

STEP JOURNAL

ISSUE 3 | 2020 STEP.ORG/JOURNAL

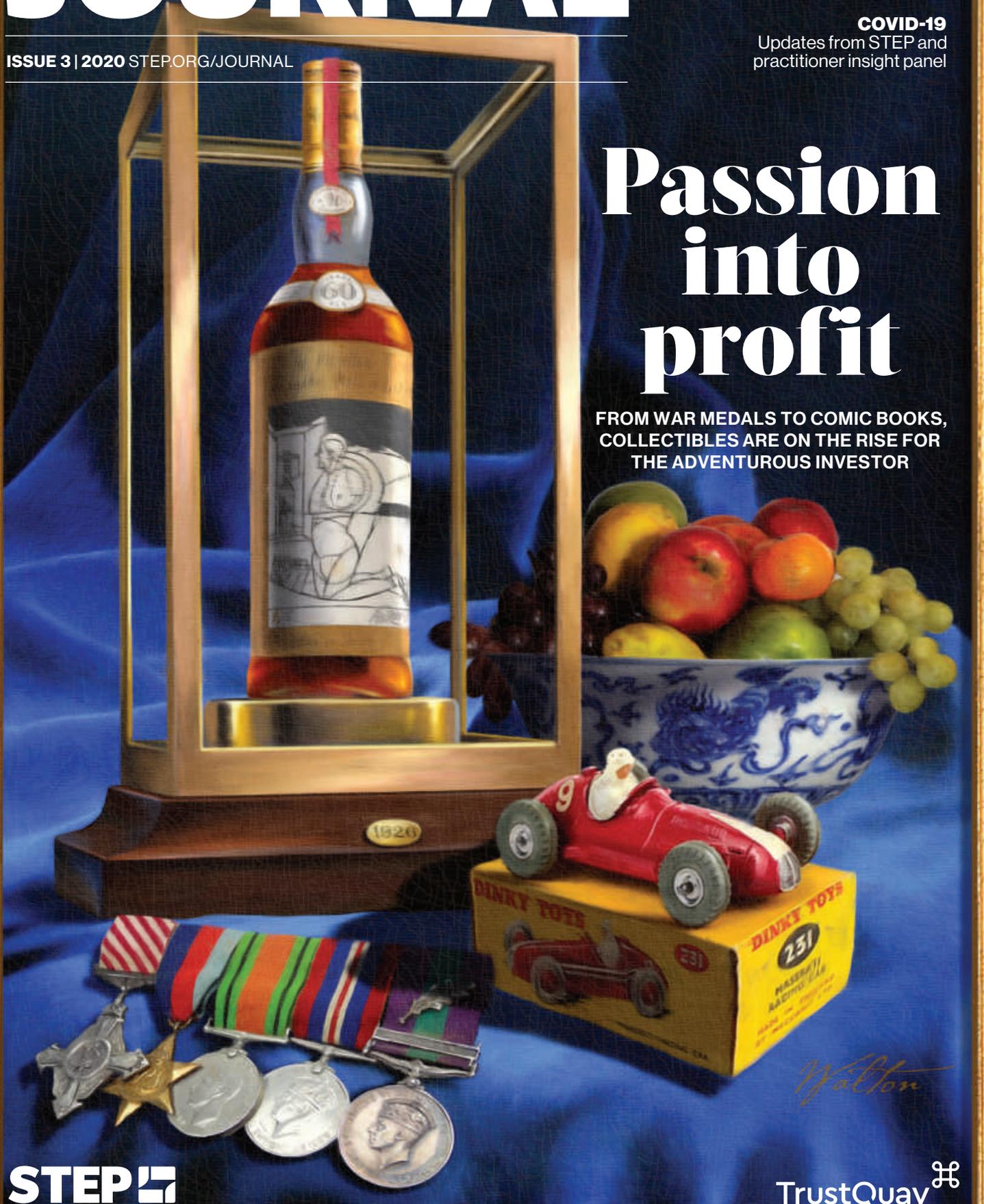
UK AND IRELAND
Property, powers of attorney,
will making and more

**ALTERNATIVE
INVESTMENTS**
From fine art to fine wine, and
the associated tax pitfalls

COVID-19
Updates from STEP and
practitioner insight panel

Passion into profit

FROM WAR MEDALS TO COMIC BOOKS,
COLLECTIBLES ARE ON THE RISE FOR
THE ADVENTUROUS INVESTOR



Taxing action

Julie Wynne and Tomás Navarro Blakemore discuss environmental activism and tax-deductibility under Swiss law



Julie Wynne TEP
is a Partner, and
Tomás Navarro
Blakemore is an
Associate, at
Froriep



There is no doubt that environmental concerns have risen to the top of the societal, political and economic agenda. The latest youth climate protests emerging across the four corners of the globe and inspired by, among others, Greta Thunberg, have forced governments to no longer ignore the rising threat of climate change.

Increasing environmental action on the ground coexists with environmental organisations advocating and lobbying on climate change and environmental issues. This challenges the notion of what is considered, in Switzerland, to be a strictly environmental purpose in accordance with the public benefit qualification and what is considered to be political action.

TAX EXEMPTION FOR A PUBLIC BENEFIT OR PUBLIC-SERVICE PURPOSE

Non-profit organisations are usually structured as foundations or associations in Switzerland. The country hosts over 13,000 foundations and approximately 80,000 associations (this last figure is an estimate, as not all associations need to register with the Swiss Trade Register).

‘It may well be that non-profit organisations decide to seize the moment and engage more actively than before in environmental advocacy with public bodies’

In Switzerland, tax exemption is granted to non-profit organisations if they have a public benefit or public service purpose (*utilité publique ou service public*), meaning that they:

- have a public interest purpose;
- provide for the irrevocability of the funds;
- are of an altruistic nature; and
- effectively undertake their non-profit activities.

According to the Swiss tax authorities, to be considered to have a ‘public-interest purpose’ (*but d’intérêt général*), an organisation’s activities must be of a charitable, humanitarian, health, environmental, educational, scientific or cultural nature. With regard to environmental activities, developmental aid, which typically includes environment-related activities such as supporting rural development and research in sustainability and ecological solutions, is recognised as an essential task and duty of the Swiss state and should therefore be recognised as being of public interest. Thus, Swiss non-profit organisations pursuing environmental activities can apply for tax exemption.

In Switzerland, political parties are generally organised as associations and the question of whether they should also be granted tax-exempt status has been the subject of serious parliamentary debates. Ultimately, it was concluded that the notion of ‘public service’, which political parties typically provide, was to be interpreted restrictively. This means that, because political parties essentially serve the interests of their members, they are not considered as having a ‘public service’ purpose and therefore cannot be granted tax exemptions.

ENVIRONMENTAL ACTIVISM: PUBLIC OR POLITICAL BENEFIT?

In principle, there are no restrictions on Swiss-based and tax-exempted non-profit organisations conducting advocacy activities for the protection of the environment in line with the purpose outlined in their articles of association. However, to what extent may environmental activities pursued by such organisations be considered outright political activism? For example, Extinction Rebellion, known for its climate actions, explicitly professes the use of ‘non-violent civil disobedience’ in order ‘to shake the current political system’ and bring ‘political change’.

It is important to be careful to avoid the perils of non-profit advocacy falling into outright political activism.

This is an issue that was discussed in Australia in 2014, when politicians launched a motion to strip domestic environmental organisations of the right to receive tax-deductible donations and subsidies, asserting that such organisations should not be engaged in political activism.

For the moment, such a debate does not seem to have reached Switzerland. Yet, with a society increasingly receptive to environmental concerns, it may well be that non-profit organisations decide to seize the moment and engage more actively than before in environmental advocacy with public bodies. How this will impact their tax-exempted status is only a question at this stage. In any case, non-profit organisations should always ensure that their activities fall within the purpose of their articles of association.

#FOUNDATIONS
#CHARITIES #TAXATION
#PHILANTHROPY