

WINNER

# Dorsey & Whitney



Simon Whitehead (centre) accepts the award from George Bull of Baker Tilly

**SIMON WHITEHEAD**

*Marks & Spencer v Halsey*

Dorsey & Whitney's historic win in the M&S case has proved to be Her Majesty's Revenue and Customs' biggest headache in 2005. 'This was the case that was going to blow apart every tax system in Europe,' said Philip Gillett, chairman of the CBI's tax committee.

The *Marks & Spencer v Halsey* case has been the talk of the tax profession in 2005 and the outcome at the European Court of Justice has opened the floodgates for challenges to the UK's corporate tax system. The victory for M&S, worth around £50m to the retail giant, could eventually cost the Revenue £20bn, sources predict: 300 companies have issued similar claims. Further, it has demonstrated to multinationals that challenging the government through litigation can be an effective route to policy change. But Dorsey hasn't stopped there: Whitehead's team – albeit depleted by the defection of some members, who weren't on the M&S team, to DLA Piper last December – is currently acting in five of the six group litigation actions proceeding through the courts that challenge the legality of the UK's international obligations under the EC Treaty. And the upcoming Cadbury Schweppes case could deem the UK's controlled foreign companies system illegal. Simply, Dorsey & Whitney's tax team is the biggest advantage UK corporates currently have when disputing harmful tax legislation.

**HIGHLY COMMENDED**

**CMS CAMERON McKENNA**

**Richard Croker**

The Advocate-General's Opinion on the interpretation of VAT exemptions in the Abbey case, if followed through by the ECJ, will mark a victory for Abbey's former VAT head Peter Mason – now working with Croker's VAT practice. Camerons' innovative approach to the ECJ has established that negotiation and litigation go hand in hand. Adding former ECJ judge Melchior Wathelet has increased the ability of the team to take on contentious cases, and its meticulous planning has kept client costs down while speeding up the usually drawn-out court process.

**HERBERT SMITH**

**Heather Gething**

Gething's team has been instrumental in providing complex advice to Herbert Smith's large cross-practice team, which is winning some of the UK's most complex tax work. Its advice to the Department of Trade and Industry on the launch of the Nuclear Decommissioning Authority required a 'deep appreciation of fundamental tenets of UK tax law'. The practice also scored highly with clients over Swiss Re's acquisition of GE Insurance Solutions, and Fortune Brands' participation in the takeover by Pernod Ricard of Allied Domecq.

**LINKLATERS**

**Guy Brannan**

Linklaters has continued to shine in 2005, with outstanding work by its tax-driven finance practice. The demerger of Burberry by GUS was a unique transaction, requiring clearance, allowing Burberry to be demerged tax-free to GUS shareholders. The team has been increasing its litigation capabilities, notably with the £2.7bn 3G VAT claim at the ECJ from four leading mobile telecommunications companies that challenge the nature of the relationship between domestic and European tax law, and the relevance of the European VAT directive.

**SHEARMAN & STERLING**

**Bernie Pistillo**

Shearman & Sterling's UK tax team has been showing way forward to the other US firms looking to steal a march in the UK, none more so than with its work on the PWC Logistics acquisition of GeoLogistics. The transaction required complex tax restructuring to enable GeoLogistics to be purchased with minimal tax liabilities. One of the main advantages was the minimisation of future US taxes. The tax-efficient corporate restructuring required co-ordination of tax implications in the UK, US, the Netherlands and the Bahamas.



This award was researched in association with our sister publication, *Tax Business*