holding of taxable property - commercial property investment syndicate

#### EMPLOYMENT

- *Elaine Bulley, HMIT v Hemmer Investments Limited* [2010] STC 1779 (Vice Chancellor) (contracts of employment – income tax - PAYE collection and enforcement) – (Permission to appeal)
- *J & R Farragher t/a Potens v Davies* [2008] UKEAT/0249/08 and 0250/08 (EAT: *Polkey* principle and costs)
- Regularly instructed by a number of Government Departments in the ET
- County Court – employed/self-employed - breach of contract – variation of contract - discretionary bonus scheme – company loans - PAYE/NICs
- National Minimum Wage – HMRC disputed application of NMW Regs to training contracts (resolved)
- ET – for claimant – disability discrimination – lifetime pension losses in private sector final salary pension scheme – application of compensation guidelines –favourable high value settlement at Court

#### CIVIL AND CRIMINAL ASSET RECOVERY

- *R v Roach* [2008] EWCA Crim 2649 Court of Appeal (mortgages, secured and unsecured loans, mixed tainted and untainted funds – confiscation)

- *Jennings v CPS* [2008] 1 AC 1046 House of Lords (“benefit”)
- *CPS v Jennings* [2006] 1 WLR 182 Court of Appeal (restraint orders – Practice Note)
- Third party pension trustees application to vary restraint order
- Complex confiscation proceedings (2008 – 2011) in excess of £1m; currently on appeal
- Complex confiscation proceedings (2007 – 10); Crown Court (confiscation), Court of Appeal, High Court (Administrative) (enforcement) - VAT evasion, ‘benefit’, property rights, occupational pension scheme; and taxation – leading into civil recovery proceedings brought by SOCA (settled) (2008 – 2010)
- Cash forfeiture – successful third party application for return of cash – tracing/following – foreign exchange
- Confiscation proceedings – Crown Court – immigration offences - “turnover” as a measure of benefit in a predominantly mechanised industry
- Restraint Order – Crown Court – variation proceedings – third party property – constructive trusts
- Senior Court Costs Office – reserved costs hearing following discharge of restraint order – proper basis for exercise by Director of Assets Recovery Agency of Revenue Powers under POCA in issue – income tax and corporation tax assessments – for successful defendant
- Judicial Review – alleged MTIC – trading mobile phones – challenge HMRC “extended verification”

**Professional Memberships:** Revenue Bar Association; Association of Pensions Lawyers; Chancery Bar Association; Northern Chancery Bar Association; Employment Lawyers Association; Employment Law Bar Association; Industrial Law Society; Standing Conference of Mediation Advocates.

**Also at Temple Tax Chambers, London**