



# HMRC enquiry into structuring of offshore trust

Challenging a tax bill arising as a result of professional negligence of a former adviser





e were approached by a client who had set up an offshore trust structure into which HMRC was now enquiring.

### The challenge

HMRC was suggesting that there was a considerable tax bill in an earlier year due to the application of certain aspects of the anti-avoidance legislation – something which the client’s advisor had not considered in advising him to set up the structure or in its subsequent operation. The client wanted us to consider whether there was an alternative structure which would have achieved the desired effect without falling foul of the anti-avoidance legislation and also to deal with the HMRC enquiry with a view to minimising the tax bill as a result of the implementation of the structure.

### How did Blick Rothenberg help?

We reviewed the structure that had been implemented and considered whether there were alternatives which would have been more tax effective. We then approached a contact in HMRC and agreed with him that we would write explaining in outline the background to what had happened with a view to allowing HMRC the opportunity to seek further clarification as necessary. This we did following it up with an analysis of the tax effect.

### The outcome

HMRC’s response to the outline disclosure was that the professional advisor had been negligent and that therefore they could seek 6 years of tax, interest and penalties with regard to the structure. It would then be up to the client to seek recompense from the advisor. Our response letter explained that although the advisor had been negligent, HMRC had not protected their position by issuing an assessment on the structure in respect of the year in which the tax liability arose within the permitted time limits, and they were now out of time to issue any assessment at all for that year since it was accepted that there was no intention to defraud HMRC. The client therefore had no tax bill to pay and the only damages he needed to seek from his former adviser were for our fees.



Wow – even when my former adviser was aware that we would seek recourse from him for any tax we had to pay, he did not think to argue with HMRC that they were out of time to assess. I could not have asked for a better result!



Fiona Fernie

Partner  
Private Client

**I** +44 (0)20 7544 8994

**E** [fiona.fernie@blickrothenberg.com](mailto:fiona.fernie@blickrothenberg.com)

Independent  
Member of **B K R**  
INTERNATIONAL

**B R** BLICK  
ROTHENBERG

a CogitalGroup company

16 Great Queen Street  
Covent Garden  
London WC2B 5AH

**I** +44 (0)20 7486 0111

**E** [email@blickrothenberg.com](mailto:email@blickrothenberg.com)

**W** [blickrothenberg.com](http://blickrothenberg.com)