

THAT WAS THE YEAR THAT WAS 2025

2025 was the year that 'Celebrity Traitors' captivated the nation; so much so that it looked like Rachel Reeves and Keir Starmer were inspired to betray their voters and kill their manifesto commitment to not raise taxes. As it happens, they couldn't quite step into Alan Carr's shoes, and, after months of tortuous (and *torturous*) pitch-rolling, they are back to their old shtick as 'faithfuls'. This was also the year of Donald Trump's 'liberation day' tariffs; when Trump showed how strategically savvy he was by hitting an exclusively penguin-populated island near Antarctica with 10% tariffs, all in the name of national security. That'll show em!

January

Some people exist in a state of perma-excitement for the next Beyoncé album to drop. Tax practitioners get similarly hyped for new judgments by Lady Justice Falk, who indulged her fans by writing the judgment in *ScottishPower* and holding that, even though payments of penalties are not tax deductible, payments made in lieu of penalties are tax deductible. But this is not the last word on this as the Supreme Court is set to hear the HMRC's appeal in May 2026!

January also saw another addition to the canon of fundamentally frivolous VAT cases. In *Global By Nature*, the FTT had to weigh in (n.b: there was no *why* in here!) on whether powdered vegan food supplements were actually sports drinks. The FTT held that they were not salty or sugary enough to nurse Olympic ambitions, but, terrifyingly, the court entertained an alternative argument. If they were wrong to emphasise the ingredients list, then it would be important to determine whether yoga was too woo-woo to be a sport, and whether the marketing materials could have been ghost-written by Gwyneth Paltrow. If that's the level of seriousness that we should bring to matters of taxation in this country, then perhaps we should run with the Times' suggestion to Rachel Reeves, to tax pineapple on pizza!

Less laughter was heard when Donald Trump issued an 'America First Trade Policy' memo, which encouraged his

administration to flush out foreign countries imposing discriminatory taxes on U.S. citizens or businesses. Most significantly, he upended years of international tax cooperation efforts by signing an executive order to reject the OECD's 'global tax deal'.

February

February brought us the Supreme Court's 4:1 judgment in *Royal Bank of Canada* on the application of purposive interpretation to the UK-Canada double tax treaty. Heartstrings were plucked when Lord Briggs described himself as being in 'lonely disagreement' with the majority. Lord Briggs found himself all on his tod for fear that the majority judgment would limit *Ramsay*'s application to combatting tax avoidance schemes.

Then along came *Gourmet Classic Foods* on the VAT classification of cooking alcohol. The authors take very seriously this product classification, and, in service of any future litigation, humbly volunteer our very technical 'swig' test expertise (contact details below)!

March

Of much more interest than the Spring Statement, March brought us a sticky, hands-on tax issue: are Mega Marshmallows a zero-rated food ingredient or standard-rated confectionery? This all turned on whether they are normally a finger-food, a question the Court of Appeal remitted to the First-tier Tribunal for it to take a second bite at the marshmallow. The Court of Appeal itself found the answer isn't elusive, thanks to the existence of forks and skewers. The burden of proof here lies with the taxpayer; Innovative Bites will have to persuade the FTT that its Mega Marshmallows are not normally finger-lickin' good for zero-rating to apply.

April

Who could forget 'liberation day' in April? 24 hours too late to be one of the all-time great April Fool's jokes, Donald Trump announced the imposition of 'reciprocal' tariffs on imports from all countries. The use of 'reciprocal' continued Trump's reinvigoration of the possibilities of the English language (which had grown staid and dull under previous presidents). The FT refused to discuss the tariffs

without pointed quotation marks around this boundary-breaking adjective.

The Trump administration very carefully devised a formula to calculate the appropriate rates for these ‘reciprocal’ tariffs- step one: take the trade deficit; step two: divide by 2. Of course, it took economic savants a very long time to crack this hyper-sophisticated tariff formula, which the White House kindly clarified with the help of some Greek letters and a smattering of research references.

Also in April, Oprah Winfrey, Katy Perry and Lauren Sanchez and others (briefly) left Earth on a rocket-ship. Looking at their stocks and shares ISAs after the tariff announcements, others may have also wanted to hightail it off the planet.

May

May provided another hot potato for VAT enthusiasts. In *Walkers Snack Foods*, HMRC successfully argued that ‘when you say potato, we say ~~potato~~ potato starch and granules’. The UT also got the chance to revisit last year’s most enjoyable judgment, in which these immortal words were written:

‘Nominative determinism is not a characteristic of snack foods: calling a snack food ‘Hula Hoops’ does not mean that one could twirl that product around one’s midriff, nor is ‘Monster Munch’ generally reserved as a food for monsters.’

Sadly, the UT pooh-poohed that particular verse of what is now a sacred text (at least for those who worship whackadoodle VAT judgments). The UT agreed with the taxpayer that the FTT had treated the word ‘poppadoms’ as the product’s mere brand name, rather than its customary or descriptive name. The UT stopped short of endorsing nominative determinism but noted that names may have some relevance as part of a multifactorial assessment.

As it happened this was not the only tuber humour in May. It was reported that a man had asked hotel staff to help with a birthday surprise for his wife: to lay out some ~~roses~~ bags of crisps on their hotel bed. We are reliably informed that this would have been a romantic gesture, as she loved crisps. A misunderstanding resulted in the staff emptying the crisp-packets over the sheets like carb-fetti. Perhaps the lovebirds, evidently crisp aficionados, could have provided some expert evidence in the *Walkers* case.

Also in May, the Financial Times published an article describing the UK tax code as having an equivalent word count to 14 copies of the King James Bible. We suspect that this prompted one of our former colleagues to leave the profession entirely and become a vicar. His new career is, by this measure, more than ten times more straightforward.

June

In June we had the launch by M&S of a limited-edition strawberries and cream dessert sandwich. Only one daring soul in our Tax department dared to scoff one of these Wimbledon-inspired ‘sandos’. But we could all agree that they hovered tantalisingly between cake and cold-sandwich (the latter gets hit with a 20% standard-rating for VAT purposes). This sandwich had a feverish mass of VAT nerds licking their lips at the prospect of future VAT litigation; the FT had reported, after some intrepid investigative journalism, that M&S was treating them as zero-rated after all. At the time of writing, there has been no challenge to this treatment. For now, HMRC seems to be saying ‘let them eat cake!’.

June also saw one of the year’s most shocking and dramatic international tax stories, and we’re not even talking about the nuclear threat of section 899 getting dropped from the One Big Beautiful Bill or the G7 reaching an ‘understanding’ for a side-by-side pillar two system. It was widely reported that a tax adviser faked her own death and absconded with client monies which were supposed to be paid to Spanish tax authorities. She was apprehended, alive, in Mallorca after investigators tracked her giant poodle - a stand-out breed in the Balearic islands.

July

We had just gotten over the excitement of L-Day when the Lionesses made history as only the second women’s football team to retain the Euro trophy. Go Lionesses!

August

August made us suspect that businesses are now using VAT controversy as a marketing gambit. Hot on the heels of the M&S sando, Tesco announced a birthday cake sandwich to celebrate the 30th anniversary of its clubcard. The inevitable happened: a Financial Times journalist-sized trap had been set and, lo and behold, Louis Ashworth entered a Tesco Superstore to sample the goods and secure a VAT receipt. In his own words, he ‘secured a generational scoop’, reporting that Tesco was not charging VAT on the birthday cake sandwich.

On the same day as the launch of the birthday cake sandwich, HMRC published its Multinational Top-up Tax and Domestic Top-up Tax manual. For some reason, this failed to attract such amusing newspaper coverage.

Later in the month, there came along a VAT case to restore our excitement for sampling the goods at issue (see! The cynical VAT marketing is working!). HMRC had argued before the FTT that Ferrero’s Nutella biscuits should be standard-rated for VAT, because they were covered in chocolate. The taxpayer successfully argued that this was ~~hazelnuts~~ and, in fact, these truly scrumptious biscuits were not covered in chocolate, but rather consisted of some chocolatey gloop cementing together a kind of biscuit-sandwich. Very sensibly, this highly technical distinction has a wildly different VAT outcome.

September

In the final round of VAT Top Trumps (stocking filler anyone?), we learned from the Supreme Court in *Prudential Assurance* that the time of supply rules trump the VAT grouping rules.

October

The longest ever US government shutdown started on 1 October, ending 43 days later but as the compromise legislation only provides funding in most cases until the end of January and the political differences that led to the shutdown have not been resolved, chances are it will not be long before another standoff! What a way to do politics - perhaps we should stop complaining about the amount of pre-Budget kite-flying, U-turns, rumours and uncertainty about who has the 'broadest shoulders' or who is a 'working person' - at least public services continue to operate, our parks stay open and flights operate as usual!

November

November was a wild ride, to say the least. In *John Earl Dreyer*, a taxpayer tried to rely on the Bill of Rights Act 1689 to argue that there was no time limit for a taxpayer to appeal a penalty. Unsurprisingly, the taxpayer was unable to piggyback on the deposition of James II to get out of a VAT penalty, but we admire the audacity!

November also saw the US Supreme Court hear arguments over whether US tariffs are legal, after they were held to be illegal in the lower courts. The US Supreme Court will have to decide on whether it matters that the United States has a Constitution that says that Congress has the power to impose tariffs, not the president, not even one who takes a literal bulldozer to the White House (this material writes itself!).

Speaking of unenviable decisions, the government had more flip-flops than a Havaianas stall on Copacabana beach until the Budget finally arrived in November. The Chancellor shunned big revenue-raising measures for a multitude of smaller measures, bringing the tax burden to 38 percent of GDP- an all-time high. If only there was a wizard who could shake a magic money tree, perhaps the Wizard of Oz-lington (a role that Jeremy Corbyn will be playing in a panto this Christmas- no, really!).

December

The US assumed presidency of the G20 on 1 December and a key theme is expected to be 'unleashing economic prosperity'. The term of the G20 presidency coincides with the United States Semiquincentennial (must remember that word for Christmas scrabble!) and Trump is determined to make the most of it. Watch out for a big shake up of the G20 over the next year as the US presidency is expected to streamline the agenda to refocus on the original role of the G20 of financial co-ordination.

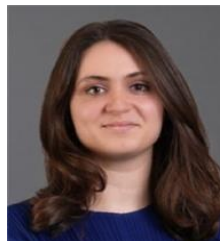
No review of 2025 would be complete without a mention of AI. It was the year it became acceptable to consult AI on anything from what we should cook for dinner, watch on TV or help with planning our family holidays. Using AI successfully in a tax context, however has proved more challenging. It hasn't gone too well for taxpayers relying on AI to prepare for litigation who included fake cases in their arguments. But used appropriately and with proper verification it can be a useful aid, as the judge explained in *VP Evans*. So we thought it would be appropriate to finish with a topical joke (found on Google as AI couldn't come up with anything better). A Machine Learning algorithm walks into a bar. The bartender asks 'What will you have?'. The algorithm says 'What's everyone else having?'.

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CONTACT



Zoe Andrews
Head of Tax Knowledge
T: +44 (0)20 7090 5017



Nadia Hourihan
Associate
T: +44 (0)75 0282 4663

London
T +44 (0)20 7600 1200
F +44 (0)20 7090 5000

Brussels
T +32 (0)2 737 94 00
F +32 (0)2 737 94 01

Hong Kong
T +852 2521 0551
F +852 2845 2125

Beijing
T +86 10 5965 0600
F +86 10 5965 0650

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