

Commissioners for His Majesty's Revenue and Customs (Appellant) v Fisher (Respondent) No 2

Case ID: 2021/0213

Case summary

Issue

What is the correct construction of the anti-avoidance provisions in section 739 and following of the Income and Corporation Taxes Act 1988 (and its successor in Chapter 2 of Part 13 of the Income Tax Act 2007)? In particular:

- i) Does the transfer of assets have to be a transfer by the individual who has the power to enjoy the income that becomes payable to the overseas person?
- ii) If the individual has to be the transferor of the assets in order for section 739 to apply, in what circumstances (if any) can an individual be treated as a transferor of the assets where the transfer is in fact made by a company in which the individual is a shareholder?

Facts

The Fisher family established the Stan James betting business. This appeal concerns the transfer of part of the Stan James betting business from a UK resident company, Stan James (Abingdon) Limited to a Gibraltar resident company, Stan James Gibraltar Limited ("SJG") in 2000, and the assessments to tax made on Stephen, Peter and Anne Fisher on the basis that they had "power to enjoy" income of SJG. Assessments to tax were issued by HMRC to each of Stephen and Anne Fisher in respect of the years of assessment 2000/2001 to 2007/2008 and Peter Fisher in respect of the years 2000/2001, 2001/2002, 2003/2004 and 2004/2005. Pursuant to section 739 of the Income and Corporation Taxes Act 1996, HMRC treated the income of SJG as the deemed income of the Fishers in proportion to their respective shareholdings in the company.

The Court of Appeal upheld the tax charges on Stephen and Peter but not Anne. Stephen and Peter now appeal to the Supreme Court. HMRC are cross-appealing in relation to Anne's assessment to tax.

Judgment appealed

[\[2021\] EWCA Civ 1438](#)

Parties

Appellant(s)

Commissioners for His Majesty's Revenue and Customs

Respondent(s)

Anne Fisher

Appeal

Justices

Lord Reed, Lord Hodge, Lord Sales, Lord Stephens, Lady Rose

Hearing start date

19 July 2023

Hearing finish date

20 July 2023

Watch hearing

19 July 2023 [Morning session](#) [Afternoon session](#)

20 July 2023 [Morning session](#) [Afternoon session](#)