



# Taxing Matters

## The Asset Tracing Investigator: Following the money

**Alice** Hello! And welcome to Taxing Matters, your one-stop audio shop for all things tax, brought to you by RPC.

My name is Alice Kemp and I will be your guide as we explore the sometimes hostile and ever changing landscape that is the world of tax law and tax disputes. Taxing Matters brings you a fortnightly roadmap to guide you and your business through this labyrinth.

In case any of you miss any crucial information - or just want some bedtime reading - there is a full transcript of this and indeed every episode of Taxing Matters on our website at [www.rpc.co.uk/taxingmatters](http://www.rpc.co.uk/taxingmatters).

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**Alice** Like many of you who have watched crime dramas, I have often been attracted to the idea of investigations. Like many more of you, I have also received incredible reports from investigators who set out clear and compelling narratives answering the 'follow the money' type questions – and I have always wondered, “what happens behind the scenes?”

Here to give us an insight to lift that veil is Phoebe Waters. Phoebe is an investigator, asset tracing specialist, and the chair of the “Female Fraud Forum”. She is also a champion of women in the industry. Part of today's 35 under 35, she is an incredible voice for both females entering into traditionally male-dominated arenas and also for her passion for investigations.

So, Phoebe, welcome to Taxing Matters.

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**Phoebe** Hello Alice, thank you so much for having me!

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**Alice** Diving right in, what exactly does an investigator do?

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**Phoebe** Investigators can support clients with a huge range of matters. From litigation and arbitration support, dispute resolution, anti-corruption and fraud cases, enhanced due diligence and asset-tracing and recovery exercises. Although I have done and continue to work on a variety of matters, I specialise in the latter: the asset tracing and recovery. I enjoy, particularly, ones that are complex and international but my sweet spot, is tracing against sovereign states and high net worth individuals.

An asset trace is the process by which investigators 'follow the money'. What that means is we locate items of value owned by, or companies. The assets aren't just the 'sexy' options such as extremely valuable property, or yachts, but can range from shares, to LNG imports, to air rights above a city hotel.

What's really important about understanding asset tracing and recovery exercises is that the value of them is not just defined by their financial worth but, importantly, can be defined by the value to the client or value to the disruption that they can cause - because if we think about the ultimate objective, what we want is settlement.

In terms of what investigators do in order to start an asset trace, we set a wide aperture in order to then narrow down the detail. We try and collect information online: we look at search terms, jurisdictions, the

volume of information that is out there. We look at a subject's lifestyle, look at the operations the subject is involved in and we Hoover up all of the details with the exam question in mind which is: "where are the assets and can the assets be recovered and enforced against?"

We use the phrase 'follow the money' because if there is a fraud, for example, we need to visualise a trajectory in two directions [from the fraud to the assets, and from the assets back to the fraud]. What we do [as investigators] is to help assess, pre-proceedings, the cost-benefit of proceedings against the subject, character or sovereign state, but [we can] also [as investigators] - if the litigation, or arbitration, is already underway - provide valuable intelligence to ensure the client achieves a commercially favourable outcome.

Although it is a bit cheesy to say that investigators have a particular set of skills, it's quite true because the combination of our character and personalities - you know whether you have got a 'baby investigator' or an investigator coming through as an analyst because that instinct is there, that hunger is there.

That *character* combined with an adeptness at searching for primary sources, corporate litigation and property records - being able to communicate effectively with subcontractors on the ground who provide intelligence and conducting interviews, ourselves, of people who can provide value - that's what makes us investigators valuable to the clients and counsel.

**Alice** So, when and how do investigators add value to the matter?

**Phoebe** I think, as with every service and in every industry, the key for an investigator is to be able to provide value to our clients. My clients are predominantly dispute teams in law firms, large corporates and litigation funders. So, I think, firstly it's important to understand our clients and sufficiently define what the exam question is. [As investigators we should be] more than just helpers in the background, or on the side-lines, but actually be their advisors, be their partners - in a way - and ensure that communication is always regular and effective.

In terms of how we can add value investigators can support clients select counsel, establish ultimate beneficial ownership, gather strategic intelligence – which I just mentioned [regarding] human resource enquiries which are always confidential, sensitive, but also transparent - evaluate witnesses, retrieve primary source documentation, complete background checks. Then, more specifically for asset tracing and recovery exercises, we as investigators [are able] to help the lawyers on the team understand how disruption can be caused from an operational, financial, commercial, personal or political point of view - because those 'disruptive' elements could, potentially, help leverage, or encourage settlement. We look at evidence, understand close associates [of the subject], family, intermediary companies [and so on]. We would also be able to support Counsel, whether that is arbitration Counsel or enforcement Counsel, understand whether the jurisdictions that the assets are in are 'enforcement-friendly' and how likely is it that we'll be able to succeed in this jurisdiction? How many [jurisdictions] [are] there? How do the assets' ownership jump from one jurisdiction to the other?

We also - in terms of sovereign states - will be able to support Counsel understand sovereign immunity. Now, I'm not saying we do the lawyer's job, but we can gather the intelligence to help them apply those tests. So [we can assist on gathering evidence for the commercial purpose test, understand whether a sovereign owns an entity or an asset for commercial purposes as opposed to diplomatic purposes. We'll go and identify intelligence that can help [demonstrate the BANCEC 1983 case First National City Bank v Banco Para el Comercio Exterior de Cuba (Bancec)] factors. They are the principles for whether an instrumentality of the state, and the state, are sufficiently connected in order to enforce and go after those assets [of the Sovereign].

In terms of when [an investigator can add value to a case], the answer depends of course on the matter, where the case is being heard, if there is a crisis, etc, but the key thing is to say that investigators should be brought on as soon as possible once the client has discovered there is a problem.

I mentioned we can help assess pre-litigation, the costs, benefits and risks of conducting an investigation or an asset tracing exercise. Depending on when we're instructed, there is a varying angle to the value that we can bring. That's not to say we can't bring value at any and every point, but - if litigation or arbitration is already underway - we can then provide intelligence to ensure that our client still has a commercially

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favourable outcome. If we provide Counsel with proof of assets and valuations, plus information that could pressurise the subject, that [intelligence] may be enough to force settlement. I think - in terms of a big asset trace, though - it's key to conduct the assessment as soon as possible - at the beginning - because why would someone want to spend so much money and time to go through that process beforehand when actually all the assets might have been dissipated, obfuscated? Of course, there are ways of hunting those [assets] down still but [it is key to keep in mind that] they may have also been spent.

**Alice** Thinking of our traditional image from crime dramas, it's usually of male investigators, so how have you found dealing with both that preconception and being in a traditionally male dominated field?

**Phoebe** I love that question, Alice! It's very, very true [regarding the image of male investigators]: I grew up on James Bond. I wasn't the sister who liked the rom coms, I loved 007, Indiana Jones. I totally agree, there is a preconception and as a blonde, young female coming into the London industry after my masters: that was quite tricky. So, there have definitely been challenges that I have faced as a woman.

At times I have been underestimated, unsupported and sexualised in the sector. As we both know these issues are common and experienced by a plethora of women across jurisdictions, sectors, ages and experiences. One of the key issues, in my opinion, is that some people see our gender before our skill and that, therefore, results in stereotypes and untrue judgments.

I have dealt with both difficult men and women so I would continue to encourage that whatever gender one is, that it's key to support each other as people, as professionals and as sector peers. It is important to note that people everywhere on the gender spectrum [should] support each other.

In terms of how I have overcome some of these challenges, I focus on staying centred to my own values. These are curiosity, confidence and kindness, and I remain unwilling to compromise because I'm a woman. Even if I'm not feeling it on the inside, I try to exude steadfast confidence to combat the challenges of either not being supported enough or being underestimated.

In this male dominated field, I would love to see more women feel like they can own every aspect of their femininity and not, have to *not* be themselves. My mum sent me a card - a few years ago - which I've framed since [and it] says: "*Be who you were born to be and you will set the world on fire*". This resonated with me, [I have often read it] leaving my apartment before an exam, or an interview, or a big presentation.

Moving on to the Female Fraud Forum - which is hugely important to me. Being in a, traditionally, male-dominated field it's so significant to have the 'Female Fraud Forum' which is a satellite of brilliant and bold women. These females are truly incredible, both professionally and personally, and I am so lucky to have been part of [the community] for a few years now.

The FFF is a wonderful multi-disciplinary organisation in our industry that comprises barristers, solicitors, investigators, forensic accountants and any other practitioner in a civil and criminal fraud sector that you can imagine! It's, very much, trumping that image [of the male 'spooks in suits']. For about a decade now the FFF has been around. It was originally created by a group of women in chambers, but it has really gained traction in the last few months, particularly as a result of people coming out of lockdown and wanting to return to the city with a lot of mingling.

Recently, the forum has been doing phenomenally well, which is down to our amazing members. We're attracting more and more people in our committee and community and continue to strive to help women towards attaining those [ever-higher] realms of professional growth - which as you know is key in a male-dominated field.

We have events most months including networking [breakfasts, socials and educationals, and I am so thrilled and privileged that a couple of months I was elected as Chair, having been Membership Secretary for the last two years.]

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What is really wonderful is that in the FFF there are such good friends! Friends and allies who just have each other's backs, which is so significant.

Going back to your original question about how I find working within a male dominated society, the FFF has certainly been a tremendous boost, a support, a focus and an outlet - not only for me but for everyone who is part of the organisation. I think the last thing to say about the male-dominated field is: it's so crucial not to underestimate the power of your own imagination. Imagination is [immensely] powerful. I'm not suggesting that as women we don't have to work harder, or smarter, on a matter, on occasion, to get promoted. It's not a quick fix just to "believe", but what I am saying is that to have creativity, and to have that fervour and try to wriggle out of that mould that society puts us in [is powerful and effective].

I think to trust yourself and importantly to trust your own fantasies is essential.

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**Alice**

Great! Well, unfortunately that is all we have time for in this week's episode. Thank you again Phoebe for joining us.

You can find Phoebe Waters on her LinkedIn and you can also contact her directly on LinkedIn if you are interested in joining or participating, in any way, in the Female Fraud Forum.

If you have any questions for me or for Phoebe or any topics you would like us to cover in a future episode please do contact us on [taxingmatters@rpc.co.uk](mailto:taxingmatters@rpc.co.uk). We'd love to hear from you.

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