

## Michael Sherry CV

Chambers and Partners 2015 – Tax: “Head of chambers, and a barrister known for his commercial approach to direct tax problems, income tax issues and questions relating to capital gains tax.

Expertise: “Very commercially minded. He’s inventive, a very good technician, and good at coming up with solutions to problems – we go to him when we hit a brick wall.”

Recent work: “He acted for the taxpayer in a capital gains tax case concerning enterprise investment scheme and taper relief.”

Chambers and Partners 2015 – Indirect Tax: A general tax expert who represents clients in cases concerning indirect tax issues. He handles VAT matters relating to the education sector, and is also active in the areas of duties and property taxation.

Legal 500 2014 Corporate and VAT: ‘His advice gives you full confidence that matters are dealt with in an efficient and cost-effective manner.

Legal 500 2014 Private Client – Personal Tax: thoughtful, clear and very willing to work collaboratively.

Michael practices in all areas of tax law and practice.

see also

Michael Sherry: Reported Cases  
Michael Sherry: Publications  
Michael Sherry: Professional Life

Particular examples of advisory work give a flavour:

### **Tax planning**

Mergers and acquisitions raise many tax issues, and Michael is regularly involved. One area of particular interest is the loan relationship code, which presents both opportunities and pitfalls. Here all the issues of personal taxation, employee taxation, treatment of trading profits and losses for corporation tax overlap and interact with capital taxation.

### **Remuneration planning**

EBT’s; Dividend remuneration post F.A. 2003; FURBS (including in particular N.I. and FURBS); use of old EBT’s; emigration double tax treaties and EBT’s; ratchet shares; shares mirroring options but avoiding option and conditional share treatment. Michael’s success in *Mansworth v Jelley* illustrates his sureness of judgment in this field.

### **VAT & Duties**

VAT often interacts with other areas of tax. However recent and ongoing matters concerned principally with VAT include treatment of distance learning materials, buildings for private schools, (both planning and litigation), ensuring rulings are honoured (see ex p. *Kay* – Customs & Excise judicially reviewed; proof of export (the rules were amended in 2003). Duties cases include carousel fraud and the quantification of excise duty involved.

### **Complete Counsel**

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### **Accounting and tax**

From loan relationships through provisions to prior year adjustments, tax and accounting principles interplay. Recently one case raised a variety of issues including: valuation at 31 March 1996; whether accounts were prepared in accordance with UK GAAP, was a 50:50 JV “connected” to either investor; does a loss “arise” if a debt is doubtful/bad at the time it is made. Interesting current instructions involve relevant discounted securities in the context of inheritance tax planning.

### **Private client**

The wealthy private client or businessman has both short and long horizons. Michael has wide experience of this work including e.g. offshore trusts (visiting Jersey regularly.) Recently a property transaction for thirty million by an offshore company raised issues of VAT, Taxes Act 1988 section 776, what constitutes a branch or agency, emigration and TCGA s.10A, double tax treaties with Israel, Belgium, Mauritius, New Zealand .....

Often significant private client issues arise in mergers and acquisitions.

Recent experience includes preparing a dot.com group for listing on AIM and NASDAQ. Issues included ratchet shares for employees, unbundling the corporate structure so that intermediate capital qualified for Venture Capital Relief, and Stamp Duty relief on the reconstruction.

### **Property**

From VAT planning to excess rents this work is often challenging, involving several difficult tax problems in a single transaction, from VAT partial exemption through Schedule A treatment of reverse premiums to Stamp Duty, and Stamp Duty Reserve Tax. A recent case involved the VAT treatment of a grant to a major museum exceeding ten million pounds where the donor charity wished to secure extensive “editorial” control over the application of the funds and the acknowledgements. Another involved a school and V.A.T. on its new theatre – avoiding the consequences of the Halifax decision.

### **Back duty**

The Revenue’s Special Compliance Office and Customs Officers sometimes takes bad technical points. Michael has helped to resolve cases by advising and by attending meetings with the Revenue and Customs.

Most recently an interesting case involving the application of the remittance basis to Swiss fiduciary money market deposits lead to a constructive meeting with the Revenue’s case officer accompanied by a senior member of International Division.

### **Tax administration**

As a co-author of Whiteman on Income Tax (and sole editor of its annual supplements) Michael has written extensively on this subject. He advises regularly on the duties of taxpayers and recently gained a notable success on the issue of disclosure and “discovery” in the landmark decision of Park J. on “discovery” in the context of self assessment; see *Langham v Veltema*.

### **Money Laundering**

Michael has closely monitored the genesis of the current obligations of tax advisers through his involvement in CFE (the European Tax Advisers’ federation), the Chartered Accountants’ Business Law Committee (of which Michael is Chairman) the Revenue Bar Association, and the Tax Faculty. He is uniquely placed to advise those professionals who are unsure how to resolve their duty to their client and their duty to make disclosure. During May 2003 he regularly lectured on this subject in anticipation of the new Regulations coming into force in later this year.

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### **Professional negligence**

For the tax practitioner, professional negligence is the ever present “ghost at the feast.”  
Capability in this area requires a combination which is rare-

- pre-eminent knowledge of tax law;
- advocacy skills which can turn the mind of the highest court (see e.g. Palmer v Moloney in the Court of Appeal)
- an ability to handle lay clients (ask those who have experience: see [www.michaelsherry.co.uk](http://www.michaelsherry.co.uk)).

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