<u>**Route To Verdict**</u>

<u>**COUNT 1**</u>

For the purposes of Count 1 you do not need to consider whether the defendant knew that he had an obligation to pay his service providers, nor whether he knew that he ought to include the income of Citadel in his tax returns.

<u>**Question 1**</u>

Are we sure that the defendant, in submitting his self assessment tax returns for tax years 2014/2015 to 2020/2021, under-declared the amount of his income for taxation purposes, thereby depriving HMRC of tax revenue to which it was legally entitled?

<u>I direct you to answer this question "Yes".</u>

This is because the Settlements Code did apply to the defendant's arrangements, which included

(a) creating the RVQC Partnership so as to contract with his clients as agent for the partnership;

(b) creating the various trusts;

(c) arranging for the trustees of those trusts to become partners;

(d) entering into client contracts as agent for the partnership; and

(e) arranging for the allocation of profit shares to the trustees of partner trusts.

Now go to <u>Question 2</u>.

Question 2

Are we sure that the defendant knew either that the Settlements Code applied to the arrangements in (a) – (e), or that (if it did not) then the MMRs would apply to Breamgale Ltd as trustee of interest in possession trusts, and therefore that he was under-declaring his income and so depriving HMRC of tax revenue to which it was legally entitled?

In order to have known that, if the Settlements Code did not apply to the arrangements, the MMRs would have applied the defendant would have to have known that

(i) in each period of account of the RVQC Partnership Breamgale Ltd (a non-individual partner) had a share of the partnership profits, for the purposes of section 850C of ITTOIA 2005;

(ii) the profits allocated to Breamgale Ltd exceeded the amount which would be equal to interest paid at a commercial rate on its capital contribution to the partnership;

(iii) he had power to enjoy Breamgale Ltd's profit shares because

(a) he was connected with Breamgale Ltd in its capacity as trustee because he was the settlor of the trusts of which it was trustee; or

(b) Breamgale Ltd's profit share was dealt with so as to benefit himself;

or

(c) he was entitled to, or did, receive benefit provided out of Breamgale Ltd's profit share; or

(d) he was able to control (directly or indirectly) the application of Breamgale Ltd's profit share; and

(iv) it is reasonable to suppose that

(a) his power to enjoy Breamgale Ltd's profit share was the reason why Breamgale Ltd was allocated the share of profits in each period of account; and

(b) if he had not been able to enjoy Breamgale Ltd's profit share he would have allocated part or all of it to himself instead, and as a result the total tax paid (by Breamgale and the defendant) in respect of that profit share would have been more than was in fact paid in respect of each share.

If your answer the Question 2 is "Yes" then consider Question 3; if your answer is "No" then your verdict will be "Not Guilty" on Count 1 and you will next consider Question 4.

Question 3

Are we sure that the defendant's conduct in knowingly under-declaring his income was dishonest by the standards of ordinary decent people?

No one is suggesting that such conduct would not be dishonest.

If your answer is "Yes" then your verdict will be 'Guilty' on Count 1 and you do not need to consider Count 2, and you should next consider Question 8; if your answer is "No" then your verdict will be "Not Guilty" on Count 1 and you will next consider Question 4.

COUNT 2

Question 4

Are we sure that the defendant, in submitting his self assessment tax returns for tax years 2014/2015 to 2020/2021, under-declared the amount of his income for taxation purposes by not including the sums allocated as profit shares to trusts for the benefit of the Service Providers on those tax returns, thereby depriving HMRC of tax revenue to which it was legally entitled?

I direct you to answer this question "Yes".

Now go on to Question 5.

Question 5

Are we sure that the defendant knew that he was legally obliged to pay his Service Providers for the work they carried out for him and understood that obligation on him to be discharged as and when they received money?

If your answer is "Yes" then consider Question 6; if your answer is "No" then your verdict will be "Not Guilty" on Count 2 and you will next consider Question 8.

Question 6

Are we sure that the defendant knew that, because he was legally obliged to pay his Service Providers for the work they carried out for him, he had under-declared his income in his personal tax returns by omitting the sums allocated as profit shares to trusts for the benefit of the Service Providers through which he paid them?

If your answer is "Yes" then consider Question 7; if your answer is "No" then your verdict will be "Not Guilty" on Count 2 and you will next consider Question 8.

Question 7

Are we sure that the defendant's conduct in knowingly under-declaring his income was dishonest by the standards of ordinary decent people?

No one is suggesting that such conduct would not be dishonest.

If your answer is "Yes" then your verdict will be 'Guilty' on Count 2; if your answer is "No" then your verdict will be "Not Guilty". In either case, next consider Question 8.

COUNT 3

Question 8

Are we sure that the defendant under-declared the amount of his income for taxation purposes by not including Citadel Ltd's profits as income of his own, which deprived HMRC of tax revenue to which it was legally entitled?

I direct you to answer this question "Yes".

Now go to Question 9.

Question 9

Are we sure that the defendant knew that he was under-declaring his income, and knew that he was depriving HMRC of tax revenue to which it was legally entitled, because he knew

(i) that the Settlements Code applied to the arrangements involving Citadel Ltd, and

(ii) that s.3 of the Corporation Tax Act 2009 did not prevent the Settlements Code from applying to the income of a company?

If your answer is "Yes" then consider Question 10; if your answer is "No" then your verdict will be "Not Guilty" on Count 3.

Question 10

Are we sure that the defendant's conduct in knowingly under-declaring his income was dishonest by the standards of ordinary decent people?

No one is suggesting that such conduct would not be dishonest.

If your answer is "Yes" then your verdict will be 'Guilty' on Count 3.

If your answer is "No" then your verdict will be "Not Guilty" on Count 3.