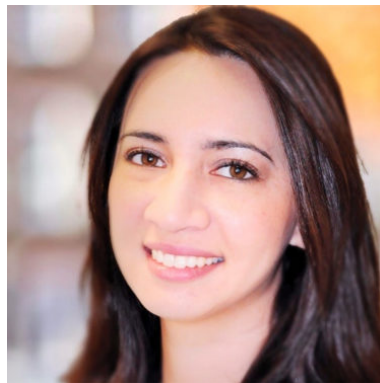


**Called 2005**  
**Silk 2018**

## Hui Ling McCarthy QC



Shortlisted as Tax Silk of the Year, Chambers Bar Awards 2019 (previously Tax Junior of the Year 2013 and 2017, shortlisted 2016).

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 and SDLT cases in recent years. In her first year in Silk, she successfully represented clients in the Supreme Court in three cases: Project Blue, Derry and Telereal Trillium.

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 and SDLT. 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.

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.

**Recommendations** - Hui Ling is recommended in Chambers & Partners, Legal 500 and Who's Who Legal where she receives particular acclaim for her skills in court.

### **Corporate Tax**

*Highly rated silk. Great at absorbing huge volumes of information and simplifying the issues; her pleadings are exceptional as are her advocacy skills - Chambers and Partners 2020*

*She works incredibly hard, is tactically very astute and clients love her - Legal 500 2019*

*Highly rated silk. She has an incredible insight and clarity of approach. An excellent advocate combining the attributes of eloquence and precision. Quick, clear-thinking and decisive - Chambers and Partners 2019*

*Tenacious as an advocate and not afraid to push difficult points - Legal 500 2018*

*Intellectually very sharp, quick to think on her feet in court and very measured in analysing arguments. Very thorough and provides super client service - Chambers and Partners 2018*

*Excellent, she's just so bright and so on top of everything - Chambers and Partners 2017*

*An extraordinarily accomplished advocate - Legal 500 2016*

*A phenomenal talent - Who's Who Legal 2016*

### **VAT**

*Very strong advocate who is very bright. Clever and determined advocate who combines first-rate tax and public law expertise - Chambers and Partners 2020*

*Highly praised new silk. Has boundless energy and ambition. She is excellent to work with and has good judgement. An articulate advocate who also provides sound commercial advice. Very approachable, intelligent, responsive and reliable - Chambers and Partners 2019*

*Forensic in her attention to detail. Thorough, responsive, constructive and provides a great client service - Chambers and Partners 2018*

*Strategic and persuasive, with a rare ability to make the complex seem simple. Excellent drafting skills coupled with persuasive, measured advocacy - Legal 500 2017*

*Highly regarded for her expertise in corporate tax and VAT - Who's Who Legal 2017*

*Diligent, eloquent, intelligent. Phenomenally perceptive - Chambers and Partners 2017*

## **Awards**

### **Chambers Bar Awards:**

- Shortlisted for **Tax Silk of the Year 2019**
- **Tax Junior of the Year 2013 and 2017**; shortlisted **2016**

Shortlisted for **Legal 500 Tax Junior of the Year 2017**

Shortlisted for the **Chambers 100 UK Bar (Juniors) 2013**

Shortlisted as a finalist for **Young Practitioner of the Year - STEP Private Client Awards (2013/14)**

*Rising Star within Indirect Tax - Indirect Tax Awards (2012)*

*40 under 40 - Tax Journal (2011/12)*

Shortlisted for *Taxation's Rising Star - Taxation Awards (2009)*

*Top 35 Under 35 - Private Client Practitioner (2009)*

## **Publications**

### **Include:**

- 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

## **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.

## **Professional Memberships**

- Bencher of the Inner Temple
- Chairman of the CIOT's Dispute Resolution and Litigation Group
- CEDR Accredited Mediator
- Association of Tax Technicians - Associate (ATT)
- Member of the Revenue and Chancery Bar Associations
- Member of the VAT Practitioners Group

## **Legal Information**

Hui Ling McCarthy 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

### Supreme Court

[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.

[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.

### Privy Council

[National Transport Authority v Mauritius Secondary Industry Ltd](#) [2010] UKPC 31 - incidence of VAT; commercial property

### Court of Appeal

[Fortyseven Park Street](#) [2019] EWCA Civ 849 (also acted in the [UT](#) and [FtT](#)) - VAT treatment of a Marriott property in Mayfair

[Tooth](#) [2019] EWCA Civ 826 - staleness; deliberate inaccuracy. (Definitely didn't act below.)

[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.

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

[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.

## Upper Tribunal

**Wigan Football Company v Roberts (VO)** [2019] (decision pending) (also acted in the [VTE](#)) - whether relegation from the Premier League gave rise to a material change in circumstances - on appeal to the Upper Tribunal

**Target** [2019] (decision pending) (also acted in the [FtT](#)) - VAT; application of finance exemption to loan administration services

[Inventive Tax Strategies](#) [2019] UKUT 221 (also acted in the [FtT](#)) - VAT treatment of fee refunds and credit notes - on appeal to the UT

[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.

[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

[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

[Leslie Smith](#) [2011] UKUT B16 (TCC) - preparation of accounts not in accordance with GAAP; negligence

## High Court

[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"

[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.

[R \(oao Tameside MBC\) v Valuation Officer](#) [2013] EWHC 450 (Admin) - correcting errors in non-domestic rating list

**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.

## **First-tier Tribunal (or equivalent)**

### **Direct Tax**

[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**

[Safestore](#) [2019] UKFTT 276 (on appeal to the UT) - VAT; application of insurance and insurance

intermediation exemptions in the context of self-storage insurance supplies

[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**

[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

## **Business Rates**

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