

Top tips for tax litigation

1. Obtain a second *independent* opinion before taking the final decision to litigate

No matter how distinguished your first advisors are. The cost of that opinion will not be much compared to the amount at stake in the litigation. If the second opinion is supportive, go ahead! If not – don't necessarily give up, but you will have some questions to ask before you proceed.

2. Instruct Counsel

By training, experience and temperament, they are the best persons to conduct your case in Court. You may say I am biased, but I would certainly instruct counsel myself if embarking on litigation.

3. Ask: Is it worth litigating?

Your opponent is HMRC. They do not have a limitless litigation budget, but as far as you are concerned, they might as well have. Check the amount of tax involved justifies the costs and that there is no chance to settle.

4. Thorough preparation

Preparation is the key to success. You may still find surprises but it is up to you to minimise them. HMRC have a record of delivering key documents late.

5. Be patient

Nothing happens fast in tax litigation. HMRC and the Courts often take longer than my worst expectations, and I should be used to them by now.

6. Accept you may lose

The Courts like to find for HMRC if they can. The prospects of success in a *good* case rarely exceed 75%, except for tax avoidance litigation, where the prospects of success in a *good* case do not exceed 50%.

7. Ensure that there is something in your life more important than your litigation.

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