Your helpful guide to

Barrister accounts and taxation

January 2020

CHARTERED ACCOUNTANTS

Contents

Introduction to RWB

Your accounts require specialist accountancy skills due to the specific nature of the 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.

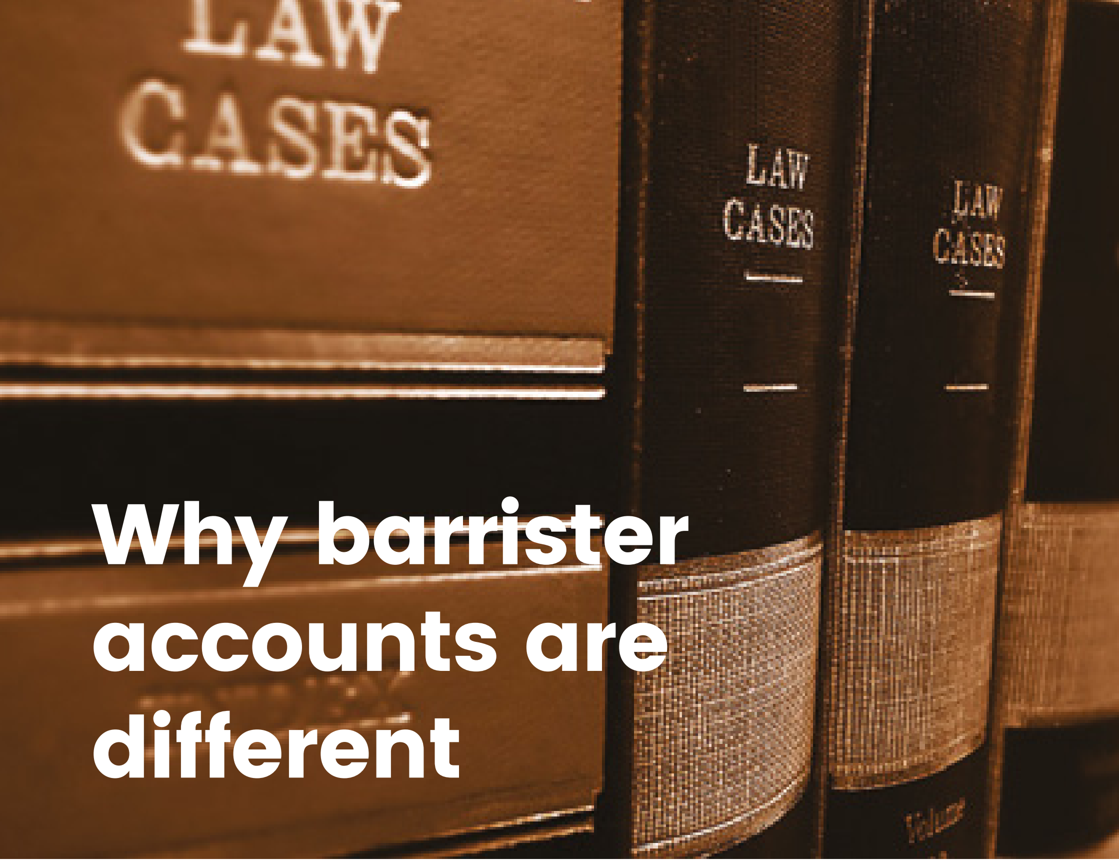
Intended for barristers looking for tax and accounting advice, at any stage of their career, it aims to provide a basic introduction, plus it offers planning tips and considerations for your financial matters.

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

For more information, or to arrange a free of charge, no obligation consultation, contact us on **0115 964 8888**, **barristers@rwbca.co.uk** or visit **rwbca.co.uk/our-services/barristers**.

Nick

Nick Bonnello, FCA
Director & Chartered Accountant



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:

- Assessing which debtors are taxable especially Conditional Fee Arrangement (CFA) cases.
- VAT and the Flat Rate Scheme.
- 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.

Advice for pupils and new barristers

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 first six months (first six) is exempt from tax but that for the second six is taxable as an ordinary trading income.

2. Both first six and second six awards are taxable in the tax year of receipt.

It would seem sensible to choose option 1.

Normally practice would commence on completion of the first six months pupillage, however there are circumstances which can justify the practice starting later. Establishing an earlier start date is no longer necessary as business expenditure incurred seven years prior to commencement of the practice is eligible for tax relief.

Planning point: It is important to choose your year end carefully (see P6/7) 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.

Planning point: HMRC's trading allowance can give up to £1,000 each tax year to offset against your income from 6th April 2017. This trading allowance can only be used instead of claiming expenses.

Good to know: RWB will help you set up your tax, VAT and National Insurance along with preparing your pupillage accounts and tax return for £150, plus VAT.

Good to remember:

- Payment of tax is on account for the first year of personal tax return, therefore there is an initial tax holiday with 150% of the initial annual tax liability due in the first January payment.
- To account for student loan repayments which are added to income tax payments.

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 5th April.

If the chosen year end is after 5th April then some profits are taxed twice in the first period to 5th 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 is likely to 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 31st January and 31st 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 next payment on account.

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

A worked example...

Barrister A starts trading on 01/05/19

Scenario A

Chooses 31st March year end:

First period end 01/05/19 to 31/03/20
Profits = £55,000

2019/20 taxable profits are £55,000

Second year end 31/03/21
Profits = £120,000

2020/21 taxable profits are £120,000

Scenario B

Chooses 30th April year end:

First year end 01/05/19 to 30/04/20
Profits = £60,000 (i.e. April 2020 made £5,000 in profits)

There is no year end in the year 5th April 2020

So taxable income is calculated as 11/12 of £60,000 to £55,000 (which is the same as A) for 2019/20.

2020/21 taxable profits are for accounting period falling between 06/04/20 and 05/04/21 which is 30/04/20, £60,000, with £55,000 of overlap relief.

Good to know: mortgage lenders tend to assess borrowing limits of taxable earnings not actual earnings.

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 30th April 2050 £720,000 and retire on 31st March 2051 with 11 months' profits £660,000. Final taxable income 2050/51 is £720,000 + £660,000, less the overlap relief from April 2019 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 so 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
- If a barrister wants to become a limited company, they need to apply with a fee to the Bar Standards Board (BSB). The BSB will not assist tax avoidance.
- 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.
- National Insurance and tax on dividends tend to be the most relevant considerations.

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 6th April 2017 to £150,000 entry but businesses must leave if turnover exceeds £300,000. Cash basis accounting is available for sole traders but not for limited companies.

A snapshot of the differences between trading as a sole trader or a limited company

	Limited company	Sole trader
Risk	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.	The individual remains liable for their actions.
Taxation of business profits	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.	A sole proprietor pays full income tax rates on their profits whether or not they withdraw them from the business.
National Insurance	Operating through a company makes the owner/director an employee of the company. Any salary taken is subject to employers and employees National Insurance.	A sole trader is subject to National Insurance through a weekly Class 2 payment and a Class 4 payment at 9% on profits between £8,632 and £50,000 pa, plus a 2% charge on profits in excess of £50,000 for the tax year 2019/2020.
Profit extraction	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 taxpayers, 32.5% for higher rate taxpayers and 38.1% for additional-rate taxpayers. The first £2,000 is tax free.	All profits earned belong to the sole trader, thus no further action is needed.
Pensions	A company can make pension contributions (with tax relief) on behalf of the owner/director.	A self-employed individual can only obtain tax relief on pension contributions up to the level of their earned income.
Administration	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.	The sole trader also has to prepare accounts, but these are less detailed and are declared on the individual's tax return.
Cash basis accounting	Limited companies cannot use the cash basis for preparing their accounts.	Sole traders can choose to use the cash basis for preparing their accounts, provided they are within the thresholds and it proves beneficial over the earnings basis.

Expenses and allowable deductions

Tax legislation says: "All expenses incurred wholly and exclusively for the purpose of trade." 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.

Motor vehicles: When purchasing a car, it is important to note the arrangement it was purchased or leased. Where a car is purchased outright or on a hire purchase plan, it can either be introduced into the business, with private adjustments, or left private and a mileage allowance claimed. If the car is on an operating lease, you are able to claim either motor expenses or a mileage claim alongside the operating lease costs.

Good to know: Hire purchase interest is not included in the £500 limit for cash basis accounting

Motor expenses: Motoring expenses must be apportioned between business and private use. Expenses would include but are not limited to: vehicle insurance, fuel, repairs and servicing, breakdown cover.

Mileage: A business mileage claim can be used in place of actual motor expenses by using a flat rate of mileage to incorporate the actual costs of buying and running the vehicle. You can claim 45p per mile for the first 10,000 business miles and 25p per mile thereafter. Journeys between home and chambers are classed as a private journey.

Travel and subsistence: Hotel costs and related meals while working away from home are allowable costs along with amounts relating to travelling to essential destinations such as Court. Travel expenses may include: parking costs, train, bus, air and taxi fares. However, non-business travel costs and any fines are not allowable. Similar to journeys between home and chambers, parking at chambers is also not allowable.

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 an is a fully deductible business expense. You will need to set up a PAYE scheme for payment and this may fall under automatic enrolment rules for pensions. Any pension contributions might also be an allowable deduction.

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

Capital equipment: Other essential business items including computers, printers, tablets, office furniture, are deductible expenses either under the capital allowance scheme or fully deductible under the cash basis in the year of purchase.

Working from home: HMRC have given a flat rate allowance for "use of home as office" at £4 per week. This is increased to a maximum allowance of £6 per week for business hours in excess of 100 per month. Many barristers work extensively from home and can claim a larger allowance through apportioning their specific expenses incurred whilst working from home.

Bank interest and charges: Bank interest is a deductible expense if it is on a business bank account and is not funding personal expenditure. Funding debtors and work in progress will normally be allowable. If you are using cash basis accounting, you can only claim up to £500 in interest and bank charges.

Training courses and CPD: Courses that have been attended for the continuation of professional development are deductible expenses. During pupillage, training courses would be covered under pupillage award payments.

Additional expenses: Additional expenses can include, but are not limited to: chambers' rents and expenses, stationery, postage, repairs, professional fees, subscriptions, publications and indemnity insurance.

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.

Which VAT scheme is right for you?

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 1st 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 until your turnover exceeds £230,000.

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

Good to know: HMRC produced a VAT Notice 700/44 specifically for barristers.

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" has now been 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.

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

Mileage: Often overlooked, depending on the car's engine size, a small proportion of the mileage allowance can be reclaimed based on the fuel element of the claim. Whilst the amount can be small, this can be advantageous when large number of business miles are completed.

Planning point: When claiming VAT on mileage, a copy of all fuel receipts will need to be kept.

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.

What are the different types of accounting for barristers?

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.

As a barrister, profits may be calculated in one of three ways; the 'Old' Cash Basis, the Earnings Basis and the 'New' Cash Basis.

The 'Old' Barrister Cash Basis

The 'Old' Cash Basis was withdrawn in the Finance Act 2013 with a retrospective effect from 6th April 2013. This basis can now only be used by barristers who used this basis for the accounting tax year 2012/13. This basis granted barristers, during their first seven years of trading, the opportunity to calculate their income and expenditure as it was received, regardless of their turnover figure.

The Earnings Basis

The Earnings Basis taxes barristers on the billable value of their work, whether paid or not. This basis results in including debtors and work in progress to their accounts. Expenditure is relieved when incurred, whether settled or not by the end of the accounting period.

The 'New' Cash Basis

This 'New' Cash Basis replaced the previous one and was available to barristers with effect from the tax year 2013/14. It became more attractive for barristers when the limits were uplifted in 2017/18. Unlike the 'Old' Cash Basis, there is no seven-year time limit on its use, but there are entry and exit thresholds based on the level of fees received.

Principal features of the 'New' Cash Basis accounting include:

- Entry threshold for receipts to be below £150,000 for 2017/18 or the pro-rated equivalent where the accounting period is less than a year (however, this is not pro-rated where the accounting period exceeds twelve months).
- Expenditure includes assets that otherwise would be claimed on such business capital expenditure.
- An election must be made in each tax return for which it applies. From 2013/14, tax returns include a box to tick for this purpose.
- The exit threshold for fees received is £300,000 for 2017/18 onwards. If you exceed this amount you will have to move onto the Earnings Basis, unless fees received in the subsequent accounting period fall back below the entry threshold.

We would recommend if you are to use this basis to either contact us, or read the HMRC guidelines to confirm your eligibility. 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 give Nick Bonnello a call on **0115 964 8860** to find out how we can help you.

Retirement

When you cease to practice, the profits accessible in the final tax year (whether calculated under a cash basis or earnings basis) of your practice will be those arising in the period beginning immediately after the end of the basis period for the preceding year and ending on the date of cessation.

The Earnings Basis

On the Earnings Basis your final accounts will include your closing debtors of which would need to be assessed, using a matter of judgement for each individual case, as to the value of the outstanding fees.

It is almost certain that the amounts ultimately received will be greater or lesser than that declared and will need to be accounted for in future tax returns. Where the figure received is greater, the surplus must be declared covering the year in which it arose.

It is possible that such declaration may need to be made in more than just one return. Any surplus receipts received in a tax year beginning no later than six years after the date of cessation may, on election, be treated as received at the date of cessation.

Whilst there is no time limit for declaring surplus, a claim in respect of any shortfall must be made within seven years of the profession ceasing. Where more profit has been paid than actually made, you can make a claim for the relief of this sum against other income received in that current year.

The 'New' Cash Basis

If you have been preparing your accounts under the 'New' Cash Basis, your final accounts will also have to include the value of any work in progress at the time of cessation.

Although it is difficult to conceive any significant work in progress at cessation for a barrister, it must be included as it will inevitably be billed. By contrast, fees received after cessation are taxed as 'post-cessation' receipts. Relief against post-cessation receipts are allowed for expenses such as clerk fees.

Making Tax Digital for barristers

Making Tax Digital (MTD) is a HMRC initiative designed to make sure the UK tax system is effective, efficient and easier for taxpayers. It came into effect from 1st April 2019 for businesses who are VAT registered and above the registration threshold of £85,000. All such businesses will have to keep digital records and submit VAT returns using compatible software.

RWB have implemented a fully MTD compliant solution using Xero cloud accounting software to record data into an electronic format needed for filing VAT returns. We are also giving a Receipt Bank licence free of charge to all of our Xero clients to enable them to easily record their purchase invoices and receipts and upload them into their Xero account.

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 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 were 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.

Barrister accounting solutions we offer to you

RWB specialise in giving specific accounting and tax support to barristers. We are Xero Platinum partners having become the first Xero Platinum practice in Nottinghamshire. Our expert team understands that specialist accounting advice is required in preparing barrister's accounts, due to the variations and tax requirements.

RWB give you the choice of three easy packages, all of which provide you with:
1. Preparation of your annual income and expenditure accounts.
2. Preparation and submission of your self-assessment tax return.
3. Ability to file Making Tax Digital compliant VAT returns.
4. Access to your personal Xero account giving you full visibility of your accounting transactions.
5. Access to our specialist barrister team.

The packages vary depending on who prepares and submits your VAT return.

Package 1 provides you with the software for you to prepare and submit your VAT returns for £105 plus VAT per month (£1,260 plus VAT per annum):
We give you a Receipt Bank* licence to enable you to easily record your purchase invoices and receipts and upload them into your account. We give you full access to your Xero account and training and support for preparing and submitting your VAT returns through our tailored help sheets and access to our Xero certified team.

Packages 2 and 3, include a qualified accountant at RWB preparing and submitting your quarterly MTD VAT returns on your behalf (after you have agreed them).

Package 2 for £110 plus VAT per month (£1,320 plus VAT per annum):
We give you a Receipt Bank* licence to enable you to easily record your purchase invoices and receipts and upload them into your account. We review and allocate these to the correct nominals, ensure that VAT is treated correctly and process these into Xero. We also contact your chambers and process your fees received summaries into Xero accordingly.

Package 3 for £130 plus VAT per month (£1,560 plus VAT per annum):
The easiest of the options. You send all your business expenses to us monthly or quarterly, either by post or email, and we do the rest.

For further advice contact Nick Bonnello on **0115 964 8860** or **nickb@rwbca.co.uk.**

*Please request a guidance sheet for instructions on how to use Xero and Receipt Bank.

What our clients say

“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.”

Client, London

“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.”

Client, Leicester

“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

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 P8/9).
- **Leaving the Bar** – Tax considerations for retirement or taking an appointment (see P15).
- **Time to pay agreements** – Negotiating time to pay taxes with HMRC.

RWB offers a full range of services to support your needs. Contact us to arrange a no obligation consultation with one of our directors on 0115 964 8888, barristers@rwbca.co.uk or visit www.rwbca.co.uk.

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