

## CTM SUCCESSFULLY STAND TWO APPEALS BEHIND HUNGARIAN AND BULGARIAN ECJ CASES

### ASSISTING TRADERS IN CRIMINAL AND CIVIL CASES



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Liban worked for HM Revenue & Customs for 20 years, predominately in MTIC investigations, before being recruited by **KPMG** as an MTIC specialist. He formed CTM in 2005 and now manages all First Tier Tribunal and Upper Tribunal appeals.

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#### **Upper Tribunal agrees that ECJ cases may have effect on UK appeals**

Further to our earlier Newsletter regarding Applications to the Upper Tribunal to stand over appeals behind European cases, we are extremely pleased to report that the decision was released today and Judge Bishopp agreed with the traders' request.

In essence it means that, if you lose your Tribunal appeal at trial, it is not the end of the road, and that all such cases can, on Application, be stood over pending the outcome of some relevant cases being heard in the ECJ next year.

The Tribunal recognised that HMRC and the wider public have an interest in the finality of litigation, but added that it does not seem to be appropriate to refuse a stand over when the ECJ may provide answers of relevance that will have an effect on the outcome of current UK appeals.

Although the Tribunal did not comment in its written decision on appeals that are yet to go to trial, it seemed likely that the Tribunal would want to hear the appeals on the facts first and that a mass stand over would be unlikely to happen. During the hearing, Judge Bishopp seemed more sympathetic to HMRC's position that witnesses are already forgetting the facts of the appeals and that any mass stand over would cause chaos if all the appeals started again in one or two years time. However, a separate decision will need to be made on any Application pre-trial and the merits argued at a hearing.

The Tribunal suggested during the hearing that appeals which had been withdrawn, or struck out, could be resurrected after the ECJ released their Judgement, but any case that was struck out a year, or more, before is unlikely to succeed. Again, that will be a separate battle if and when the need arises.

We are happy to explain the implications in more detail should you wish to contact us.