

Inheritance tax ruling should prompt rethink on UK assets

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An English Court of Appeal ruling that UK assets left to a Jersey trust are subject to inheritance tax should prompt Islanders to keep their assets here and not in the UK, says Ogier's Steve Meiklejohn.

The court has backed HMRC in a decision over the estate of a Jersey-domiciled woman, Beryl Coulter, who died in 2007 with UK assets worth £1.8 million.

Her will left those assets for the construction of homes for the elderly in the Island or to Jersey Hospice Care but HMRC challenged Mrs Coulter's executors' claim of charitable relief from UK inheritance tax, saying it did not apply to gifts to charitable trusts outside of the UK.

The case originally went to court in 2015, and HMRC's view was upheld. The Court of Appeal has now also backed that view – meaning that £600,000 from the £1.8 million UK estate must go to the taxman.

A remaining legal argument about whether that position constitutes an unlawful restriction on the free movement of capital between EU member states (such as the UK) and third countries (such as Jersey) has been held over, with both parties ordered to prepare full arguments before returning to the Court of Appeal.

Steve, Ogier's Global Senior Partner who has more than 20 years' experience in the trusts industry, said that the argument about free movement of capital was one that would be closely watched by the local industry and by Jersey's government – but that the key message from the case was that Islanders should consider moving their assets from the UK, even if their will seeks to leave them to a Jersey charity.

He said: "At first glance, and whilst the Court of Appeal has reached its decision based upon its analysis of the relevant cases and English statutes, the upshot of the decision is that one third of the trust fund (£600,000) will not now go towards the worthy project of providing homes for

elderly residents in St Ouen.

"This seems to me to be regrettable.

"The further and perhaps more significant question of whether Jersey is a third country under Article 63 of the EU treaties which is relevant for the question of free movement of capital would appear still to be decided.

"No doubt Jersey's government will watch this with interest."

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Meet the Author



[Steve Meiklejohn](#)

Partner

[Jersey](#)

E: steve.meiklejohn@ogier.com

T: [+44 1534 514462](tel:+441534514462)

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