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BHP PRIVATE CLIENT TAX

Case Review

Issue 1

Twelve private client tax, trust and probate decisions every adviser should know

This first issue brings together recent private client tax, trust, probate and tribunal decisions with practical consequences for individuals, families, trustees, personal representatives, business owners and advisers.

The focus is not academic commentary for its own sake. Each case shows how statutory wording, commercial substance, evidence, jurisdiction and procedure can alter the outcome.

Taken together, these decisions provide a working guide to the issues currently shaping private client tax and advisory work.

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Bell Howley Perrotton | Specialist tax advisory firm

BHP provides independent, partner-led written tax opinions on complex property and private-client tax matters. We work alongside clients and their existing professional advisers, with a clearly defined scope that preserves the referring firm's wider client relationship.

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This first issue of BHP Private Client Tax Case Review brings together twelve private client tax, trust, probate and tribunal decisions selected for their practical relevance to clients and advisers.

Why these cases matter

CLASSIFICATION	DATE	SOURCE
Private client tax case review	September 2026	Bell Howley Perrotton

Private client disputes rarely turn on tax rates alone. Company-law form, trust and probate jurisdiction, contractual evidence, HMRC powers and tribunal procedure can decide whether relief is available, whether a liability survives and whether a client ever reaches the substantive merits.

This issue selects twelve decisions from the Upper Tribunal, High Court and First-tier Tribunal for their practical effect on capital extraction, disguised remuneration, wills, family care, enquiry evidence, enforcement and appeals.

The focus is the point a private client, trustee, personal representative, business owner or adviser can act on now: what to document, which statutory route applies, where evidence is needed and which procedural deadline cannot safely be missed.

KEY POINT	**The recurring message is that private client outcomes depend on the legal route actually available, the statutory wording actually engaged and the evidence actually held when the relevant event occurs.**

The result is a concise working guide rather than a comprehensive case digest. Each article identifies the operative decision, the immediate practical response and the jurisdictional, evidential or procedural limits which remain on the watch list.

HOW BHP WORKS	**BHP provides independent, partner-led written tax opinions on complex property and private-client matters. We work alongside the client's existing professional advisers, define our scope clearly and do not seek to displace the referring firm.**

1 When a return of capital becomes income

The Executors of Paul Hunt, James Hunt and Robert Davis v HMRC [2026] UKUT 342 (TCC)

Upper Tribunal (Tax and Chancery Chamber) | 2 September 2026 | Transactions in securities / capital reduction / close companies

Court	Upper Tribunal (Tax and Chancery Chamber)
Issue	Whether a £10 million capital reduction fell outside the transactions in securities rules
Outcome	Taxpayers' appeal dismissed; HMRC's counteraction remained effective
Client focus	Shareholders, owner-managed companies, corporate advisers and private client practitioners

BACKGROUND AND CONTEXT

Golf Holdings Ltd cancelled one million shares and credited £10 per share—£10 million in total—to the shareholders' loan accounts. The cancellations were proportionate, so the shareholders' ownership percentages did not change, and the company had distributable reserves exceeding the amount returned.

The shareholders reported the receipts as capital. HMRC instead issued counteraction notices under the transactions in securities legislation, treating the arrangements as producing an income tax advantage.

WHAT HAPPENED

The taxpayers relied on section 685(6) of the Income Tax Act 2007, arguing that a genuine repayment of subscribed capital should be excluded. They also contended that the statutory wording contained an obvious drafting mistake which the Tribunal could correct.

The Upper Tribunal rejected both arguments. A repayment by a company incorporated in England and Wales did not fall within the exclusion as enacted, and the conditions for judicial correction of legislation were not met.

DECISION

The appeal was dismissed. The legal effectiveness of the capital reduction under company law did not determine its tax treatment under the transactions in securities code.

Capital reductions, share buybacks and similar extraction arrangements therefore require a separate anti-avoidance analysis. Advance statutory clearance should be considered before implementation where an income tax advantage may arise.

PRACTICAL IMPLICATIONS

- Analyse the transactions in securities rules separately from company-law validity.
- Document the commercial reason for choosing capital reduction rather than dividend extraction.
- Review distributable reserves, ownership changes and the origin of the company's capital.
- Consider statutory clearance before value is extracted.

WHY IT MATTERS	A payment can be a genuine repayment of share capital and still be counteracted as income. The legal label attached to the extraction does not answer the tax question.

LIMITATIONS AND WATCH POINTS

The result turned on the precise wording of section 685(6) and the way the appeal was argued. It does not mean that every capital reduction is counteracted, but it removes any assumption that company-law capital is automatically tax capital.

KEY TAKEAWAY	Treat every close-company capital extraction as a tax transaction in its own right; do not rely on the company-law label.

2 When repayment is not repayment

Grand Smile Design Ltd v HMRC [2026] UKFTT 1248 (TC)

First-tier Tribunal (Tax Chamber) | 26 August 2026 | Loan charge / disguised remuneration / composite transactions

Court	First-tier Tribunal (Tax Chamber)
Issue	Whether connected transactions genuinely repaid quasi-loans before the loan-charge date
Outcome	Appeal dismissed; £386,838.24 remained outstanding for loan-charge purposes
Client focus	Individuals, employers, EBT users, accountants and tax dispute advisers

BACKGROUND AND CONTEXT

The company's directors had participated in the Qubic Gold Bullion arrangements and received quasi-loans through an employee benefit trust. HMRC accepted that some genuine repayments had been made, but £386,838.24 remained disputed in relation to Dr Keppel.

A further arrangement used finance obtained by the trust and a purchase of shares from Dr Keppel to create cash movements said to reduce the outstanding balance. A separate finance fee was also treated as a repayment.

WHAT HAPPENED

The legislation reduced the loan-charge balance only by a payment made in money by way of repayment. The FTT examined the connected steps realistically and as a composite whole rather than isolating each bank transfer.

The movements did not impose the genuine economic cost ordinarily associated with repayment. In substance, the trust acquired shares rather than receiving a true cash repayment from the borrower, and the finance fee did not reduce the loan.

DECISION

The PAYE and NIC appeals were dismissed. The disputed arrangements did not reduce the outstanding quasi-loan at 5 April 2019.

The decision reinforces the need to trace the origin, destination and economic burden of funds. Transaction diagrams and temporary cash movements are not substitutes for a real discharge of debt.

PRACTICAL IMPLICATIONS

- Trace the complete cash flow and identify who bears the economic cost.
- Distinguish a payment in money from a transfer of shares or other assets.
- Review promoter-led loan-repayment solutions independently and as a whole.
- Preserve evidence of genuine third-party funding and permanent debt reduction.

WHY IT MATTERS	**A circular movement of money may look like repayment in the documents while leaving the borrower's economic position unchanged. The loan-charge test focuses on genuine repayment, not choreography.**

LIMITATIONS AND WATCH POINTS

This is a First-tier Tribunal decision and does not establish that borrowed funds can never be used to repay a loan. Ordinary commercial refinancing may be effective where it creates a real and enduring economic burden.

KEY TAKEAWAY	**For loan-charge purposes, repayment requires real economic substance; linked cash movements alone are not enough.**

3 Why a Court of Protection finding may not determine whether a will is valid

Julie Marie Croll v The Estate of Margaret Mary Thorpe & Ors [2026] EWHC 2232 (Ch)

High Court (Chancery Division) | 28 August 2026 | Probate jurisdiction / testamentary capacity / Court of Protection

Court	High Court (Chancery Division)
Issue	Whether lifetime Court of Protection findings determined the later probate proceedings
Outcome	Strike-out and summary-judgment application dismissed
Client focus	Testators, families, executors, deputies, attorneys and contentious probate advisers

BACKGROUND AND CONTEXT

Arthur Thorpe made a will in 2021 leaving his estate principally to his daughter Julie Croll. During his lifetime, Court of Protection proceedings resulted in an order purporting to record that he lacked testamentary capacity when the will was made and that the will was invalid.

After his death, Ms Croll sought to propound the 2021 will. The defendants argued that the earlier findings already determined the issue and applied to strike out the probate claim or obtain summary judgment.

WHAT HAPPENED

The High Court held that section 15 of the Mental Capacity Act 2005 did not empower the Court of Protection to make a binding declaration about testamentary capacity at a historic date. Nor could it determine the validity of a will while the testator remained alive.

A will is ambulatory until death, and the question whether it should be admitted to probate belongs to the probate jurisdiction. Issue estoppel did not prevent the later claim from proceeding.

DECISION

The defendants' application was dismissed. The earlier evidence and findings may still be powerful at trial, but they did not conclusively determine the validity of the will.

Advisers should distinguish carefully between current-capacity decisions made for a living person and the Probate Court's later determination of testamentary validity.

PRACTICAL IMPLICATIONS

- Obtain the complete Court of Protection order, judgment and evidence.
- Preserve the solicitor's will file, medical records and witness evidence.
- Distinguish procedural success from proving the will is substantively valid.
- Frame capacity evidence around the date and legal test relevant to the will.

WHY IT MATTERS	**A lifetime capacity finding can be highly persuasive without amounting to a probate judgment delivered in advance. The correct forum and statutory jurisdiction remain decisive.**

LIMITATIONS AND WATCH POINTS

The High Court did not validate the 2021 will or decide that Mr Thorpe had testamentary capacity. Those substantive questions remained for the probate proceedings.

KEY TAKEAWAY	**Court of Protection findings may shape the evidence, but the Probate Court determines whether a will is valid after death.**

4 Does "survive me" exclude a deceased child's children?

James v James [2026] EWHC 2190 (Ch)

High Court (Chancery Division) | 26 August 2026 | Will construction / section 33 Wills Act 1837 / substitution

Court	High Court (Chancery Division)
Issue	Whether survivorship wording showed a contrary intention sufficient to exclude section 33
Outcome	Granddaughter entitled to take her late father's share by statutory substitution
Client focus	Testators, beneficiaries, executors, will drafters and probate practitioners

BACKGROUND AND CONTEXT

Constantia James's 1994 will left the residue to her two sons, Mark and Jonathan, "as shall survive me and attain the age of twenty-one years". Mark died before his mother, leaving a daughter, Olivia.

Jonathan argued that the survivorship wording meant he alone took the residue. Olivia relied on section 33 of the Wills Act 1837, which ordinarily substitutes the issue of a deceased child unless the will shows a contrary intention.

WHAT HAPPENED

The High Court distinguished the condition governing whether the named son could take personally from the separate statutory question of whether his descendants could take by substitution.

The words "as shall survive me" and the surrounding proviso did not demonstrate a sufficiently clear intention to disapply section 33. The statutory default therefore operated.

DECISION

Olivia took the share which her father would have received had he survived the testator.

The judgment shows why survivorship language should not be used as shorthand for excluding section 33. Where exclusion is intended, the will should say so expressly and identify the alternative destination of the failed share.

PRACTICAL IMPLICATIONS

- Review older wills containing survivorship wording and partial substitution clauses.
- State expressly whether section 33 is to apply to each relevant gift.
- Provide a complete destination for every failed or substituted share.
- Check the position where substitute beneficiaries are minors or also predecease.

WHY IT MATTERS	**Survivorship and statutory substitution answer different questions. A child may fail to take personally while that child's descendants still inherit under section 33.**

LIMITATIONS AND WATCH POINTS

The decision turns on the wording and structure of this particular will. Clear express drafting can exclude section 33 where that accurately reflects the testator's intention.

KEY TAKEAWAY	**If substitution is to be excluded, say so expressly; do not expect "survive me" to do all the work.**

5 When family care becomes a debt of the estate

Rogers v Wills [2026] EWHC 2231 (Ch)

High Court (Chancery Division) | 25 August 2026 | Family care / contractual remuneration / estate liabilities

Court	High Court (Chancery Division)
Issue	How reasonable remuneration should be valued where a family care contract had been established
Outcome	Claimant awarded £127,500 plus interest
Client focus	Families, executors, attorneys, deputies, carers and estate advisers

BACKGROUND AND CONTEXT

Bernadette Rogers provided intensive care to her elderly mother for approximately two and a half years. An earlier judgment had established that the parties intended the care to be remunerated, although no precise rate had been agreed.

The 2026 hearing concerned quantum: what amount represented reasonable payment for the services and therefore a liability of the estate.

WHAT HAPPENED

The High Court treated the probable market cost of obtaining the same or similar care as the appropriate starting point. The value was not automatically reduced because the carer was a daughter rather than a commercial agency.

Nor was a discount required by reference to the daughter’s own tax position or alternative earnings. Once liability was established, the task was to value the benefit received by the parent.

DECISION

The court awarded £127,500 plus interest. The result recognises that family care can create an enforceable estate debt where the evidence shows that payment was intended.

Families should record the arrangement during the parent’s lifetime, including services, payment basis, expenses and the interaction with any attorney or deputy role.

PRACTICAL IMPLICATIONS

- Document whether care is gratuitous, reimbursed or contractually remunerated.
- Keep care logs, expenses, communications and evidence of work given up.
- Address conflicts where the carer is also an attorney or deputy.
- Executors should investigate family-care claims rather than accept or reject them automatically.

WHY IT MATTERS	**Once a family care arrangement is contractual, there is no automatic "family discount". Comparable market care costs may provide the best evidence of reasonable remuneration.**

LIMITATIONS AND WATCH POINTS

The earlier judgment had already established liability. This decision does not mean that every child who assists a parent can claim payment from the estate.

KEY TAKEAWAY	**Agree and record family-care terms while everyone is alive and capable; otherwise the estate may inherit both the debt and the dispute.**

6 HMRC's withdrawal is not enough—but an inadequate review can justify costs

Colin Sagar v HMRC [2026] UKFTT 1247 (TC)

First-tier Tribunal (Tax Chamber) | 27 August 2026 | Rule 10 costs / HMRC review / withdrawal of decisions

Court	First-tier Tribunal (Tax Chamber)
Issue	Whether HMRC acted unreasonably in defending two appeals which it later withdrew
Outcome	Costs awarded in the input-tax appeal; refused in the penalties appeal
Client focus	Taxpayers, accountants, litigators and HMRC enquiry advisers

BACKGROUND AND CONTEXT

HMRC withdrew the decisions under appeal in two related proceedings: an input-tax appeal and a penalties appeal. Mr Sagar sought costs on the standard and indemnity bases and also pursued a wasted-costs order.

The central question under Rule 10 was not whether the original decisions were wrong, but whether HMRC had acted unreasonably in bringing, defending or conducting the tribunal proceedings.

WHAT HAPPENED

In the input-tax appeal, material documents had already been supplied to HMRC during the enquiry. They should have been identified and considered during HMRC's statutory review after the appeal was notified.

Continuing to defend that appeal without an adequate review crossed the unreasonable-conduct threshold. The evidence did not justify the same conclusion in the penalties appeal, and the more exceptional indemnity and wasted-costs applications failed.

DECISION

Costs were awarded on the standard basis in the input-tax appeal only. The amount was left for agreement or assessment.

A successful costs application requires a precise chronology showing what HMRC held, when it should have reconsidered its case and why continued defence became objectively unreasonable.

PRACTICAL IMPLICATIONS

- Show when each material document was supplied and to which HMRC team.
- Focus the application on litigation conduct after the appeal began.
- Treat withdrawal as evidence, not as automatic proof of unreasonableness.
- Reserve indemnity and wasted-costs arguments for genuinely exceptional conduct.

WHY IT MATTERS	**The FTT's costs threshold is high but real. HMRC may defend an arguable case, but it cannot ignore decisive material already in its possession and continue without a proper review.**

LIMITATIONS AND WATCH POINTS

The ruling is fact-specific and concerns Rule 10 conduct in two particular appeals. Withdrawal alone remains insufficient to justify a costs order.

KEY TAKEAWAY	**For costs, prove when HMRC's conduct became unreasonable—not merely that HMRC ultimately withdrew or lost.**

7 When cashflow problems become personal exposure

Precision Fabrications Andover Ltd & Ors v HMRC [2026] UKFTT 1255 (TC)

First-tier Tribunal (Tax Chamber) | 28 August 2026 | PAYE and NIC / security notices / director exposure

Court	First-tier Tribunal (Tax Chamber)
Issue	Whether security of £150,109.12 was necessary for the protection of the revenue
Outcome	Security notices confirmed; compliance period extended to 60 days
Client focus	Employers, directors, owner-managed businesses and restructuring advisers

BACKGROUND AND CONTEXT

HMRC required Precision Fabrications Andover Ltd and its directors jointly and severally to provide £150,109.12 security for PAYE and National Insurance liabilities for a 24-month period.

The company relied on customer insolvency, slow payment, bad debts and invoice-finance difficulties. HMRC relied on a longer pattern of late and incomplete payment, warning letters, Time to Pay arrangements and liabilities accruing after an earlier notice had been withdrawn.

WHAT HAPPENED

On whether security was necessary, the FTT's role was supervisory: it asked whether HMRC's conclusion was reasonably open on the material available. The Tribunal had a wider role in relation to the amount, timing, manner and duration stated in the notice.

The recurring arrears and unsuccessful compliance history provided ample basis for HMRC's decision. The company's indebtedness had increased further by the hearing.

DECISION

The security requirement was upheld, although the time for compliance was extended to 60 days.

Directors should treat a notice as an urgent governance and personal-risk issue. Continuing relevant payments without required security may have criminal consequences.

PRACTICAL IMPLICATIONS

- Address security notices immediately and protect the statutory appeal deadline.
- Evidence the cause of the cashflow problem and the credible route back to compliance.
- Separate challenges to necessity from arguments about amount, duration or form.
- Assess the directors' personal funding, banking and criminal-risk exposure.

WHY IT MATTERS	**Repeated PAYE and NIC defaults can move the issue beyond ordinary debt collection and expose directors personally to a joint and several security obligation.**

LIMITATIONS AND WATCH POINTS

A security notice is protective, not a finding of dishonesty. The decision does not determine every underlying PAYE or NIC liability, but failure to comply can have serious consequences.

KEY TAKEAWAY	**Once non-payment becomes a pattern, assurances are not enough; HMRC will expect evidence, performance and security.**

8 Discovery assessments are evidential contests: silence is not a strategy

David and Linda Anderson v HMRC [2026] UKFTT 1229 (TC)

First-tier Tribunal (Tax Chamber) | 20 August 2026 | Discovery assessments / CGT and income tax / penalties

Court	First-tier Tribunal (Tax Chamber)
Issue	Validity, quantum, extended time limits and behavioural penalties
Outcome	Appeals dismissed; assessments and penalties confirmed
Client focus	Private clients, business owners, landlords and tax dispute advisers

BACKGROUND AND CONTEXT

The appeals concerned income-tax and capital-gains-tax discovery assessments and penalties. The CGT issues arose from disposals of veterinary practices to a company owned by the taxpayers, while Mr Anderson was also assessed on undeclared rental income.

The disputes included whether discoveries were valid and in time, whether HMRC's figures had been displaced and whether the behaviour was careless, deliberate or fraudulent.

WHAT HAPPENED

HMRC first had to establish the statutory basis for the assessments, including the facts supporting any extended time limit. Once a valid assessment existed, the taxpayers needed evidence capable of showing that the amount assessed was wrong.

The taxpayers did not produce sufficient documentary or witness evidence to displace HMRC's figures or behavioural conclusions. Significant parts of quantum were no longer meaningfully contested by the hearing.

DECISION

The appeals were dismissed and the assessments and penalties were confirmed.

The case underlines the need to separate quantum, validity, time limits and behaviour, and to build an evidence schedule matching each disputed HMRC figure to the document or testimony which challenges it.

PRACTICAL IMPLICATIONS

- Prepare a transaction-by-transaction evidence schedule at the outset.
- Provide witness evidence where the relevant facts lie within the taxpayer's knowledge.
- Analyse quantum, discovery validity, time limits and penalties separately.
- Maintain reliable correspondence and service records, particularly where taxpayers live abroad.

WHY IT MATTERS	**A discovery assessment is not neutralised by uncertainty in HMRC's reconstruction. Once validly made, it generally stands unless the taxpayer produces a better evidenced account.**

LIMITATIONS AND WATCH POINTS

The decision is fact-heavy and from the FTT. The precise burden on HMRC and the taxpayer depends on the issue, statutory provision and evidence in each appeal.

KEY TAKEAWAY	**Disagreement is not evidence; a discovery appeal needs documents, witnesses and a structured alternative calculation.**

9 Protective costs orders in tax appeals: access to justice has limits

HMRC v John Douglas Wardle [2026] UKUT 335 (TCC)

Upper Tribunal (Tax and Chancery Chamber) | 28 August 2026 | Protective costs orders / Upper Tribunal appeals / access to justice

Court	Upper Tribunal (Tax and Chancery Chamber)
Issue	Whether a taxpayer who had won in the FTT should receive advance protection from HMRC's appeal costs
Outcome	Protective costs order refused
Client focus	Taxpayers, litigators and advisers considering Upper Tribunal appeals

BACKGROUND AND CONTEXT

Mr Wardle had succeeded before the FTT in a dispute concerning entrepreneurs' relief and the date on which an LLP commenced its electricity-generation trade. HMRC obtained permission to appeal.

Acting in person, Mr Wardle applied for a protective costs order limiting his adverse-costs exposure if HMRC succeeded in the Upper Tribunal.

WHAT HAPPENED

The Upper Tribunal confirmed that it has jurisdiction to make such an order. It considered the principles in Drummond and the public-law costs authorities, including public importance, the applicant's private interest, resources and whether the proceedings could fairly continue without protection.

The substantive appeal raised significant issues, but it also directly affected Mr Wardle's own tax position. The financial and evidential basis for exceptional protection was not sufficiently established.

DECISION

The application was refused. The underlying entrepreneurs' relief appeal was not determined by this decision.

Applicants should provide full evidence of resources, likely costs, potential adverse exposure, available funding and why refusal would prevent an important issue being resolved.

PRACTICAL IMPLICATIONS

- Provide detailed and current evidence of assets, income, liabilities and funding.
- Quantify likely own costs and adverse-costs exposure.
- Explain the public importance of the issue separately from the private tax interest.
- Demonstrate why the appeal cannot fairly proceed without protection.

WHY IT MATTERS	**The jurisdiction exists, but it is not routine costs insurance. A taxpayer must prove why justice requires departure from the ordinary Upper Tribunal costs position.**

LIMITATIONS AND WATCH POINTS

This was a procedural decision only. It did not determine HMRC's substantive appeal or establish that protective costs orders are unavailable in tax cases.

KEY TAKEAWAY	**Protective costs relief requires evidence of necessity, not simply understandable concern about litigation risk.**

10 Large tax liabilities do not relax the late-appeal rules

Ian Mihill v HMRC [2026] UKUT 333 (TCC)

Upper Tribunal (Tax and Chancery Chamber) | 27 August 2026 | Late appeals / reasonable excuse / permission to appeal

Court	Upper Tribunal (Tax and Chancery Chamber)
Issue	Whether the FTT erred in refusing late appeals involving £875,623
Outcome	Permission to appeal refused
Client focus	Taxpayers, personal representatives, accountants and tax litigators

BACKGROUND AND CONTEXT

Mr Mihill sought to appeal assessments and penalties totalling approximately £875,623, excluding interest. The appeals were late, and he relied on illness and bereavements among the explanations for the delay.

HMRC was not satisfied that the statutory conditions for accepting a late appeal were met. The FTT refused permission, and Mr Mihill sought to challenge that decision before the Upper Tribunal.

WHAT HAPPENED

Section 49 of the Taxes Management Act 1970 requires a reasonable excuse for the original failure and action without unreasonable delay once the excuse ends. The explanation must cover the complete chronology.

The Upper Tribunal found no arguable error in the FTT's application of the established principles. The size of the liability did not override the length of delay, the evidential shortcomings or the public interest in finality.

DECISION

Permission to appeal was refused, so the substantive merits of the assessments were not examined.

A late-appeal application should identify the exact period covered by each excuse, the date the taxpayer became capable of acting and every step taken thereafter.

PRACTICAL IMPLICATIONS

- Prepare a complete chronology covering the whole period of default.
- Obtain medical, bereavement or other supporting evidence promptly.
- Explain the date each impediment ended and what happened next.
- Do not rely on the size of the liability as a substitute for the statutory test.

WHY IT MATTERS	**A taxpayer can lose the opportunity to argue the merits before the merits are ever considered. Large liabilities make procedural discipline more important, not less.**

LIMITATIONS AND WATCH POINTS

The Upper Tribunal considered permission to appeal, not the underlying tax liabilities. Different evidence or a shorter, fully explained delay may produce a different result.

KEY TAKEAWAY	**For a late appeal, evidence both the original excuse and prompt action after it ended; the amount at stake does not fill the gaps.**

11 Fairness arguments cannot rewrite statutory appeal deadlines

Lyden v HMRC [2026] UKUT 330 (TCC)

Upper Tribunal (Tax and Chancery Chamber) | 26 August 2026 | Late appeals / closure notices / statutory time limits

Court	Upper Tribunal (Tax and Chancery Chamber)
Issue	Whether perceived asymmetry between HMRC's assessment periods and the taxpayer's appeal deadline justified a late appeal
Outcome	Permission to appeal refused
Client focus	Taxpayers, accountants and advisers managing enquiry and closure-notice deadlines

BACKGROUND AND CONTEXT

Mr Lyden sought to challenge closure notices which increased his income-tax liabilities for two tax years. His appeals were late, and the FTT refused permission to notify them out of time.

He argued, among other matters, that it was unfair for taxpayers commonly to have 30 days to appeal when HMRC may have years in which to assess.

WHAT HAPPENED

The Upper Tribunal held that the FTT had applied the established late-appeal principles and given adequate reasons. The detail required in reasons depends on the nature of the decision and application.

The different statutory periods available to HMRC and the taxpayer form part of Parliament's legislative scheme. That wider asymmetry did not explain Mr Lyden's particular delay or require the appeal to be admitted.

DECISION

Permission to appeal was refused. The underlying income-tax merits were not determined.

Applications should focus on the length of the delay, its explanation, promptness after any excuse ended and prejudice—not on a general challenge to the structure of the legislation.

PRACTICAL IMPLICATIONS

- Diarise closure-notice and assessment appeal deadlines immediately.
- Concentrate any late application on the taxpayer's own chronology and evidence.
- Explain why the excuse covered the entire period of delay.
- Avoid broad fairness arguments which do not address the statutory test.

WHY IT MATTERS	**The Tribunal applies the timetable Parliament enacted. Perceived unfairness in the wider system cannot replace evidence explaining why this taxpayer appealed late.**

LIMITATIONS AND WATCH POINTS

The decision concerns permission to challenge a procedural ruling. It does not decide the correctness of the closure notices or exclude relief where a late appeal is properly evidenced.

KEY TAKEAWAY	**Late-appeal applications succeed or fail on the particular delay and evidence—not on comparing HMRC's timetable with the taxpayer's.**

12 When can HMRC be barred from participating in a tax appeal?

Shane Matin v HMRC [2026] UKUT 343 (TCC)

Upper Tribunal (Tax and Chancery Chamber) | 3 September 2026 | Barring orders / case management / Personal Liability Notices

Court	Upper Tribunal (Tax and Chancery Chamber)
Issue	Whether there was an arguable error in the FTT's refusal to bar HMRC from further participation
Outcome	Permission to appeal refused
Client focus	Tax litigants, directors, accountants and advisers managing tribunal directions

BACKGROUND AND CONTEXT

The substantive FTT proceedings concerned Personal Liability Notices issued to Mr Matin as sole officer of APQ Developments Ltd in relation to corporation tax and Construction Industry Scheme liabilities.

Mr Matin applied to have HMRC barred from taking further part in the appeal, relying on alleged procedural failures and delay. The FTT refused, and permission to appeal was rejected on paper and after oral reconsideration.

WHAT HAPPENED

The Upper Tribunal found that the proposed grounds largely repeated disagreement with the FTT's factual findings, assessment of HMRC's conduct and case-management decisions.

Barring is a severe sanction. It generally requires a serious failure to comply which materially compromises the fair and efficient determination of the proceedings, and the sanction must be proportionate.

DECISION

Permission to appeal was refused. The judgment did not determine whether the underlying Personal Liability Notices were correct.

An application should identify the precise direction breached, the extent of default, warnings or unless orders, the prejudice caused and why no lesser sanction will protect a fair hearing.

PRACTICAL IMPLICATIONS

- Identify the exact rule, direction and deadline said to have been breached.
- Evidence the practical prejudice caused by the default.
- Explain why a lesser case-management sanction would be insufficient.
- Keep the procedural application separate from the merits of the tax appeal.

WHY IT MATTERS	**Barring HMRC is possible in principle but exceptional in practice. General dissatisfaction with delay or case management will not justify excluding a party from the appeal.**

LIMITATIONS AND WATCH POINTS

This was a permission decision concerning procedure only. The substantive Personal Liability Notices remained unresolved.

KEY TAKEAWAY	**A barring application needs a serious default, material prejudice and a proportionate case—not simply criticism of HMRC's conduct.**

The recurring themes for private clients and advisers

Taken together, these decisions show that private client risk frequently sits between the legal form of an arrangement, its commercial substance, the available evidence and the procedural route by which the issue reaches HMRC or the court.

1	**Substance can defeat labels** Hunt and Grand Smile show that capital and repayment labels do not control the outcome where the tax legislation asks what the arrangement achieved in substance.
2	**Jurisdiction must be identified correctly** Croll, Wardle and Matin demonstrate that the court or tribunal must possess the right jurisdiction and that procedural remedies are confined to their proper purpose.
3	**Evidence converts principle into an outcome** Rogers, Sagar and Anderson show why agreements, HMRC records, transaction documents and witness evidence must be assembled before the dispute crystallises.
4	**Deadlines can prevent the merits being heard** Mihill and Lyden confirm that the size or perceived fairness of a liability does not replace a complete, evidenced explanation for delay.
5	**HMRC enforcement can create personal exposure** Precision Fabrications illustrates how recurring employer liabilities can move from ordinary collection into joint and several security requirements for directors.

Future issues will continue to select decisions with a material tax, succession, governance, evidential or procedural consequence for private clients and their advisers.

Cases and primary materials referred to

- The Executors of Paul Hunt, James Hunt and Robert Davis v HMRC [2026] UKUT 342 (TCC) - https://www.gov.uk/tax-and-chancery-tribunal-decisions/the-executors-of-paul-hunt-james-hunt-robert-davis-v-the-commissioners-for-his-majestys-revenue-and-customs-2026-ukut-00342-tcc
- Grand Smile Design Ltd v HMRC [2026] UKFTT 1248 (TC) - https://caselaw.nationalarchives.gov.uk/ukftt/tc/2026/1248
- Julie Marie Croll v The Estate of Margaret Mary Thorpe & Ors [2026] EWHC 2232 (Ch) - https://caselaw.nationalarchives.gov.uk/ewhc/ch/2026/2232
- James v James [2026] EWHC 2190 (Ch) - https://www.bailii.org/ew/cases/EWHC/Ch/2026/2190.html
- Rogers v Wills [2026] EWHC 2231 (Ch) - https://caselaw.nationalarchives.gov.uk/ewhc/ch/2026/2231
- Colin Sagar v HMRC [2026] UKFTT 1247 (TC) - https://caselaw.nationalarchives.gov.uk/ukftt/tc/2026/1247
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STATUS NOTE

This briefing reflects the position checked on 18 September 2026. Appeal, reporting and procedural status may change after publication; primary sources should be checked before reliance.

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