ISSUE 4
NOVEMBER 2026

BHP / PRIVATE CLIENT INTELLIGENCE

# Private Client Tax Case Review

Five decisions across shareholder tax, pensions, inheritance disputes and the responsibilities of trustees.

A practical guide to decisions delivered in November 2026, selected for their significance to individuals, private companies, families and fiduciaries.



*Five legal questions. One essential discipline: identify the rights, evidence and statutory conditions that actually govern the result.*

**Simon Howley**

CTA, AFA, ATA, MIPA, ATT (Fellow) | Bell Howley Perrotton

# Contents & editorial overview

Five selected decisions | Reviewed 21 November 2026


| NO. | DECISION | EDITORIAL FOCUS |
|---|---|---|
| 01 | HMRC v Osmond and Allen | Share buybacks, EIS and transactions in securities |
| 02 | Heyman v Pyper | Proprietary estoppel and intestate estates |
| 03 | Haigh v HMRC | Late pension protection and reasonable excuse |
| 04 | Atwal v HMRC | Discovery assessments, rental losses and penalties |
| 05 | Lendrum v Eastwell | Testamentary trusts and trustees' indemnities |


## Why these decisions matter

This edition moves between tax law and the rights that sit beneath tax outcomes. A capital gains tax objective does not necessarily demonstrate an income tax avoidance purpose. A cohabitant's expectations do not, without sufficient reliance and detriment, override succession rules. A historic pension protection deadline can sometimes be met late where a novel obligation reasonably escaped the individual's knowledge. A time-barred assessment does not rewrite the historic profit-and-loss position. Trustees' indemnity rights may survive the creation of separate successor trusts.

The cases also demonstrate a common caution: a decision must be read in the context of its procedural stage, applicable legislation, evidence and chronology. In particular, the High Court decision in Heyman addresses strike-out and summary judgment, not the final proprietary-estoppel claim; the Lendrum decision determines the potential reach of indemnity rights, not whether any disputed environmental or tax liability is owed.

**EDITORIAL PRINCIPLE** Legal purpose, proof and the time when a right or liability arose matter more than the label later applied to it.

## Publication record and coverage

Issue 3 (28 October 2026) is excluded in full. This Issue 4 comprises five distinct post-Issue-3 editorial acceptances: Osmond and Allen, Heyman, Haigh, Atwal and Lendrum. The latest included decision was handed down and released to The National Archives at 12.00pm on 20 November 2026. A separate date of first web indexing or initial public discovery could not be authenticated; recorded release dates are not silently presented as independently established first-publication dates.

The current review also checked recent First-tier Tribunal (Tax Chamber), Upper Tribunal (Tax and Chancery Chamber), Business and Property Division, Court of Appeal and Supreme Court listings. Scottish coverage is subject to restricted access to some chronological repositories. Routine VAT, excise, corporation tax, SDLT/LTT/LBTT and trivial procedural decisions are excluded.

CASE 01 | SHAREHOLDER TAX

# A CGT purpose is not automatically an income tax avoidance purpose

**HMRC v Hugh Edward Mark Osmond and Matthew Charles Allen [2026] EWCA Civ 1440**

| | |
|---|---|
| **COURT** | Court of Appeal (Civil Division) |
| **DECISION** | 12 November 2026 |
| **RELEASE** | 12 November 2026, 10.00am (release to The National Archives) |
| **SUBJECT** | Transactions in securities; share buybacks; Enterprise Investment Scheme disposal relief |

## Background and context

Mr Osmond and Mr Allen held shares preserving Enterprise Investment Scheme (EIS) disposal relief, notwithstanding restructuring of the investment vehicle. In March 2015, their company bought back shares for £20 million in total (£11 million and £9 million respectively). The immediate concern was that EIS disposal relief might later be withdrawn and that an otherwise exempt gain could become chargeable to capital gains tax (CGT).

HMRC considered that the buybacks should be counteracted under Chapter 1 of Part 13 of the Income Tax Act 2007 (ITA 2007) and issued income tax assessments. The First-tier Tribunal accepted HMRC's statutory argument even though it found, on the facts, that extracting income-tax-efficient value had not been a main purpose. The Upper Tribunal reversed that conclusion, and HMRC appealed.

## What the court decided

The Court of Appeal unanimously dismissed HMRC's appeal. The pivotal condition was the main-purpose requirement in section 684(1)(c) ITA 2007, read with the definition of 'income tax advantage' in section 687. Obtaining the particular EIS CGT exemption was not automatically the same as having a main purpose of securing an income tax advantage.

Falk LJ emphasised the distinction between an objective or purpose and an effect or consequence. The fact that a buyback yielded a favourable income-tax comparison did not deem an income-tax avoidance purpose into existence. The court endorsed the Upper Tribunal's conclusion and the First-tier Tribunal's factual finding that the taxpayers were seeking to 'bank' EIS relief rather than extract funds through a disguised dividend.

## Legal analysis

The judgment rejects an interpretation that would treat any planned CGT relief as an income-tax avoidance objective merely because income tax on an alternative distribution might have been higher. This would have converted a purpose-based gateway into an almost automatic consequence of the statutory definition.

The Court addressed the version of the transactions-in-securities rules applicable to the 2015 transaction, introduced following the Finance Act 2010 consultation. It expressly noted subsequent changes in 2016. Practitioners should resist applying the conclusion mechanically to later arrangements without analysing the current statutory conditions, commercial facts and all potentially relevant anti-avoidance provisions.

| | |
|---|---|
| **WHY IT MATTERS** | The decision is a significant appellate authority on the need to prove the relevant statutory purpose, not simply identify a favourable tax result. It matters in share repurchases, owner-manager exits, EIS investments and other capital extraction arrangements. |

## Practical implications

- Establish the genuine decision-making chronology, including board papers, correspondence and reasons for the proposed transaction.
- Analyse the exact statutory version and consider whether there is a real income-tax purpose alongside a CGT objective.
- Keep EIS eligibility, company-law buyback requirements, distribution treatment and other targeted or general avoidance rules as separate questions.

## Limitations and watch points

This is not a blanket clearance for share buybacks, nor a ruling that a transaction undertaken to obtain a CGT advantage can never fall within the rules. The decisive factual finding excluded an income-tax main purpose. The court did not decide the correct outcome for differently motivated transactions under the post-2016 wording.

| KEY TAKEAWAY | A tax saving may be the effect of a transaction without being its statutory main purpose. |
|---|---|

**Primary judgment:** https://caselaw.nationalarchives.gov.uk/ewca/civ/2026/1440

CASE 02 | ESTATE DISPUTES

# Assurances about inheritance need demonstrable detrimental reliance

**Heyman v Pyper [2026] EWHC 2771 (BP)**

| | |
|---|---|
| COURT | High Court, Property, Trusts and Probate List |
| DECISION | 13 November 2026 |
| RELEASE | Judgment dated 13 November 2026; independently established first-publication date unavailable |
| SUBJECT | Cohabitation; intestacy; proprietary estoppel; strike-out and summary judgment |

## Background and context

Martin Thompson died intestate in December 2022 after cohabiting with Alexandra Pyper for approximately 36 years. His estate was valued for probate at around £2.7 million, mostly comprising the farm where they had lived. His three sisters were the intestate beneficiaries. Ms Pyper asserted that assurances by the deceased entitled her to 35% of the net estate, or other equitable relief.

She relied on discussions that she would be looked after, an unexecuted 1989 draft will referring to a 35% legacy (only discovered after death), her decision to invest proceeds from a separate flat, and expenditure of more than £70,000 on a kitchen project. The estate's administrator sought strike-out and/or summary judgment.

## What the court decided

Deputy Master Dovar rejected the pleaded assertion that the flat proceeds had been invested to Ms Pyper's detriment: the investment had not been shown to make her worse off, and the mere fact that she had not purchased another property did not establish detrimental reliance.

However, the judge did not summarily dismiss the entire proprietary-estoppel claim. Although there were serious reservations as to the certainty of assurances and causation, the kitchen expenditure case was not so fanciful or legally flawed that it could be disposed of without trial. Other inadequately particularised allegations could be amended, failing which they would be struck out.

## Legal analysis

The case illustrates the distinction between pleading an expectation that a partner will provide for someone and demonstrating the constituent elements of proprietary estoppel: a sufficient assurance relating to property, reliance, detriment and unconscionability. The relief ultimately available is fact-sensitive and need not correspond to a percentage asserted after death.

Importantly, a draft will is not an operative testamentary disposition. A representation whose financial significance was unknown at the time may be difficult to quantify. Nor does the court's willingness to let one aspect proceed mean it accepted the truth of the alleged assurances or that a particular equity has arisen.

| WHY IT MATTERS | For unmarried partners and their advisers, the case highlights the litigation risk of cohabitation without an effective will and the demanding evidential analysis of detriment. It also informs personal representatives deciding whether a disputed estate can be distributed. |
|---|---|

## Practical implications

- Retain wills, draft instructions, correspondence and evidence of actual conversations, rather than relying on retrospective accounts alone.
- Document who funded improvements, what was promised in exchange, and what decision would otherwise have been taken.
- When administering a contested estate, distinguish the validity of a pleaded claim from the ultimate entitlement after a full factual hearing.

### Limitations and watch points

This is an interlocutory ruling on summary judgment and strike-out, not a final trial of proprietary estoppel. It does not award Ms Pyper 35% of the estate or determine the validity of any inheritance claim under separate legislation. The evidence and final remedy remain unresolved.

| | |
|---|---|
| **KEY TAKEAWAY** | An unexecuted will and general assurances are not enough: the evidence must demonstrate reliance and real detriment. |

**Primary judgment:** https://caselaw.nationalarchives.gov.uk/ewhc/bp/2026/2771

CASE 03 | PENSIONS

## Reasonable excuse can excuse a very late transitional pension notification

**Paul Haigh v HMRC [2026] UKFTT 1535 (TC)**

| | |
|---|---|
| **COURT** | First-tier Tribunal (Tax Chamber) |
| **DECISION** | 6 November 2026 |
| **RELEASE** | 6 November 2026 (date stated in published tribunal decision) |
| **SUBJECT** | Enhanced protection; Finance Act 2004 transitional rules; reasonable excuse |

### Background and context

Mr Haigh, an NHS dentist, retired in 2002, before the lifetime allowance and associated protection mechanism introduced in 2006. He received no tailored communication explaining enhanced protection, and his financial advice had not addressed those rules. At age 75 he was notified of a potential pension-related liability of £140,375 after lifetime allowance testing, and then sought enhanced protection in 2024.

HMRC refused his notification because the original regulatory closing date was 5 April 2009 and considered that he lacked a reasonable excuse for the delay. Mr Haigh appealed under the transitional framework in Schedule 36 to the Finance Act 2004 and regulation 4 of the Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006.

### What the court decided

The Tribunal allowed the appeal. It accepted that Mr Haigh had been unaware not merely of the deadline but of the very need to make a notification. His retirement before the lifetime allowance existed, the absence of relevant information from his pension arrangements and his engagement with advisers at sensible milestones made that lack of knowledge objectively reasonable in his circumstances.

The Tribunal relied on the structured reasonable-excuse approach in Perrin and considered the distinctive nature of a novel, transitional and narrow statutory requirement. Mr Haigh acted after learning of his potential exposure. HMRC's argument that an application made retrospectively could not qualify was rejected.

### Legal analysis

The decision is not a general exemption from statutory deadlines or a finding that HMRC must give personalised tax advice. The Tribunal accepted that individuals bear responsibility for tax obligations and that HMRC had no general duty to alert Mr Haigh. The exceptional factual circumstances nevertheless made the ignorance reasonable.

It is also important that the relevant charge and the protection mechanism were historical features of the pension system: the abolition of the lifetime allowance charge for later tax years does not erase every existing dispute concerning the previous statutory regime. Facts, notification chronology and the particular transitional requirements remain decisive.

| | |
|---|---|
| **WHY IT MATTERS** | A rare successful late-notification case that may assist pension advisers and retired individuals dealing with historic protections. It underscores the importance of a genuine timeline and the objective reasonableness of ignorance in the particular circumstances. |

### Practical implications

- Record retirement dates, pension provider correspondence and the point at which a client first learnt of the statutory obligation.
- Obtain full scheme histories, previous advice and evidence that action was taken promptly after discovery.
- Identify the precise historical protection regime rather than assuming any pension deadline can be extended by analogy.

### Limitations and watch points

An FTT decision is not binding precedent and is strongly fact-dependent. Ignorance of ordinary, established tax rules will not necessarily be reasonable. The Tribunal allowed the late-notification appeal; it did not decide every calculation or downstream pension-tax consequence.

| | |
|---|---|
| **KEY TAKEAWAY** | Novel transitional obligations can support a reasonable excuse, but only where the evidence establishes it and delay is remedied promptly. |

**Primary judgment:** https://caselaw.nationalarchives.gov.uk/ukftt/tc/2026/1535

CASE 04 | INCOME TAX ENQUIRIES

## A time-barred year can still change losses carried into later years

**Gurcharn Singh Atwal v HMRC [2026] UKFTT 1559 (TC)**

| | |
|---|---|
| **COURT** | First-tier Tribunal (Tax Chamber) |
| **DECISION** | 12 November 2026 |
| **RELEASE** | 12 November 2026 (date stated in published tribunal decision) |
| **SUBJECT** | Discovery assessments; property business; management fees; losses; careless versus deliberate errors |

### Background and context

Mr Atwal owned properties personally, while operating hospitality activities through a company. HMRC investigated rental income and associated records, including separate management charges disclosed in the company accounts and tax consequences of payments following redress for interest-rate hedging products.

Discovery assessments under section 29 of the Taxes Management Act 1970 and inaccuracy penalties under Schedule 24 to the Finance Act 2007 covered 2010-11 and several later years. A key question was whether HMRC could use extended time limits on the footing of deliberate inaccuracy, and whether purported property-business losses carried forward were genuine.

### What the court decided

The Tribunal held that the management fee appearing in company accounts was distinct from the rent and should not be subsumed within property income. On the evidence, the failure to declare it in 2010-11 was careless, not deliberate. HMRC's 2021 assessment for that year was therefore outside the applicable six-year period and its associated penalty failed.

For 2015-16 to 2019-20 the Tribunal upheld the assessments and amended penalties. Historic computations did not support the carried-forward losses claimed. Crucially, a tax year being closed to assessment did not mean that income arising in that year vanished for the purpose of computing losses that purportedly survived into open years. The 2014-15 redress payment eliminated losses before the later assessable periods.

### Legal analysis

The decision applies the careful distinction between knowledge of an inaccuracy and a failure to take reasonable care, drawing on Tooth and subsequent authority concerning deliberate or blind-eye conduct. A skim review and pressure arising from complex business circumstances may be careless without establishing the stronger mental element required by HMRC's extended assessment argument.

Separately, the Tribunal distinguished a statutory restriction on assessing one year's tax from the arithmetic and legal truth of profit-and-loss computations flowing into subsequent years. That is an important compliance point in long-running property and owner-manager enquiries.

| | |
|---|---|
| **WHY IT MATTERS** | Advisers should test assessment validity and tax computations independently. A successful limitation defence for one year does not preserve fictitious carried-forward losses against otherwise valid later assessments. |

### Practical implications

- Reconcile individual rental and company-related transactions; management charges may have different tax treatment from rent.
- Document how losses originated and trace all adjustments, redress receipts and utilization through each subsequent year.
- When challenging HMRC, analyse statutory time limits, alleged behaviour and tax quantum as distinct grounds.

### Limitations and watch points

Fact-specific FTT findings; the decision does not mean all precluded assessments can be ignored for later computations, nor that business stress always prevents a finding of deliberate inaccuracy. The precise statutory regime and year-by-year evidence control the outcome.

| | |
|---|---|
| **KEY TAKEAWAY** | Time limits restrict tax assessment powers; they do not confer artificial carried-forward tax losses. |

**Primary judgment:** https://caselaw.nationalarchives.gov.uk/ukftt/tc/2026/1559

CASE 05 | TRUSTEES AND ESTATES

## The date a trust divides can control the reach of a trustee's indemnity

**Lendrum and Brain v Eastwell and others [2026] EWHC 3017 (BP)**

| | |
|---|---|
| **COURT** | High Court, Property, Trusts and Probate List |
| **DECISION** | 20 November 2026 |
| **RELEASE** | 20 November 2026, 12.00pm (release to The National Archives) |
| **SUBJECT** | Will construction; life interests; distinct bare trusts; trustee indemnity under Trustee Act 2000 |

### Background and context

Benjamin Dollimore's 1981 will created a life interest for his widow, Doris, over the residuary estate, and allocated specified groups of properties to his three children upon her death. The estate included a quarry. Illegal waste dumping at the quarry created serious potential remediation and landfill-tax exposures; the figures discussed in the case were estimates, not liabilities assessed or determined by the judge.

Doris died on 15 October 2015, during the period in which the dumping was taking place. The trustees asked whether their right to indemnity against the trust fund could extend to property ultimately allocated to a beneficiary whose property had no connection with the quarry. HMRC's inheritance-tax charge was acknowledged as extending over the relevant life-interest property, but HMRC was removed from the proceedings.

### What the court decided

Deputy Master Holden held that the will had created one residuary life interest trust while Doris lived. Upon her death, the designated properties were held on three separate bare trusts for the individual children, subject to surviving indemnity rights from the earlier common fund.

Under section 31 of the Trustee Act 2000 and principles reflected in Hardoon v Belilios, properly incurred liabilities attributable to administration of the original life-interest trust could be met from the whole of that original fund, even after its assets were held for separate beneficiaries. Liabilities incurred exclusively in administering the quarry beneficiary's separate trust after Doris's death could not be charged against another child's separate trust.

### Legal analysis

The court drew a careful boundary between the original, unified settlement and later distinct bare trusts. It treated Roome v Edwards as helpful on distinguishing settlements, but warned that the number of settlements for CGT purposes does not mechanically determine the scope of an equitable trustee indemnity.

Timing was especially sensitive: a contingent obligation incurred during the original trust could remain attributable to it even if demanded, measured or paid later. Conversely, the mere fact that the old trust once held and leased the quarry did not make every subsequent quarry expense a common-fund liability. The court reserved the question of whether particular liabilities were valid, when they arose and whether they were properly incurred.

**WHY IT MATTERS**

This is a significant practical decision for will trusts with distinct remainder beneficiaries and potentially substantial liabilities. It affects administration, asset distribution, creditor exposure, insurance and the ability of trustees to protect themselves when a common fund later fragments.

### Practical implications

- Map the will chronologically: original settlement, termination of life interest, division into distinct trusts, and any surviving indemnity.
- Establish precisely when each contingent or accrued liability arose and which trust activity generated it.
- Avoid distributing assets or assuming they are insulated until the scope of historic trustee indemnity and secured tax charges has been reviewed.

### Limitations and watch points

No determination was made that the trustees owed the estimated remediation cost, landfill tax or any particular sum. Nor did the judgment decide that every such liability was properly incurred, the ultimate contribution as between beneficiaries, or detailed priority among creditors. The legal split turns on this will and these facts.

**KEY TAKEAWAY**

A surviving indemnity from an original trust can reach formerly common assets; new liabilities of a later separate trust generally cannot.

**Primary judgment:** https://caselaw.nationalarchives.gov.uk/ewhc/bp/2026/3017

# Editorial notes, limitations & sources

## Editorial limitations

This publication selects substantive developments of practical interest; it is neither an exhaustive law report nor a substitute for instructions on particular facts. It does not state or imply that any claim, appeal or relief will succeed without applying the statutory rules and evidence in the relevant matter. Interlocutory decisions are identified as such, and first-tier tribunal decisions are not binding appellate precedents. Subsequent appeals, legislative changes, or further orders can alter the position.

### Judgment date / publication date

Dates in the case panels are those given by the court or tribunal. Where a judgment expressly states the time of release to The National Archives, that release time is reported. Where the judgment records only its date or a formal tribunal release date, no independent earliest-online-publication timestamp is asserted. Initial indexing and later discovery may differ from formal release.

## Primary judgments and official sources

**01 HMRC v Hugh Edward Mark Osmond and Matthew Charles Allen [2026] EWCA Civ 1440**
https://caselaw.nationalarchives.gov.uk/ewca/civ/2026/1440

**02 Heyman v Pyper [2026] EWHC 2771 (BP)**
https://caselaw.nationalarchives.gov.uk/ewhc/bp/2026/2771

**03 Paul Haigh v HMRC [2026] UKFTT 1535 (TC)**
https://caselaw.nationalarchives.gov.uk/ukftt/tc/2026/1535

**04 Gurcharn Singh Atwal v HMRC [2026] UKFTT 1559 (TC)**
https://caselaw.nationalarchives.gov.uk/ukftt/tc/2026/1559

**05 Lendrum and Brain v Eastwell and others [2026] EWHC 3017 (BP)**
https://caselaw.nationalarchives.gov.uk/ewhc/bp/2026/3017

Official repositories reviewed: The National Archives Find Case Law; GOV.UK Upper Tribunal Tax and Chancery decisions; Scottish Courts and Tribunals Service. Some Scottish chronology feeds were not fully accessible at the review date.

## About BHP

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

This briefing is for general information only and does not constitute legal or tax advice. Specific conclusions require assessment of the actual facts, law, documents, enquiry position and professional responsibilities.

**Simon Howley CTA, AFA, ATA, MIPA, ATT (Fellow)**

Bell Howley Perrotton | Specialist tax advisory firm

www.bhptax.law