

Edward Waldegrave

Call: 2011



Edward has a busy litigation practice which is focused mainly on disputes before the tax tribunals, public law, and professional negligence claims.

Having been appointed to the Attorney-General's "B" Panel of Junior Counsel to the Crown in 2021, Edward regularly acts in factually and legally complex disputes with significant sums at stake, often as sole counsel. He is familiar with litigation in a range of different courts, including the Court of Appeal and Supreme Court. He also has considerable experience of cross-examination and of cases involving expert witnesses. Edward enjoys working collaboratively with clients and other professional advisers and adopts a calm and strategic approach to litigation, with first-rate written and oral advocacy underpinned by thorough preparation.

Recent significant tax appeal cases on which Edward has been instructed have concerned the treatment of pharmaceutical intellectual property rights for the purposes of the intangible asset regime, "inward processing relief" from customs duty, share valuation in relation to the gift-aid rules, the VAT grouping provisions, the availability of capital allowances in respect of facilities for the processing and storage of nuclear waste, "enterprise zones", and the loan relationship rules. Edward was also instructed on the high-profile Ingenious film finance case (which involved issues concerning what constitutes "trading", the "view to profit" test, and generally accepted accounting practice).

Edward is also experienced in judicial review work, having acted for government and private-sector clients in relation to tax-related claims involving legitimate expectation and *ultra vires* arguments. Professional negligence claims also constitute an important part of his practice; Edward has extensive experience of acting for both defendants and claimants in relation to such claims (particularly those arising from allegedly defective tax advice).

In terms of advisory work, Edward regularly advises clients on matters such as inheritance tax, capital gains tax, the "transfer of assets abroad" rules, and VAT.

"Edward is very thorough, gives clear advice and goes into a lot of detail."

“Edward just knows how to hit the right spot; he is measured and analytical, and can make complex ideas seem simple.”

Chambers & Partners 2023

“He has a very clear and concise style of written advocacy, which is a real benefit. Edward has a way of getting a point across in an understated way which makes it irresistible.”

Chambers & Partners 2023

Tax & Rating

Edward regularly acts for HMRC and taxpayer clients in a wide range of direct and indirect tax cases. He often acts as sole counsel in factually and legally complex high-value cases, and also has considerable experience acting in teams of counsel. Recent significant tax appeal cases on which Edward has been instructed have concerned the treatment of pharmaceutical intellectual property rights for the purposes of the intangible asset regime, “inward processing relief” from customs duty, share valuation in relation to the gift-aid rules, the VAT grouping provisions, the availability of capital allowances in respect of facilities for the processing and storage of nuclear waste, “enterprise zones”, and the loan relationship rules. Edward was also instructed on the high-profile Ingenious film finance case (which involved issues concerning what constitutes “trading”, the “view to profit” test, and generally accepted accounting practice).

Selected Cases

Corporate Tax

- **URENCO Chemplants Limited and Another v. HMRC:** Led by Jonathan Bremner KC, Edward appeared for HMRC in the First-tier Tribunal, the Upper Tribunal, and the Court of Appeal in this case concerning the availability of capital allowances in respect of expenditure of some £192 million on facilities for processing and storing nuclear waste. Edward is also instructed for HMRC on another capital allowances case concerning a major infrastructure development.
- **HMRC v. AML Tax (UK) Limited:** Edward appeared as sole counsel for the taxpayer in a three-day hearing before the First-tier Tribunal concerning whether certain arrangements were “notifiable” for the purposes of the “disclosure of tax avoidance scheme” rules.
- **Cobalt Data Centre 2 LLP and Another v. HMRC:** Led by David Ewart KC, Edward acted for HMRC in this high-value litigation concerning the availability of enhanced “enterprise zone” capital allowances in respect of the construction of data centres outside Newcastle. The litigation included a claim for judicial review in respect of representations said to have been made by HMRC. The case was heard by the Upper Tribunal in two parts in 2019 and 2020, and an appeal was heard by the Court of Appeal in October 2022.
- **Ingenious Games LLP and Others v. HMRC:** Working with various counsel including Jonathan Peacock KC, Richard Vallat KC, and James Rivett KC, Edward acted in this major litigation (thought to be worth in

the region of £1 billion) concerning the availability of tax relief in respect of investment in film production activities.

- **Hill Catering Limited v. HMRC:** Edward acted as sole counsel for the taxpayer in this case concerning appeals against VAT, income tax, and corporation tax assessments issued by HMRC on the basis that that takings from a restaurant business had been significantly underdeclared over a number of years. An important issue in the case concerned the validity of the relevant assessments.

Personal Tax

- **Nuttall and Others v. HMRC:** Edward acted as sole counsel for HMRC in a case concerning claims by taxpayers for relief in respect of gifts which they made of shares to charities. As well as involving expert share valuation evidence, the litigation also involved “abuse of process” arguments arising from long delays during the relevant enquiries.
- **Naghshineh v. HMRC:** Edward acted as sole counsel for the taxpayer before the First-tier Tribunal and the Upper Tribunal in a case concerning the restrictions which apply to tax relief for farming losses. The case involved expert evidence and legislation which the Upper Tribunal described as “dense and difficult”.
- **Dukeries Healthcare Limited and Others v. HMRC and Others:** Led by Mark Herbert KC, Edward appeared in the High Court for HMRC in resisting a claim by which the taxpayer sought to have various tax avoidance arrangements set aside on the basis of mistake.

Indirect Tax

- **ThyssenKrupp Materials (UK) Limited v. HMRC:** Edward acted as sole counsel for HMRC in a six-day hearing before the First-tier Tribunal in a complex and important case concerning “inward processing relief” from customs duty (having previously acted in related judicial review proceedings). The case concerned customs duty of £2 million and related import VAT of about £6 million.
- **HSBC Electronic Data Processing (Guangdong) Limited and Others v. HMRC:** Led by Hui Ling McCarthy KC, Edward is instructed for HMRC in litigation concerning the circumstances in which an entity may join a VAT group, and the scope of HMRC’s related “protection of the revenue” powers. Various novel points of law, including EU law, are involved, and the amounts at stake are in the region of £200 million.

Public Law

Edward has substantial experience acting in claims for judicial review involving legitimate expectation and ultra vires arguments. In particular, he has experience acting for claimant and government clients in relation to disputes concerning tax. Edward is familiar with the particular demands of judicial review litigation and advocacy.

Selected Cases

- **Cobalt Data Centre 2 LLP and Another v. HMRC:** Edward acted for HMRC in this high-value litigation concerning the availability of enhanced “enterprise zone” capital allowances in respect of the

construction of data centres outside Newcastle. The litigation included a claim for judicial review in respect of representations said to have been made by HMRC. The case was heard by the Upper Tribunal in two parts in 2019 and 2020, and an appeal was heard by the Court of Appeal in October 2022.

- **VAT Grouping Cases:** Edward is instructed on various cases concerning the VAT grouping rules which involve claims for judicial review based on an alleged change of policy by HMRC.
- **Accelerated Payment Notice Claim:** Edward was instructed to act for the claimants in relation to a claim for judicial review in which the question was whether accelerated payment notices issued by HMRC were *ultra vires*.

Professional Negligence

Edward has extensive experience of acting in cases concerning claims for professional negligence, in particular in relation to allegedly negligent tax advice. Edward has acted for both claimants and defendants and has a good understanding of the particular strategic and tactical considerations which are relevant in relation to claims of this kind.

Selected Cases

- **Defective Implementation Case:** Edward was instructed to act for the claimants against a “big four” firm of accountants in a claim concerning the allegedly defective implementation of arrangements designed to minimise tax liabilities. The total value of the claim (which was ultimately settled) was about £19 million.
- **Miss-sold Tax Scheme Case:** Edward is currently instructed to act for the defendants in relation to a claim worth in excess of £10 million in which the claimants contend that they were “miss-sold” a tax avoidance scheme.

Direct Access

Edward is happy to accept instructions under the Direct Access Scheme.

Appointments

- Attorney-General’s “B” Panel of Junior Counsel to the Crown (2021 – present)
- Attorney-General’s “C” Panel of Junior Counsel to the Crown (2017 – 2021)

Education

- Bar Professional Training Course (Outstanding) – City University, London
- Graduate Diploma in Law (Distinction) – City University, London
- BA Hons in History (First) – Christ Church, Oxford

Memberships

- Revenue Bar Association
- Administrative Law Bar Association