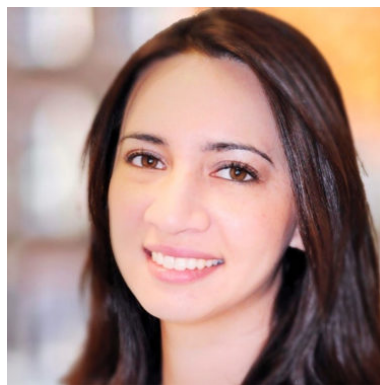


Called 2005
Silk 2018

Hui Ling McCarthy KC



Shortlisted as Tax Silk of the Year - Chambers Bar Awards 2019; Legal 500 Awards 2021, 2023 (Tax Junior of the Year - 2013, 2017; shortlisted 2016, 2018).

Chambers and Partners Star Individual in Tax; Band 1 in Indirect Tax and Rating & Valuation.

After reading Mathematics at Durham, Hui Ling began her career in corporate finance at US investment bank Bear Stearns (fondly remembered) where she received a solid grounding in accounting, finance and the 100-hour working week. She was first attracted to the tax bar under the erroneous belief that it was all numbers and Perry Mason. Albeit wrong on both counts, she was nevertheless undeterred.

Described as "a phenomenal talent" (Who's Who Legal), "an extraordinarily accomplished advocate" (Legal 500) and "just so bright" (Chambers & Partners), Hui Ling has appeared in many of the leading direct tax, VAT,

SDLT and rating cases in recent years. She was appointed Queen's Counsel in 2018 having just turned 37, making her one of the youngest QCs to be appointed. In her first year in Silk, she successfully represented clients in the Supreme Court in three cases: Project Blue (SDLT), Derry (tax) and Telereal Trillium (rating).

Hui Ling served with the Officer Training Corps of the Territorial Army for 3 years. She has also run the 151-mile Marathon des Sables, rafted through the Amazon, swum the Channel in a relay and attempted 5 of the "Seven Summits", all of which she describes as "fun", though noticeably only after the event.

Background

Hui Ling appears regularly in complex and substantial litigation, including:

- representing the pension trustees in [Equity Trust Singapore](#) (Court of Appeal) involving tax and surcharges on £100m of funds under management. Lloyd L.J. described her submissions as "*conspicuously able*" [41].
- acting for the 24 Claimants in [Derrin Brother Properties](#) (High Court) concerning ATO enquiries with tax at stake of AUD 230m. Simler J. described her arguments as "*admirable and forceful*" [80].
- securing what the Financial Times called [an important legal victory](#) for the government in the SDLT avoidance case, [Vardy Properties](#).
- representing five lead case LLPs in the £300m [Icebreaker](#) litigation. Nugee J. described her arguments in related [UT proceedings](#) as "*carefully structured and skilfully presented*" [61].

Hui Ling acts for corporate and private clients in all areas of tax law with an emphasis on corporate and international tax matters, VAT, SDLT and rating & valuation. Recent work includes:

- **Corporate and international tax:** Capital allowances, double tax treaty disputes, R&D credits (particularly in the energy sector), anti-hybrid rules, and issues concerning corporate debt and cross-border lending.
- **VAT:** Partial exemption, supply classification issues (particularly financial services and insurance)

and real estate (particularly development, construction, energy-saving materials).

- **Private clients and related issues:** Advising sportsmen and event sponsors, broadcasters, entertainers (film and television, including IR35 and public sector off-payroll working), fund managers and pension scheme trustees.

- **Business rates:** Acting in notable disputes concerning MCCs, unoccupied hereditaments, exemptions and list alterations / errors. Advising the VOA in relation to MCCs and the COVID pandemic.

Hui Ling has a particular interest in cases raising avoidance / abuse of rights, human rights or accounting issues as well as an interest in innovative tax dispute resolution processes, including ADR and bilateral investment treaty (BIT) arbitration. In 2011, she became chambers' first CEDR accredited mediator.

Conferences

Hui Ling has chaired or spoken at conferences organised by the CIOT, the ATT, STEP, the VPG, the Oxford Centre for Business Taxation, the International Fiscal Association and the Academy of European Law, amongst others. She is always happy to accept speaking invitations, including at internal firm training seminars.

Legal Information

Hui Ling McCarthy KC has professional liability insurance provided by the Bar Mutual Indemnity Fund Limited (of 90 Fenchurch Street, London EC3M 4ST) on a world-wide basis and subject to the terms of cover: see <http://www.barmutual.co.uk/>.
VAT number: 887981441

Notable Cases

CJEU

- [Case C-28/16 MVM](#) (written observations for UK) - VAT: deduction of input tax by holding company

Privy Council

- [National Transport Authority v Mauritius Secondary Industry Ltd](#) [2010] UKPC 31 - successfully appeared for the NTA in a case concerning the incidence of VAT in a commercial property deal.

Supreme Court

Tax

- [Target](#) [2023] UKSC 35 (also acted in the [CA](#), [UT](#) and [FtT](#)) - successfully represented HMRC at all stages in the leading domestic authority on the VAT finance exemption and outsourced transactions; "debt collection" carve out.
- [Tooth](#) [2021] UKSC 17 (also acted in the [CA](#)) - appeared for HMRC in the leading case on "staleness" and deliberate conduct.
- [Derry](#) [2019] UKSC 19 (also acted in the [CA](#) and [UT](#)) - successfully appeared for Mr Derry: whether carry back share loss relief claim "included in a return". Instructed by Greenwoods GRM.
- [Project Blue](#) [2018] UKSC 30 (also acted in the [CA](#), [UT](#) and [FtT](#)) - SDLT; application of s.75A FA 2003; alternative finance; art.14 and A1P1 ECHR.
- [Eclipse](#) UKSC 2015/0102 - trading; application of *Jones / Pendragon*. Instructed by Freshfields Bruckhaus Deringer.
- [WHA](#) [2013] UKSC 24 - VAT; input tax recovery; application of *Redrow / LMUK*. Instructed by Forbes Hall and Deloitte.

Rating

- [Telereal Trillium](#) [2019] UKSC 23 (also acted in the [CA](#) and [UT](#)) - successfully appeared for the Valuation Officer in a case concerning the rateable value of an unoccupied office block.

Court of Appeal

Tax

- [GE Financial Investments](#) [2024] EWCA Civ 797 (also acted in the [UT](#) and [FtT](#)) - successful appeal concerning UK/US Double Tax Convention, application of art 4 (residence) and art 7 (permanent establishment) to "stapled" entities. Permission to the SCt [refused](#).
- [LG Park](#) [2023] EWCA Civ 1193 - successful appeal concerning the transfer of market value issues

to the UT (Lands Chamber); useful guidance on "scope of the closure notice" post-*Investec (CA)*.

- [Charman](#) [2021] EWCA Civ 1804 - represented Mr Charman in an important case concerning the tax treatment of employee share options. Instructed by Withers.
- [Payne](#) [2020] EWCA Civ 889 - the meaning of "goods vehicles" for employment tax
- [Fortyseven Park Street](#) [2019] EWCA Civ 849 (also acted in the [UT](#) and [FtT](#)) - the VAT treatment of a Marriott property in Mayfair.
- [Tager](#) [2018] EWCA Civ 1727 (also acted in the [UT](#)) - Sch.36 para.50 penalties for failure to disclose. Instructed by Withers.
- [Raftopoulou](#) [2018] EWCA Civ 818 - whether s.118 TMA "reasonable excuse" can extend 4-year time limit for making claims
- [Degorce](#) [2017] EWCA Civ 1427 - £20m loss relief claim from film business. Instructed by Enyo Law.
- [Wiltonpark](#) [2016] EWCA Civ 1294 (also acted in the [UT](#) and [FtT](#)) - VAT; finance exemption; meaning of "security for money"
- [ELS Group](#) [2016] EWCA Civ 663 (also acted in the [UT](#)) - VAT; BB 10/04 agency treatment for employment bureaux; misdirection. Instructed by Forbes Hall and Deloitte.
- [Derrin](#) [2016] EWCA Civ 15 (also acted in the [HCt](#)) - the legality of Sch.36 notices; whether there had been a breach of art.6 (fair trial) HRA 1998. Instructed by Kingsley Napley.
- [Esporta](#) [2014] EWCA Civ 155 (also acted in the [UT](#) and [FtT](#)) - sports club membership fees; liability to VAT
- [Equity Trust \(Singapore\)](#) [2012] EWCA Civ 192 (also acted in HC) - QROPS status. Instructed by Squire Sanders.

Rating

- [BMC Properties v VO](#) [2015] EWCA Civ 1306 (also acted in the [UT](#)) - "effective date" of an alteration to the non-domestic rating list

Upper Tribunal/High Court

Tax

- [A Taxpayer](#) [2024] UKUT 12 - FtT direction that all preliminary proceedings be heard in private

overturned.

- [WTGIL](#) [2024] UKUT 77 - application of the VAT insurance exemption to telematics insurance intermediary. Instructed by RSM - on appeal to the CA.
- [Dollar Financial](#) [2023] UKUT 256 (also acted in the [FtT](#)) - VAT group membership cannot be backdated once the application to join has been accepted.
- [HSBC Electronic Data Processing](#) [2022] UKUT 41 - leading case on the application of VAT grouping rules.
- [Greenspace](#) [2021] UKUT 290 (also acted in the [FtT](#)) - VAT reduced rate for energy-saving materials. Instructed by Mazars.
- [Tower Resources](#) [2021] UKUT 123 (also acted in the [FtT](#)) - input tax recovery and holding companies.
- [Safestore](#) [2020] UKUT 322 (also acted in the [FtT](#)) - VAT insurance exemption.
- [Inventive Tax Strategies](#) [2019] UKUT 221 (also acted in the [FtT](#)) - VAT treatment of fee refunds and credit notes.
- [Tesco](#) [2019] UKUT 0018 (TCC) (also acted in the [FtT](#)) - acted for Tesco in its successful £140m input tax recovery appeal; application of *Redrow* and *LMUK*. Instructed by Freshfields Bruckhaus Deringer.
- [Wetheralds](#) [2018] UKUT 173 (TCC) - VAT; reduced rating for energy-saving materials.
- [Frosh and Joyce](#) [2017] UKUT 320 (TCC) - SDLT avoidance.
- [Languard and Macpherson](#) [2017] UKUT 307 (TCC) - VAT; conversion of mixed use property and zero-rating.
- [J3](#) [2017] UKUT 253 (TCC) - VAT; construction - meaning of alteration of existing building
- [Zombory-Moldovan \(t/a Craft Carnival\)](#) [2016] UKUT 433 (TCC) (also acted in the [FtT](#)) - VAT; land exemption
- [Coinstar](#) [2017] UKUT 256 (TCC) (also acted in the [FtT](#)) - VAT; coin-counting machines; finance exemption
- [Bastionspark](#) [2016] UKUT 425 (TCC) - costs. Instructed by Rosenblatt Solicitors.
- [Dyer](#) [2016] UKUT 381 (TCC) - CGT; share valuation

- [Acornwood](#) [2016] UKUT 361 (TCC) (also acted in the [FtT](#)) - lead case appeals in the *Icebreaker* litigation; partnership loss claims. Instructed by Rosenblatt Solicitors.
- [Hills](#) [2016] UKUT 189 (TCC) (also acted in [FtT](#)) - VAT; option to tax; sale of property from SIPP
- [Norseman Gold](#) [2016] UKUT 69 (TCC) - VAT treatment of UK holding company making supplies of management services to overseas subsidiaries
- [Xerox](#) [2015] UKUT 631 (TCC) (also acted in FtT) - Customs duties; classification of Xerox Solid Ink
- [Lobler](#) [2015] UKUT 152 (TCC) - taxation of chargeable event gains on partial surrender of life policies; ECHR arguments; proportionality. Representing the CIOT.
- [Dhanak](#) [2014] UKUT 68 (TCC) (also acted in FtT) - availability of relief under s.392 ITEPA 2003; jurisdiction FtT. Instructed by McKie & Co (Advisory Services).
- [Bosher](#) [2014] UKUT 579 (TCC) (also acted in FtT) - CIS penalties; disproportionality
- [Telfer v Sakellarios](#) [2013] EWHC 1556 (Comm) - liability to PAYE in the context of a claim for payment; "other payer"; tax presence. Instructed by Davenport Lyons.
- [Leslie Smith](#) [2011] UKUT B16 (TCC) - preparation of accounts not in accordance with GAAP; negligence
- **Equity Trust (Singapore) Limited** [2010] EWHC 2996 (Ch) - use of CPR Part 8 procedure; jurisdiction. Instructed by Squire Sanders.
- **Hammond v Coys of Kensington Ltd** (ChD; Companies Court) - VAT; auctioneers' margin scheme. Instructed by Taylor Wessing.

Rating / council tax

- [Church of Scientology REC](#) [2023] UKUT 1 (LC) (also acted in the [VTE](#)) - religious exemption for business rates.
- [Wigan Football Company](#) [2019] UKUT 0389 (LC) (also acted in the [VTE](#)) - whether relegation from the Premier League gave rise to a material change in circumstances.
- [Merlin v VO](#) [2018] UKUT (LC) (also acted in the [VTE](#)) - business rates; whether the Smiler crash at Alton Towers gave rise to a material change in circumstances; guidance on remuneration of expert witnesses

- [LO v Dannhauser](#) [2018] EWHC 3162 (Admin) - Council Tax; the correct test for altering the list
- [R\(oao\) Ramdhun](#) [2014] EWHC 946 (Admin) - meaning of "self-contained unit"
- [R \(oao Tameside MBC\) v Valuation Officer](#) [2013] EWHC 450 (Admin) - correcting errors in non-domestic rating list

First-tier Tribunal (or equivalent)

Direct Tax

- [Northwood](#) [2023] UKFTT 351 - Remuneration Trust tax avoidance scheme; sham; GAAP deductibility; "wholly and exclusively".
- [Salinger](#) [2016] UKFTT 667 (TC) - IHT and trusts; reversionary interest and excluded property rules.
- [Paya Ltd and Anr](#) [2016] UKFTT 660 (TC) - rights of a non-party to admit evidence. Instructed by the BBC.
- [Rotberg](#) [2014] UKFTT 657 (TC) - CGT on share sale; jurisdiction of FtT; legitimate expectation. Instructed by BDO.
- [Wildin](#) [2014] UKFTT 459 (TC) - valuation of goodwill for CGT
- [Kishore](#) [2013] UKFTT 465 (TC) - income tax; single/separate trades; cessation of trade. Instructed by Hill Dickinson.
- [Pepper](#) [2013] UKFTT 654 (TC) - contract settlements; scope of FtT's jurisdiction.
- [Trustees of David Zetland Settlement](#) [2013] UKFTT 284 (TC) - IHT; availability of BPR. Instructed by Squire Sanders.
- [Weiser](#) [2012] UKFTT 501 (TC) - UK/Israel double tax treaty; meaning of "subject to tax"
- [Curran](#) [2012] UKFTT 517 (TC) - interest relief; validity of settlement agreement
- [Crompton](#) [2009] STC (SCD) 504 - income tax treatment of compensation payment

VAT and Duties

- [Barclays Service Corporation](#) [2024] UKFTT 785 - successful defence of HMRC's refusal to admit taxpayers to VAT group; principles in *HSBC UT* applied.
- [Emerchantpay](#) [2022] UKFTT 334 - successful appeal about financial intermediation for VAT.

Instructed by Grant Thornton.

- [Romima](#) [2019] UKFTT 736 - VAT treatment of vouchers; finance exemption
- [N Brown Group plc and JD Williams](#) [2019] UKFTT 172 - VAT; partial exemption attribution and apportionment; marketing costs in the context of a business selling goods and offering finance
- [Perenco](#) [2015] UKFTT 65 (TC) - *Fleming* claim for recovery of input tax on share issue expenses; instructed by Deloitte
- [African Consolidated Resources](#) [2014] UKFTT 580 (TC) - input tax recovery by UK holding company
- [Anna Scholz](#) [2013] UKFTT 353 (TC) - Customs duties; eligibility of goods for samples relief
- [Jones](#) [2012] UKFTT 503 (TC) - successfully argued for the taxpayer that the "use or disposal" of property was not restricted by s.106 agreement, securing an input tax repayment under the DIY Scheme.
- [Energys](#) [2010] UKFTT 20 (TC) - leading case on disproportionality of VAT surcharges.

SDLT

- [BTR Core Fund JPUT](#) [2024] UKFTT 885 - meaning of "mistake in a claim" in the context of an overpayment claim for multiple dwellings relief.
- [Crest Nicholson](#) [2017] UKFTT 134 (TC) - SDLT avoidance; distribution in specie scheme; HMRC's determination and discovery powers
- [Allchin](#) [2013] UKFTT 198 (TC) - application of s.45 FA 2003 to a novation
- [Vardy Properties](#) [2012] UKFTT 564 (TC) - SDLT avoidance; distribution in specie scheme
- [Neiland](#) [2011] - Adjudicator to HMLR - effect of s.79(1) FA 2003

Rating

- [Pearl Group](#) [2015] No. 054017371184/537N05 - relevance of a restrictive covenant to the determination of rateable value

Publications

- Former General Editor of **Private Client Business** (Sweet & Maxwell)
- Contributor to **VAT Commentary and Analysis** (Sweet & Maxwell)

- **FA(No.2) 2017 Notes: Section 9: life insurance policies: recalculating gains on part surrenders etc** [2017] BTR 527
- **UBS and DB Group Services: a departure from the conventional approach?** [2016] BTR 257
- **[Tribunal Fees - a tax on justice](#)** (Tax Adviser, Management of Taxes Voice, Issue 1, January 2016)
- **Breaking the Deadlock - Resolving SME Tax Disputes by ADR** [2012] PCB 185
- **The Tax Treatment of Damages and Compensation** [2012] PCB 117
- **SHIPS that Pass in the Night - Reconciling Mayes and Drummond** [2011] BTR 279
- **Navigating the Finance Act 2007 Penalty Regime: Three Case Studies** [2011] PCB 210
- **Remittances and Overseas Transfers** [2009] PCB 397
- **Protected Cell Companies and TCGA 1992 s.13** [2009] PCB 316
- **It's Good to Talk - resolving disputes via ADR** (Taxation Magazine, April 2012)
- **Tax Penalties - Convention Compliant?** (Tax Journal, April 2009)
- **Abuse of Rights: Imposing Limits** (Tax Journal, November 2008)
- **Abuse of Rights: The Effect of the Doctrine on VAT Planning** [2007] BTR No. 2 160