

STEP JOURNAL

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A wellspring of ideas

With winter throwing its last punches in the northern hemisphere, it is perhaps fitting that this issue of the STEP Journal has as one of its focuses the sunnier climes of the Caribbean and Latin America.

Hot on the heels of the successful STEP Cayman Conference in January, this issue has a diverse range of articles dealing with tax and planning issues from other jurisdictions in the region, including an interesting feature from Robert Lindley TEP and Tonicia Williams on the rule in *Hastings-Bass*.

The Cayman Islands (like a number of other jurisdictions) amended the common-law 'rule' by statutory intervention to make it clear that the attribution of fault for breach of trust or duty was unnecessary. Of particular interest in this article is the account of the Grand Court of the Cayman Islands grappling with the application of the statutory rule in respect of not only trustee decision making but also that of other fiduciaries (in the case considered by the authors, that of company directors). In my own jurisdiction of Bermuda, as well as our courts considering the very same issue in the recent past, many observers were closely watching for the decision of the UK Privy Council in *Grand View PTC v Wong* on appeal from Bermuda. Ashley Fife TEP gives detailed consideration to this important decision. The judgment confirmed that there was no such thing as the 'substratum rule' and provided detailed analysis from Bermuda's highest court on the nature of fiduciary powers to add and exclude beneficiaries.

The other principal focus for this issue is modern families and vulnerable clients. Again, there is a rich tapestry of articles covering topics from the variation of wills for those lacking mental capacity to the registration of lasting powers of attorney in Singapore. I was particularly interested in Will Burnell TEP's cover feature, which asks whether the law is keeping pace with the modern family unit. The author looks at a number of recent cases where the courts of England and Wales and Jersey have had to consider either the variation of trusts or the construction of trust terms so as to address how terms such as 'spouse' or 'issue' ought to be applied now that we are more than 20 years into the 21st century. The author also touches on the important question of how the trust and private client industry is responding to the shift away from a binary approach to gender identity. This is surely an issue that will be the subject of important debate in the months and years to come. I hope that the issues raised in this and other articles in this focus will be of interest.

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