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One minute with... Emma Chamberlain OBE

3 February 2020



[Emma Chamberlain](#)



One minute with Emma Chamberlain OBE, barrister at Pump Court Tax Chambers.

What's keeping you busy at work?

The usual array of foreign domicile problems: remittance issues, domicile and residence enquiries, and inheritance tax problems especially for excluded property trusts. Understanding the new CGT non-residence rules, especially in relation to property rich companies. Grappling with the recycling rules in FA 2018.

Is there a recent tax case that caught your eye?

Higgins v HMRC [2019] EWCA Civ 1860 raises a very common issue that only now has been litigated, namely the interpretation of the scope of the deeming provision in TCGA 1992 s 28. That provision has proved problematic on a number of previous decisions (see *Underwood v IRC* [2009] STC 239).

Also, the recent GAAR Advisory Board decision in August 2019 (concerning the extraction of value from a company by its directors and shareholders) repays careful consideration in showing how the GAAR might be applied in the future.

If you could make one change to tax, what would it be?

Make the Treasury clearly state the purpose behind a newly announced tax relief and what it aims to achieve. Then monitor the relief properly for some years to see if it is delivering value for money. And have better explanatory notes on all new measures. Also, HMRC should be made to collect better data and store it in a format useful for policy makers. At the moment, vast amounts of information are

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submitted to HMRC each year and yet relatively little is known about basic behaviour, such as how much is given away each year or the cost of BPR and APR in terms of lifetime giving. Better data would mean better policy making.

What attracted you to the tax bar?

Flexibility, interesting work, the ability to spend all day researching a problem, and not having to deal with management issues.

Looking back on your career to date, what advice would you give to others?

My career has been rather chaotic, so I am not sure I am in a position to give advice. I studied history at university, then went and played chamber music, before becoming a solicitor still doing music semi-professionally. I then drifted into being a full-time partner before switching to the bar. I suppose my advice would be to do the sort of work that genuinely interests you; work takes up too much time to be bored. Finally, make sure you keep doing things other than law.

Are there any rules that are causing a particular problem?

IHTA 1984 Sch A1 (residential property) has thrown up some unexpected problems, especially in relation to excluded property trusts where trustees now find that they have an inheritance tax problem because of actions taken before the law changed in April 2017 (for example, loans to beneficiaries who then used the monies to buy UK residential property).

And DAC 6 looks set to prove troublesome in some cases in determining whether disclosure is required.

Finally, you might not know this about me but ...

I play a lot of chamber music (the cello), but I am probably happiest when walking the south west coastal path and reaching the Tinnars Arms in Zennor.

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