Interview with **Rosamond McDowell, Private Client Partner at Payne Hicks Beach** first published in Tax Journal online on 8 June 2017 and in the 9 June issue of Tax Journal and is reproduced with kind permission
https://www.taxjournal.com/articles/one-minute-rosamond-mcdowell-07062017

TAX JOURNAL

# One minute with... Rosamond McDowell

**Date:** 8 June 2017

**Author(s):** Rosamond McDowell

**One minute with Rosamond McDowell, partner at Payne Hicks Beach.**

**The non-dom provisions were dropped from the Finance Bill. What are you advising clients?**

Some clients have, of course, already acted in advance of 5 April. To them, the message is generally: 'Don't worry, let's just see what happens. There is a good chance the legislation will still be implemented as proposed.' Clearly, though, those clients may already be assessing the consequences of the actions they have taken moving forward, and considering *Hastings-Bass* applications and the like, or even judicial review. There are others who have not yet acted; for example, the disposal of offshore assets, which have putatively been rebased on 5 April, on becoming deemed domiciled under the proposed new rules. For these clients, the safe advice is obviously, if at all possible commercially, to wait until there is some certainty when the proposed new rules have been implemented.

**Can you share a practical tip on a tax issue in any of your specialisms?**

The statutory residence test, albeit simple on the face of it, can be tricky. I have found that the interaction of the 91 day physical presence test and the 30 day 'home' test needs to be considered carefully. Their impact in a particular case can easily change the analysis.

**Is there a recent tax case that has caught your eye?**

*Gulliver* [2017] UKFTT 222 (March 2017) is an interesting one. When I first came into practice as a private client lawyer, it was very common to find on 'client bibles' determinations of their status as a non-domiciliary from 20 years earlier, often on delicate fax paper which needed to be copied carefully as the print began to fade! Broadly speaking, since the advent of self-assessment, it has for many years not been possible to obtain an advance ruling on domicile. Nonetheless, once a client's domicile had been put to the test and determined for a particular tax year, we were able to assume that, barring a radical change in their circumstances, the determination would continue to apply. In Gulliver, the First-tier Tribunal decided that, even though the domicile status of a taxpayer had been determined on the facts in 2003 (he had been accepted as acquiring a domicile of choice in Hong Kong in 1999), this was not binding in relation to a later tax year. In practice, what this means is that, for continuing clients where their non-domiciled status is critical to their planning, this will need to be reviewed and tested regularly, and perhaps all the more critically when the client has a UK domicile of origin.
.

**If you could make one change to a tax law or practice what would it be?**

Extend the possibility of obtaining clearance on particular pieces of planning. It is clearly the intention of Parliament under self-assessment that the responsibility of making proper disclosure should lie with the taxpayer. Nonetheless, there are areas (not least the question of a person's domicile, as noted above) where HMRC's view can be difficult to predict (and indeed has not necessarily followed the case law), and where the determination can have a determining role in the analysis or advice.

**Is there anything you know now that you wish you'd known at the start of your career?**

Even the most experienced practitioners have to read and re-read the statutes, to remind themselves of the basics. It is a mistake to think of this as demeaning, as even the most complex planning must have solid foundations.

**Finally, you might not know this about me but…**

I am ordained as an Anglican priest, and at weekends and sometimes evenings may occasionally be found celebrating the Eucharist, preaching a homily, or engaging in other ministerial or pastoral activities. Very occasionally, my two worlds even coincide!

Issue:
1357
Categories:
One minute with