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You Khan't be Serious

The case of ***Boston Khan v. HMRC [2021]***[1] *calls into question the Courts' even-handedness in applying basic principles of statutory construction where their effect is beneficial to the taxpayer.*

The *Ramsay* Principle

For forty years the *Ramsay*[2] Principle (the 'Principle'), if principle is really the correct word, has been enthusiastically applied by HMRC to counter tax planning arrangements which would otherwise be effective on a straightforward reading of the applicable fiscal legislation. The leading case on the Principle is *Barclays Mercantile Business Finance Limited v. Mawson (Inspector of Taxes)* [2004][3] ('BMBF') in which the House of Lords decision was given in the form of a Report of the Appellate Committee to which all its members contributed.

A principle of construction

In that Report the House of Lords explained:

> *'the essence of the new approach was to give the statutory provision a purposive construction in order to determine the nature of the transaction to which it was intended to apply and then to decide whether the actual transaction (which might involve considering the overall effect of a number of elements intended to operate together) answered to the statutory description'*[4]

It follows from this that in applying the Principle *'the question is always whether the relevant provision of statute, upon its true construction, applies to the facts as found'.*[5] The Report cited with approval the words of Ribeiro PJ in *Collector of Stamp Revenue v Arrowtown Assets Limited* ('Arrowtown')[6]:-

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1 *Boston Khan v. HMRC* [2021] EWCA Civ 624
2 *WT Ramsay Ltd v. Inland Revenue Commissioners* HL [1981] STC 174
3 *Barclays Mercantile Business Finance Limited v. Mawson (Inspector of Taxes)* [2004] UKHL 51 para. 1
4 BMBF para. 32
5 BMBF para. 32
6 *Collector of Stamp Revenue v Arrowtown Assets Limited* [2003] HK CFA 46

'the driving principle in the Ramsay line of cases continues to involve a general rule of statutory construction and an unblinkered approach to the analysis of the facts. The ultimate question is whether the relevant statutory provisions, construed purposively, were intended to apply to the transaction, viewed realistically.'[7]

So the Principle involves a two stage process of statutory construction. First, to construe the legislation purposively. Secondly, to apply that construction to the facts viewed realistically.[8]

Not an anti-avoidance rule

At least in theory, the Principle is not, therefore, an anti-avoidance rule, it is not a piece of judge-made anti-avoidance law. As the House of Lords said in *BMBF*, an erroneous view of the Principle had arisen:

'….that, in the application of any taxing statute, transactions or elements of transactions which had no commercial purpose were to be disregarded. But that is going too far. It elides the two steps which are necessary in the application of any statutory provision; first, to decide, on a purposive construction, exactly what transaction will answer to the statutory description and secondly, to decide whether the transaction in question does so…..the need to avoid sweeping generalisations about disregarding transactions undertaken for the purpose of tax avoidance was shown by … Westmoreland.'[9]

In *Ramsay* itself, Lord Wilberforce acknowledged that *'general principles against tax avoidance are….for Parliament to lay down'* and his approach in *Ramsay* was not to *'introduce a new principle [but rather to] apply to new and sophisticated legal devices*

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7 BMBF para. 36

8 In fact, in many cases the Principle has been used to justify wildly unrealistic re-characterisation of the actual facts so as to treat transactions as having taken place which have not or transactions which have not taken place as if they had. *Furness (Inspector of Taxes) v. Dawson* and related appeals HL (1984) 55 TC 324 for example treated a sale of shares by an offshore company as if it had been made by the individual who had exchanged the shares for shares in the offshore company with the result that he was charged to tax by reference to proceeds which he did not receive and did not own

9 BMBF paras. 36 and 37. '*Westmoreland*' is the case of *Westmoreland Investments v. MacNiven* HL [2003]

the undoubted power and duty of the courts to determine their nature in law and to relate them to existing legislation.'[10]

As a broad principle of statutory construction rather than a judge-made anti-avoidance law, the Principle ought to apply without regard to whether its application is of advantage to the taxpayer or to HMRC. In practice, attempts by taxpayers to pray the Principle in aid to resist the unfavourable results of a literal construction of fiscal legislation have, largely, been unsuccessful.[11]

***Boston Khan v. HMRC* – a substantial injustice**

The case of *Boston Khan v. HMRC* [2021][12] is an unfortunate tale of a taxpayer involved in a series of transactions designed to operate as a whole. The net effect of the transaction was that the taxpayer, for net capital expenditure of £18,771, acquired a capital asset of that value but, because the Court found that the Principle did not apply to displace a literal, step-by-step application of the relevant fiscal legislation, was subject to Income Tax of an amount of just under £600,000. If it was correctly decided, it is a case where the law has resulted in substantial injustice. In fact, as we shall show the decision was deeply flawed.

The relevant facts were as follows.

The facts

The commercial rationale

Mr Khan, an accountant had written up the books of a company ('CADL') which had carried on business as an employment bureau for consultants for some years. He also let its business premises to CADL. CADL had retained reserves of £1,950,000 but its profits were declining so its three shareholders (the 'Shareholders') decided to extract its net assets and to go their separate ways.[13]

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[10] *WT Ramsay Ltd v. Inland Revenue Commissioners* HL [1981] STC 174 at 181

[11] See for example *Allcock v. King* SpC [2004] STC (SCD) 122 (SpC 396) and *Blenheims Estate & Asset Management Ltd v. HMRC* UKFTT 290 (TC) TC02696

[12] *Boston Khan v. HMRC* [2021] EWCA Civ 624

[13] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 16

The original proposals

The Shareholders began negotiations with Mr Khan under which it was envisaged that the Shareholders would withdraw the net assets of CADL and Mr Khan would use his know-how to effect an orderly winding-up of the company over two to three years so as to avoid the immediate redundancy of the company's four remaining employees. Mr Khan was to have the benefits of the profits earned in this period.[14]

It was proposed, therefore, that the company would repurchase most of its own shares from the Shareholders thus extracting most of the retained reserves and Mr Khan would then purchase the remaining shares for an amount equal to the remaining net asset value of CADL, being approximately £18,771.[15]

Both sides were legally represented in the negotiations.[16]

The revised arrangements

Late in the day, the proposed transactions were restructured so that instead of CADL purchasing the shareholdings of the three existing Shareholders and Mr Khan then purchasing the three remaining shares, Mr Khan would purchase all the existing shares from the three Shareholders and CADL would then repurchase 96 of those shares from Mr Khan.[17] The deal was:

> *'… structured in a manner designed to mitigate the vendor shareholders' tax exposure (in that it ensured that they paid CGT on the gain they made by disposing of their shares to Mr Khan, which is chargeable at a lower rate than income tax)'*.[18]

Mr Khan's mistake

Although, as we have seen, both sides were legally represented in the negotiations and Mr Khan was himself an accountant he:

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[14] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at paras. 16 - 19
[15] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 19
[16] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 18
[17] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 19
[18] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 40

'relied upon an assumption that the consequence of his having to expend the £1.95 million as soon as it was received, was that the persons to whom he paid it would be liable to pay tax on it instead of him.'[19]

Anybody with any expertise in taxation, however, would have seen immediately that the result of the revised arrangements was that, on a literal reading of the legislation, Mr Khan would be subject to Income Tax under ITTOIA 2005 s. 383 on an amount, treated as a distribution by CADL, equal to the excess of the consideration given for the shares by CADL over the amount originally subscribed for them.

The result of the revision to the arrangements was that Mr Khan, instead of paying £18,771 for three shares in CADL, was to pay £1,968,771 for 99 shares. Arrangements were made, therefore, to provide short-term funding to Mr Khan to allow him to meet this greatly increased purchase price.[20]

The transactions

The actual transactions which took place were as follows.

On 28th June 2013 a Share Purchase Agreement (the 'SPA') was made between, one presumes, the Shareholders and Mr Khan under which Mr Khan was to purchase the 99 shares of CADL from the Shareholders.[21] On the same day, an off-market purchase agreement, (the 'OMPA') was made between, one presumes, Mr Khan and CADL under which CADL was to purchase 98 shares in itself from Mr Khan.[22]

To allow these agreements to be completed the following arrangements were made with the National Westminster Bank (the 'Bank') who were CADL's Bankers. CADL drew down £1,216,000 under an invoice discounting facility provided by the Bank. The amount drawn down was credited by the Bank to CADL's account with it. CADL then paid £1,950,000 from this account to Mr Khan's account with the Bank by way of a

[19] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 2
[20] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 21
[21] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 20
[22] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 20

loan to him. The loan was made in order to enable Mr Khan to purchase CADL shares under the SPA.[23] The Bank:

> *'… then automatically transferred the £1.95 million on Mr Khan's behalf to his solicitor's account, and the solicitor then paid it to the vendor shareholders' solicitor.* [One presumes by way of consideration for the Shareholders' Shareholdings under the SPA.] *Although there is no reference to it in the SPA, it appears from a letter sent by Mr Khan's solicitor to Mr Khan by email on the afternoon of 27 June 2013 that his firm was asked by … [the Bank] … to provide it with some kind of undertaking with regard to the flow of monies. Presumably that was an undertaking to transfer the money he received to the vendors' solicitor. The £18,771 balance of the purchase price under the SPA was paid by Mr Khan to the vendors on a later date.*[24]

CADL's repurchase of 98 of the 99 shares now held by Mr Khan under the OMPA was then implemented, the consideration payable to Mr Khan by CADL being met by set off against the amount he owed CADL under the loan.

Lady Justice Andrews, in her leading judgment, noted that the Upper Tribunal:

> *'… found … that the two transactions (the share sale and buyback) were agreed and implemented as one, having regard to their interdependency and the short time period over which they took place. There was no practical likelihood that the transactions would not have happened together. It further found that "as a matter of practical fact" Mr Khan had no control over the buyback proceeds, though this was only because of the terms of the agreement he had entered into.*[25]

All of those transactions, executing the two agreements were completed on the same day, 28th June 2013,[26] except the payment to the Shareholders by Mr Khan of the balance of the purchase price under the SPA of £18,771 which was made later.

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[23] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at paras. 21 and 24

[24] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 21

[25] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 23. It is one of the oddities of Lady Justice Andrew's decision that she records what she characterises as 'findings' of the Upper Tribunal but which are matters of fact which are the preserve of the FTT

[26] It seems within 40 minutes. See *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 19

The cash flows resulting from these transactions were as follows:

Transaction	Bank £	CADL £	Shareholders £	Mr. Khan £	Net Movement £
Advance to CADL	-1,216,000	1,216,000			0
Loan by CADL to Mr Khan		-1,950,000		1,950,000	0
Payment to Mr Khan's solicitors from his bank account				-1,950,000	-1,950,000
Payment from Mr.Khan's solicitors to the Shareholders under the SPA			1,950,000		1,950,000
Payment from CADL to Mr Khan under the OMPA set off against Mr' Khan's liability under the Loan		0		0	0
Payment to the Shareholders by Mr Khan of the balance of the purchase price under the SPA			18,771	-18,771	0
Repayment by CADL of bank borrowing	1,216,000	-1,216,000			0
Net Movement	**0**	**-1,950,000**	**1,968,771**	**-18,771**	**0**

So the net effect of these transactions once completed, which were, as we have seen, *'agreed and implemented as one'*,[27] was to transfer £1,950,000 from CADL to the Shareholders, £18,771 from Mr Khan to the Shareholders and the entire issued share

[27] See above

capital of CADL which now had insubstantial net assets, from the Shareholders to Mr Khan.

A clear case for the application of the Principle?

On the face of it this is a set of transactions which is typical of the sorts of transactions to which the Principle has been applied.

The transactions which took place would have been in a different form were it not for the fact that the originally anticipated transactions were modified in order to obtain a tax advantage for the vendors (the Shareholders).[28] The transactions were all planned together by reference to one another.[29] All but one of the transactions took place on the same day and exactly in accordance with the plan.[30] They involved short-term financing deliberately designed to curtail the freedom of one of the participants (Mr Khan) to deal with the proceeds of a transaction (the loan from CADL) of a type which would normally confer that freedom.[31]

The financing institution, the Bank, appears to have exercised one of the participants' (Mr Khan's) powers over his own bank account in transferring funds to Mr Khan's solicitor.

The Court's approach

Yet the court reached the conclusion that these were not transactions in which the Principle applied to displace the effect of the relevant fiscal provisions read literally and applied sequentially, step-by-step, to the transactions.

In reaching this conclusion Lady Justice Andrews explained:

> *'As Mr Bradley put it, once a tax liability arises under s.383 upon the making of a distribution, the net is cast wide in terms of the persons from whom the Revenue can seek payment. Either receipt or entitlement will suffice.*
>
> *In some cases, the identification of the person to whom the distribution truly belongs could involve having to stand back and look at the matter realistically,*

[28] See by comparison *Ingram v. CIR*, ChD [1985] STC 835
[29] See by comparison *IRC v. Burmah Oil Co. Ltd* HL [1982] STC 30
[30] See by comparison *IRC v. McGuckian* HL [1997] STC 908 and *DTE Financial Services Ltd v. Wilson (Inspector of Taxes)* [2001] STC 777
[31] See by comparison *Ensign Tankers Leasing Ltd v. Stokes (Inspector of Taxes)* [1992] STC 221

ignoring any technical or artificial legal arrangements that might have been put in place to obscure their identity. However, the fact that the question is one of actual receipt or entitlement at the time of the distribution, means that the statute requires the focus to be upon the situation at that time, not on anything that happens to the money afterwards, still less on how the person from whom the Company is buying the shares came to be in the position to sell them in the first place.

On the face of it, therefore, s.385(1) is not a statutory provision that is concerned with the overall economic outcome of a series of commercially interlinked transactions, but only with the question of who was entitled to the distribution or who actually received it.' [32]

Lady Justice Andrews, therefore, asserted that because s.383 is concerned with *'actual receipt and entitlement at the time of distribution… the statute requires the focus to be upon the situation at that time, not on anything that happens to the money afterwards'* with the result that s.385(1) is not *'concerned with the overall economic outcome of a series of commercially interlinked transactions', but only with the question of who was entitled to the distribution or who actually received it'*. Section 383, however, has no express reference to actual receipt or to the time of distribution. It provides:

'(1) Income tax is charged on dividends and other distributions of a UK resident company.

(2) For income tax purposes such dividends and other distributions are to be treated as income.

(3) For the purposes of subsection (2), it does not matter that those dividends and other distributions are capital apart from that subsection.'

Section 385 certainly provides that:

'The person liable for any tax charged under this Chapter is -

(a) the person to whom the distribution is made or is treated as made (see Part 6 of ICTA and sections 386(3), 389(3) and 396A), or

[32] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at paras. 71 - 73

(b) the person receiving or entitled to the distribution.'

but if one is to apply the Principle that person has to be identified realistically. In respect of a situation under which Mr Khan at no time had any additional moneys under his control than the moneys he possessed at the beginning of the period of 40 minutes on 28th June 2013 during which all but one of the transactions were implemented and under which he made a net payment of £18,771, it seems remarkably unrealistic to treat him as having received, and been entitled to, £1,950,000 as a distribution or as a person to whom such a distribution had been made.

Surprising features of the judicial reasoning

There are a number of surprising features of Lady Justice Andrews' reasoning.

A startlingly restricted view of the Principle

First, it is clear from a number of cases on the Principle, including *Ramsay* itself and the other leading case *Furniss v. Dawson*[33] HL 1984, that in applying the same statutory fiscal provisions it will sometimes be necessary to give primary regard only to the transaction falling within the statutory description of the relevant fiscal provision and sometimes to the wider context of a group of transactions of which that transaction forms part. To say that '*s.385(1) is not a statutory provision that is concerned with the overall economic outcome of a series of commercially interlinked transactions'* is a startling broad brush assertion and an extremely restricted view of the operation of the Principle because it assumes that the Principle can only apply to modify the application of a fiscal provision if its application is so modified in every case.

Failure to focus on fourfold form of the relevant test

Secondly, it is a feature of the entire judgment that the Court concentrates, in identifying the persons who might be liable in respect of the distribution, on the two categories set out in ITTOIA 2005 s.385(1)(b) *'the person receiving or entitled to a distribution'* and yet s.385(1)(a) specifies a further two such categories of persons;

[33] *Furniss v. Dawson HL* [1984] STC 153

those *'to whom the distribution is made or is treated as made'*. As Parliament had provided no less than four separate categories of persons who might be assessed to Income Tax on a distribution one would have expected that it would be necessary to look very carefully at the context of the transactions to determine how one decides the priority between them in identifying the person whom Parliament intended to be the subject of taxation.

Failure to consider the significance of charging Income Tax on capital receipts

Nor did the Court consider the relevance of the fact that ITTOIA 2005 s.383 can charge Income Tax on receipts which are capital,[34] as was the result in this case, and that it quite clearly drafted to do so in order to prevent tax avoidance.

Remarkably atomised view of the relevant transactions

The judgment takes a remarkably atomised view of the relevant transactions and of the application of the relevant legislation. For example, Lady Justice Andrews calls attention to the fact that:

> *'At the time of the transfer of the £1.95 million into his bank account, and then out of that account to his solicitor, Mr Khan was neither a shareholder in the Company nor a trustee of shares, and therefore he was neither legally nor beneficially entitled to a distribution out of the Company's assets in respect of those shares. In any event, the parties are bound by the UT's finding that that transfer was not made under or pursuant to the OMPA. By the time of the implementation of the OMPA, less than 40 minutes later, by which time the money had already left Mr Khan's bank account, that situation had changed, and he was the legal and beneficial owner of the entire issued share capital in the Company and the only person entitled to such a distribution.'*[35]

Again at para. 36 she says:

> *'Having considered the chronology of events on 28 June 2013, the UT pointed out that at the time of the taxable distribution the selling shareholders were no*

[34] ITTOIA 2005 s.383(3)
[35] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 27

longer shareholders, and Mr Khan did not receive the distribution as a trustee for them. They were not entitled to the distribution, because at the time when the distribution was made they were no longer entitled to the shares; all that they were entitled to was the purchase price for the shares they had sold to Mr Khan. Mr Khan's obligation to repay the loan that the Company had advanced to enable him to buy those shares was "entirely separate" from the Company's obligation to pay £1.95 million to him as the purchase price of the shares under the buy-back.[36]

Just over half way into her judgment, Lady Justice Andrews states her conclusion that:

'…, this is a case in which the legal nature of the transaction to which a tax consequence is attached does not emerge from looking at the connected transactions taken as a whole. On the contrary, the statutory provisions require the focus to be on the transaction under which the taxable distribution arose. However, even if one were to look at the transactions taken as a whole, they do not produce the end result contended for by Mr Sykes, namely, a distribution by the Company in respect of its shares to the vendor shareholders.'[37]

She supports this conclusion with the observation that:

'The fact that, at the end of the day, Mr Khan ended up as the owner of the sole remaining share at a modest personal outlay whilst the shareholders ended up with a sum equivalent to the Company's previously distributable reserves tells one nothing about who received or was entitled to the distribution when it was made.'[38]

A circular argument

That is, of course, the crux of the matter. Does the requirement to look at the relevant transactions realistically, which allows the Court to look at transactions which have been planned together as a composite whole, require one to have regard to their real economic effect rather than merely to the legal nature of each individual transaction? In her leading judgment, Lady Justice Andrews made a step by step analysis of the

[36] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 36
[37] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 52
[38] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 74

relevant transactions as her basis for refusing to apply a wider purposive approach based on the Principle so that her decision not to apply the Principle depended upon an analysis in which the Principle was not applied.

It seems clear, however, that viewed realistically, the transaction effected was the extraction of its retained earnings by the Shareholders and an acquisition of CADL, shorn of those earnings, by Mr Khan.

Pre-Principle case authority

Remarkably Lady Justice Andrews cited in aid of her conclusion that the transactions should not be re-characterised as a result of applying the Principle, a passage from a Second World War case, a period when severely literal canons of construction were always applied to tax cases, and which, of course predated the first judicial formulation of the Principle.[39]

Apparent failure to understand the type of circumstances in which the Principle applies

Later in her judgement, Lady Justice Andrews gives a truly remarkable reason as to why, even if one viewed the transactions as a composite whole, they could not be regarded as resulting in an Income Tax liability arising on the Shareholders, who received the economic benefit of the assets distributed from the company, rather than on Mr Khan who did not:

> *'Even viewed as a composite whole, these transactions cannot be characterised as one in which the Company made a distribution out of its profits to the vendor shareholders via Mr Khan. Indeed the deal was structured deliberately so as to avoid a direct buyback of the shares by the Company from the vendor shareholders.'*[40]

There is hardly a decision in which the Principle has been applied in which the transactions under consideration were not *'structured deliberately so as to avoid*', a

[39] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 75. The case referred to was *Henriksen v. Grafton Hotel Ltd* [1942] 2 KB 184

[40] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 80

transaction resulting in a substantial tax liability.[41] The realistic view of transactions which the Principle mandates has the result that it is in exactly such circumstances that a composite series of transactions is most likely to be regarded as being of a nature which is different from that which emerges from a step-by-step analysis.

How could the Court have reached the decision which it did?

The Court in *Boston Khan* seems to have bent over backward not to apply the Principle to transactions of a type to which it normally applies.

Mere speculation

Why should that be? One can only speculate.

Avoiding relieving the parties from all Income Tax liability

Had HMRC assessed the Shareholders, by applying the Principle, on the basis that they had received a distribution and Mr Khan on the basis that he had not the assessments would have reflected economic reality and would have been an entirely orthodox application of the Principle. The Court, however, was not asked to consider whether the Shareholders had been correctly assessed. They were concerned only with whether Mr Khan should escape an assessment which bore no relation to the economic results of his transactions.

A reluctance to allow the distribution to escape all assessment to Income Tax

If the Court had allowed Mr Khan's appeal, therefore, the share repurchase would, one presumes, have escaped all liability to Income Tax (although not to Capital Gains Tax). It may be that the Court jibbed at such a result.

The failure to assess the Shareholders on the basis that the Principle applied to treat them as having received a distribution was HMRC's. Having failed in that way it perpetrated a gross injustice on Mr Khan. He acquired an asset which was, one presumes, worth what he had first intended to pay for it, £18,177, and found himself

[41] See for example *Hatton v. IRC and related appeals* ChD (1992) STC 140; *Carreras Group Limited v. Stamp Commissioner* PC (2004) STC 1377 and *IRC v. Scottish Provident Institution* HL (2005) STC 15

assessed to Income Tax of £594,814.57.[42] We are given no information in the judgment about Mr Khan's economic circumstances, although we are told[43] that Mr Khan could not have afforded the acquisition of the entire share capital of CADL without the short-term finance provided by the Bank, but it would not be surprising if such a result were ruinous for a man whose occupation is the provision of bookkeeping services. Instead of rescuing Mr Khan from HMRC's unjust treatment by making a wholly orthodox application of the Principle, the Court chose to acquiesce in HMRC's injustice.

A cautionary tale

It used to be the case that senior judges mostly had empathy for taxpayers because they were often men of independent wealth personally inclined to resent, rather than to applaud, the depredations of the Revenue. The modern judiciary is very different.

Lady Justice Andrews begins her judgment by saying:

> *'This is a cautionary tale, which illustrates all too graphically the importance of seeking specialist tax advice before entering into commercial arrangements that might have adverse tax consequences, however remote that risk might appear.'*

One can indeed read this as a cautionary tale but it is a cautionary tale of the tendency of the Courts to refuse to apply well-established fiscal principles where they favour the taxpayer rather than HMRC even in circumstances where legal logic and simple equity require their application.

[42] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at paras. 30 and 86 - 88
[43] *Boston Khan v. HMRC* [2021] EWCA Civ 624 at para. 18