Why barrister accounts are different ................................................................. 3
Choosing your year end ...................................................................................... 4–5
Sole Trader or Limited Company? ..................................................................... 6–7
Expenses and allowable deductions ................................................................. 8–9
Cash basis accounting ....................................................................................... 10
VAT ...................................................................................................................... 11
Making Tax Digital ............................................................................................. 12
Advice for pupils and new barristers ............................................................... 13
What our clients say ........................................................................................... 14
Tax planning and other services ....................................................................... 15

For more information and to arrange a no obligation chat contact us on 0115 964 8888, enquiries@rwbca.co.uk or visit rwbca.co.uk/our-services/barristers.

Your accounts require specialist accountancy skills due to the specific variations and tax requirements for barristers.

Here at RWB Chartered Accountants we specialise in accounting and taxation advice for members of the Bar and Pupils. Our dedicated team has drawn from over 50 years’ combined experience to bring you this helpful guide.

Intended for barristers looking for tax and accounting advice, at any stage of their career, it aims to provide a basic introduction, plus it offers planning tips and considerations for your financial matters.

We hope you find this useful. If you have any questions on any matters in this guide, don’t hesitate to contact us.

Richard Bonnello, FCA & Nick Bonnello, FCA
Directors & Chartered Accountants
Why Barrister accounts are different

Barristers’ accounts and the taxation arising from those accounts are often complex as there are numerous matters which relate solely to that profession. They require careful thought and long term planning.

Complications can include:

- The cash basis of accounting for the first seven years of call/practice
- Assessing which debtors are taxable especially on Conditional Fee Arrangement (CFA) cases
- VAT and the Flat Rate Scheme
- Cash accounting - new rules from 6 April 2017
- Private proportions of expenses such as motoring and telephone costs
- Court clothing – the difference in treatment for VAT and Income Tax
- Style of trading - Sole Trader or Limited Company
- Assistance from spouses/partners
- Being able to offer proof and explanations for any estimates
- Choice of year end – and the potential retirement tax time bomb
- Declared income for mortgage purposes
- Pension contributions
- Tax efficient wills and estate planning (this can have Income Tax consequences too.)

The Bar Council (www.barcouncil.org.uk) produces a booklet which can be very helpful – but it does not answer all the questions, just as we cannot here.

However, we hope to try and help you through some key points and potential pitfalls.
Choosing your year end

Taxpayers have the right to select their own year end. The assessable profits for tax purposes are those for the selected accounting year ending during the tax year to 5 April.

If the chosen year end is after 5 April then some profits are taxed twice in the first period to 5 April. The profits taxed twice are called “Overlap Relief” and can be deducted when self-assessment ceases. Overlap Relief is not indexed for inflation so can become worth less and less as time goes on.

**Good to know:** Private individuals pay tax on their taxable profits. These are likely to be different from their accounting profits and their drawings.

Tax is payable on 31 January and 31 July each year. It is based upon half the previous year’s tax due with any adjustment adding to the following January payment.

In the early years at the Bar, with income on the increase, the balancing payment in January can be sizeable and it also increases the payment on account.

For barristers, there is the concession that debtors and work in progress do not have to be accounted for in the first seven years at the Bar. This is not available if trading as a Limited company. After seven years the debtors are brought to account by a “catch up charge” over a maximum of the next 10 years. Work in progress must also be introduced, normally over three years.

**Planning point:** You can accelerate the catch up charge during a period of low earnings, such as when on maternity leave.

**Planning point:** The cash basis of accounting is available to all tax payers within limits. Consider moving to this if you are outside the limits but fall back to within them.
Scenario A

Chooses 31 March Year end:

(1) First Period end 01/05/16 to 31/03/17
   Profits = £55,000
   16/17 taxable profits are £55,000

(2) Second Year end 31/03/18 say
   profits = £120,000
   17/18 taxable profits are £120,000

Scenario B

Chooses 30 April Year end:

First Year end 01/05/17 to 30/04/17
   Profits = £60,000 (i.e. April 17 made £5,000 in profits)

There is no Year end in the year 05 April 2017
So taxable income is calculated as
11/12 of £60,000 to £55,000 (which is the same as A) for this year.

2017/18 taxable profits are for accounting period falling between
06/04/17 and 05/04/18 which is 30/04/17, £60,000, with £55,000 of
Overlap Relief.

Planning point: Scenario B is much better if you want to pay less tax starting out,
for example providing cash flow for buying a home.

However, beware when it comes to retiring as often considerable tax is payable in the
final year. If you retire in 30 years’ time, assume taxable profits 30 April 2048 £720,000
and retire on 31 March 2049 with 11 months’ profits £660,000. Final taxable income
2048/49 is £720,000 + £660,000, less the Overlap Relief from April 2017 of £55,000,
producing £1,325,000 taxable profits on which to pay tax in this financial year!
Sole Trader or Limited Company?

There are pros and cons of how you set up your business and the way you trade as a barrister.

**Key things to consider:**

- Generally it costs more in accountancy fees and bank loans to trade as a Limited Company
- Some Chambers may not permit Limited Company members
- There is uncertainty of future tax rates for both Limited Companies and Sole Traders – what is tax beneficial today might not be after the next budget
- Trading as a Limited Company currently results in lower tax costs on retaining surplus profits for investments (including buying into Chambers’ premises).
- There is the potential for spouses owning shares in Limited Companies in certain circumstances
- The preparation of the first seven years under the concessionary barristers’ cash accounting scheme is only available to Sole Trader barristers and not those trading through a Limited Company
- If a barrister wants to become a Limited Company, they need to apply with a fee to the Bar Standards Board
- Barristers can fund debtors and work in progress without paying higher rates of tax. At the risk of losing business asset exemptions, funds could be accumulated for investment.

**VAT considerations**

Existing barristers will be able to merely switch their VAT registration number, (subject to certain conditions) or have the option of a new registration number.

**Planning point 1:** If you have a new registration number and are continuing on the Flat Rate Scheme (FRS) you have to satisfy the entry limit, but if transferring an existing registration number only the exit limit applies.

**Planning point 2:** If using a new registration then under the FRS you can obtain a second allowance of 1% for the first year of registration.

**Cash basis accounting**

**Planning point:** The limits for the general cash accounting scheme have been raised from 6 April 2017 to £150,000 but businesses must leave if turnover exceeds £300,000. Many provincial barristers might feel it to be unlikely that their fee income will exceed £300,000 in their first seven years.
## A snapshot of the differences between trading as a Sole Trader or a Limited Company

<table>
<thead>
<tr>
<th><strong>Risk</strong></th>
<th><strong>Limited Company</strong></th>
<th><strong>Sole Trader</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A company is a separate legal entity and offers limited liability status to the owners. The risk sits with the company, not the shareholders. However, banks may require personal guarantees for company borrowing.</strong></td>
<td></td>
<td>The individual remains liable for the actions.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Taxation of Business Profits</strong></th>
<th><strong>Limited Company</strong></th>
<th><strong>Sole Trader</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The company pays corporation tax on its profits. The rate is currently 19%, but stated to reduce to 17% in 2020, therefore profits can be retained in the business at a relatively low rate.</strong></td>
<td></td>
<td><strong>A sole proprietor pays full income tax rates on their profits whether or not they withdraw them from the business. Thus, a higher rate tax payer will plough profits back into the business at a top rate of 40% or 45%.</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>National Insurance</strong></th>
<th><strong>Limited Company</strong></th>
<th><strong>Sole Trader</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Operating through a company makes the owner/director an employee of the company. Any salary taken is subject to employers and employees National Insurance.</strong></td>
<td></td>
<td><strong>A sole trader is subject to National Insurance through a weekly Class 2 payment and a Class 4 payment at 9% on profits between £8,164 and £45,000pa, plus a 2% charge on profits in excess of £45,000.</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Profit Extraction</strong></th>
<th><strong>Limited Company</strong></th>
<th><strong>Sole Trader</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>To maximise tax efficiency the standard approach is to take a low salary and then top up with dividends. Dividends are not subject to normal income tax, but carry a separate dividend tax rate of 7.5% for basic rate tax payers, and 32.5% for higher rate (40%) tax payers. The first £5,000 (£2,000 from 2018/19) is tax free.</strong></td>
<td></td>
<td><strong>All profits earned belong to the sole trader, thus no further action is needed.</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Pensions</strong></th>
<th><strong>Limited Company</strong></th>
<th><strong>Sole Trader</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A company can make pension contributions (with tax relief) on behalf of the owner/director.</strong></td>
<td></td>
<td><strong>A self-employed individual can only obtain tax relief on pension contributions up to the level of their earned income.</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Administration</strong></th>
<th><strong>Limited Company</strong></th>
<th><strong>Sole Trader</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A company requires accounts that comply with the Companies Act formats, which need to be filed at Companies House, and with HMRC along with a Company Tax Return. All directors are also required to file a personal tax return. Companies also have to submit a Confirmation Statement each year to Companies House.</strong></td>
<td></td>
<td><strong>The sole trader also has to prepare accounts, but these are less detailed and are declared on the individual’s tax return.</strong></td>
</tr>
</tbody>
</table>
Expenses and allowable deductions

What does this mean in practice?

Court clothing:
Wig and gown, detachable court collars and the laundry of such items is business. After the Mallalieu v Drummond case it was confirmed that other clothing was necessary for decency and was not allowable for Income Tax. However, HMRC will permit VAT to be recovered on dark court suits as required to be worn in court. See www.gov.uk – ref. VIT 43800.

Motoring costs:
Motoring expenses must be allocated between business and private use. Ideally a log should be kept. Private expenses include home to Chambers mileage and parking at Chambers.

No VAT on the acquisition of a car may be reclaimed, but 50% of the VAT can be reclaimed on car leasing.

Salary for support:
If your spouse or partner assist you in your work, then a salary may be paid. This has to be what you would pay on the open market and is a fully deductible business expense. A pension contribution might also be an allowable deduction.

Phones:
Phones are an essential business tool but there is a private allocation to disallow for income tax. However, with contracts often giving “free minutes” it is not always possible to estimate an additional cost for private use.

Capital equipment:
Other essential business items including computers, printers, office furniture, are given tax relief through the capital allowance scheme.

Subsistence:
If you are working away from home then hotel and meals are allowable costs.

Working from home:
If you work from home, HMRC allows a “Use of Home as Office” charge of £4 per week in their guidance. Many barristers work extensively from home and can claim a much larger allowance.

Bank interest:
Bank interest is a deductible expense if it is on a business account and is not funding personal expenditure. Funding debtors and work in progress will normally be allowable.

Planning point: If you have large debtors, you may borrow against these to fund large purchases such as a car or a mortgage; two areas where little or no tax relief is normally available. Interest rate differentials need careful assessment.
What is cash basis accounting?

Put simply, cash basis accounting is a straightforward way of working out the tax payable through self-assessment, based solely on income received and expenses paid. There is no need to calculate debtors and creditors at the year-end, nor estimate accruals and prepayments. Barristers have a concession to use the cash basis for their first seven years.

It can be difficult to assess exactly when Conditional Fee Arrangement (CFA) work becomes taxable, for instance:

- When is the condition satisfied?
- When is a barrister “reasonably certain” to earn their fee?

New rules

Under the “new rules” (effective 2017/18) all taxpayers are entitled to adopt the cash basis of accounting if their turnover is less than £150,000, but must leave the scheme when turnover exceeds £300,000.

It is important to get specialist advice to ensure that you are within the rules and planning your tax effectively. For more detailed information, refer to the latest Taxation and retirement benefits guidance from the Bar Council or why not give us a call on 0115 964 8888?
All businesses have to register for Value Added Tax (VAT) when income exceeds £85,000 over a 12 month period. There are two choices of VAT scheme - Standard Rate or Flat Rate Scheme (FRS).

FRS was popular amongst barristers due to its simplicity. Changes from 1 April 2017 mean that it is probably no longer financially efficient, although it is still the simplest calculation. FRS is only open to businesses with a turnover of less than £150,000 a year.

Standard Rate involves reclaiming input VAT on every eligible item purchased and paying over output VAT on income received.

Planning point: Although FRS can be quicker and simpler, consider withdrawing from the FRS and moving to Standard Rate VAT. Remember, fee notes issued prior to leaving the FRS can still be charged at the old rate when collected.

Planning point: When deciding which VAT method to opt for, remember that “Making Tax Digital” will soon be introduced. Electronic quarterly accounting will be needed by most barristers, requiring full VAT return information.

VAT on clothing

Because barristers appearing in court must wear dark suits, HMRC permits the reclaim of VAT on suitable dark clothing expenditure (www.gov.uk – ref. VIT 43800), although this cannot be deducted as an expense for Income Tax.

VAT on fuel

Consider carefully if you can benefit from reclaiming VAT on fuel for cars. There is a scale rate deduction which is often greater than the amount claimed.

Understanding how Chambers are organised for VAT purposes

There are three methods that Chambers can use, explained briefly below:

Method 1

Nominated member reclaims VAT input tax and charges out VAT output tax to the members.

Method 2

Nominated member does not charge out VAT output tax. VAT input tax is apportioned so that VAT registered members can reclaim the input VAT.

Method 3

Members must all be registered for VAT. The nominated member reclaims all the VAT input tax and pays it into a common fund. There are special rules restricting the VAT input tax that can be reclaimed if any of the members are using the VAT Flat Rate Scheme.
Making Tax Digital

HMRC will soon be introducing the Making Tax Digital (MTD) scheme to modernise the tax system, making it “more effective, more efficient and easier for customers to comply”.

In the first phase, this will require businesses over the VAT threshold to keep digital records for VAT purposes and submit quarterly submissions from 2019. Barristers qualify as businesses.

Businesses under the VAT threshold will not be asked to make the switch to MTD and update HMRC quarterly for any other taxes until at least 2020.

What does this mean for you?

In practical terms, the MTD scheme will require businesses to make quarterly tax submissions to HMRC, rather than submitting information once a year. Each business will be given a digital tax account into which financial data will flow.

Moving your accounts to a cloud-based software system accessible by your accountant will be very useful, or at the very least use a spreadsheet which can be emailed and converted.

It is important that you ensure that you are ready in good time as penalties will be charged.

Benefits of MTD and moving to a cloud-based accounting system include:

- Keeping a closer eye on your tax affairs
- Taking the surprise out of the tax bill
- Being able to share your accounting information with your accountant remotely
- Improving efficiency and reducing time taken on accounting and bookkeeping

Thinking about moving to the cloud?

RWB’s dedicated online accounting team are the first independent Xero Platinum Partner and Xero Platinum Champions in Nottingham. Whilst we do specialise in Xero accounting software we do also operate other software systems of our clients’ choice.
In the past, pupillage awards were considered to be scholarships and, as such, exempt from tax. Since so many chambers now pay pupillage awards, HMRC now considers them to be taxable.

There are two methods of bringing pupillage awards into tax, namely:

1. The award for the 1st six Months (1st Six) is exempt from tax but that for the 2nd Six is taxable as an ordinary trading income.

2. Both 1st six and 2nd six awards are taxable in the tax year of receipt.

It would seem sensible to choose option 1.

Planning point: It is important to choose your year end carefully (see P4/5) as the first year’s income can be taxed more than once. If the pupillage award falls into this period then it too can be taxed more than once.

Good to remember:
- Payment of tax is on account for first year of personal tax return, therefore there is an initial tax holiday with 150% due in the first January payment.
- To account for student loan repayment which is added to income tax payments.
“We owe you a huge debt of thanks, without your skills and tenacity it might have been an altogether different ending. Thank you so much.”

Client, Nottingham

“Your prompt, out of hours response is really appreciated. Another barrister colleague of mine is looking for a good accountant and I've passed on your details.”

Barrister, Leicester

“On the cusp of filing my tax return, all prepared and ready to go, I was slightly concerned that my existing accountant didn’t fully grasp the rules on barristers cash basis/earning basis. I really benefited from a second opinion from RWB.”

Barrister, London
Tax planning and other accountancy services

In this brief guide, we’ve given you an overview of some key considerations for you as a barrister.

There are many other accounting and taxation scenarios that you may encounter in the course of your work or personal affairs. We can support you with:

- **Payroll** - For your spouse, your nanny or, if trading as a Limited Company, yourself.
- **VAT** - We offer a range of services, from preparing everything from source documents to providing a cloud accounting software solution.
- **Mortgages and Investments** - Through our associated and fully qualified specialist in-house financial services facility, we can offer help with mortgages, pensions, life assurance, ISAs and other investments.
- **Cash flow** - Planning to ensure that your preferred course of action is fundable.
- **Inheritance Tax** - Creating tax efficient wills, not only for your own estate but from parents' estates, so that you inherit in the best way possible.
- **Buy to let** - Understanding recent property tax complications and accounting implications.
- **Incorporation** - To move from a Sole Trader to a Limited Company (see P6/7).
- **Leaving the Bar** - Tax considerations for retirement or taking an appointment.

RWB offers a full range of services to support your needs. Contact us to arrange a no obligation chat on 0115 964 8888, enquiries@rwbca.co.uk or visit www.rwbca.co.uk.

Questions? Contact us on 0115 964 8888 or enquiries@rwbca.co.uk