

**Called 1987**

**Silk 2001**

## Jonathan Peacock KC



Jonathan has a broad tax practice, advising both corporate and individual taxpayers on direct and indirect tax matters. He is a leading advocate in the tax field and regularly appears in the appellate courts in the most significant tax cases. During his time in practice he has advised the full range of clients ? from high net worth individuals, settled estates, entrepreneurs, start-ups, established multi-nationals, small businesses, sole traders, charities, housing associations, trade unions and their members, pensioners, and local government bodies to central Government Departments. He has advised on all the different types of taxes levied in the UK and quite a few levied in other countries around the world.

### **Background**

While he is available to advise on, and act in litigation relating to, any tax matter, his recent focus

has been on the following areas:

International tax issues - Jonathan advises on all international and cross-border tax issues (permanent establishments, transfer pricing/DPT, profit attribution, entity classification, double tax relief, residence and domicile questions) and has appeared in significant double tax relief cases in the UK courts. He has been instructed in tax related arbitrations and as an advocate, adviser and expert witness in overseas litigation in jurisdictions as far afield as Jersey, Tanzania, Mauritius, Canada and the USA. He has also advised on matters of non-UK tax law, typically in common law countries where the provisions are based on UK law and UK law has some persuasive effect (e.g. Ireland, Jersey, Guernsey, Hong Kong and Singapore).

VAT ? Jonathan has extensive experience of VAT matters, particularly relating to the scope of exemptions in the financial and insurance services sectors; the application of the 'use and enjoyment' rules in the telecommunications sector; the scope of retail loyalty schemes and the voucher rules; and the recovery of overpaid VAT.

Energy and the extractive industries ? Jonathan's experience relates predominantly to oil and gas in the UK North Sea but also covers hydro-electric, wind, solar and nuclear power. Principal areas of interest are the North Sea fiscal regime, both inside and outside the 'ring fence', the tax consequences of decommissioning and capital allowances on other plant and machinery. Jonathan also has experience of advising on non-UK energy and mining assets in Africa, Asia, Gulf of Mexico and South America.

Sports tax matters - Jonathan has broad expertise, both as an adviser and as an advocate, in relation to sport governing bodies, professional and amateur clubs, sponsorship, stadium developments, club financing, player remuneration, agent issues and image rights.

Betting and gaming, especially the indirect tax treatment of gambling, both online and offline.

Real estate development in the UK, both as regards corporation tax and SDLT.

Pensions and employee remuneration matters, particularly relating to 'disguised remuneration' and offshore pension schemes. Jonathan has a current focus on the employment, self-employment divide, particularly in the media industry.

Financial institutions and financial services ? Jonathan has over 20 years' experience of advising (and litigating) in relation to capital market, corporate finance, venture capital, structured finance and finance leasing transactions. He also has broad experience of asset management (particularly

hedge funds) and open-ended and closed funds.

The tax aspects of criminal and regulatory investigations.

Jonathan frequently appears in courts and tribunals in the UK and Europe (including the UK Supreme Court, the European Court of Justice and the European Court of Human Rights) on tax matters and has acted both for and against the UK Government in tax avoidance cases.

Jonathan has led seminars on the Oxford University BCL and Master in Law and Finance courses, is a member of the External Faculty for the Oxford MSc in Taxation course and is the author of numerous articles and several books on aspects of revenue law.

## Legal Information

Jonathan Peacock KC has professional liability insurance provided by the Bar Mutual Indemnity Fund Limited (of 90 Fenchurch Street, London EC3M 4ST) on a world-wide basis and subject to the terms of cover: see <http://www.barmutual.co.uk/>.

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## Notable Cases

- [HMRC v BlueCrest Capital Management LP; Dodd and others v HMRC](#) [2023] EWA Civ 1481 - application of Ramsay to the allocation of partnership profits and the scope of the 'miscellaneous income' charge
- [BCM Cayman LP v HMRC](#) [2023] EWCA Civ 1179 - whether the partners in one partnership that itself became a member of another partnership were themselves members of the latter partnership and liability to corporation tax for profits held in a fiduciary capacity
- [Royal Bank of Canada v HMRC](#) [2023] EWCA Civ 695 - liability of overseas bank to UK corporation tax on oil royalties; important case on the scope of Article 6 (immovable property) of the UK:Canada Double Tax Treaty
- [SSE Generation Ltd -v- HMRC](#) [2023] UKSC 17 - statutory interpretation in the context of capital allowances; meaning of "tunnel" and "aqueduct"

- [News Corp UK v HMRC \[2023\] UKSC 7](#) ? VAT treatment of online newspapers (The Times, The Sunday Times, The Sun) and fiscal neutrality; significant case on statutory interpretation and the "always speaking" principle
- [Urenco Chemplants Ltd v HMRC \[2022\] EWCA Civ 1587](#) - application of capital allowances regime to uranium reprocessing plant
- [Cheshire Cavity Storage 1 Ltd v HMRC \[2022\] EWCA Civ 305](#) - meaning of "plant" in the context of gas storage cavities
- [Kickabout Productions Ltd v HMRC \[2022\] EWCA Civ 502](#) - application of IR 35 legislation in the radio industry
- [Northern Gas Networks Ltd v HMRC \[2022\] EWCA Civ 910](#)- application of "land remediation relief" to work on gas pipe network
- [Guardian Assurance Ltd v HMRC \[2022\] UKFTT 234](#) - meaning of "structural asset" for the purposes of taxation of insurance business
- [Professional Game Match Officials Ltd v HMRC \[2021\] EWCA Civ 1370](#) - Employment status of football league referees; important consideration of the "mutuality of obligation" concept
- [Ingenious Games LLP et al v Revenue and Customs \[2021\] EWCA Civ 1180](#) - meaning of "trade" and trading "with a view to profit"
- [South Eastern Power Networks Plc v HMRC \[2021\] EWCA Civ 283](#) ? closure notice application in the context of corporation tax consortium relief
- [SSE Generation Limited v HMRC \[2021\] EWCA Civ 105](#) ? capital allowances in relation to underground hydro-electric plant
- [Rank plc v Revenue and Customs \[2021\] UKFTT 241](#) - VAT and principle of fiscal neutrality in relation to gaming machines
- [Investec Bank plc v HMRC \[2020\] EWCA Civ 579](#) ? financial dealer acquiring lease receivables in partnership, double taxation of profits and scope of closure notices
- [Union Castle Mail Steamship v HMRC \[2020\] EWCA Civ 547](#) - corporation tax dispute over accounting de-recognition of derivative contracts
- [Cape Industrial Services Ltd and Robert Wiseman and Sons Ltd v HMRC \[2020\] UKFTT 162](#) -

application of *Ramsay* approach to sale and leaseback transactions

- [Done Brothers, Rank v HMRC](#) [2020] UKUT 117 ? VAT treatment of gaming machines and fiscal neutrality
- [Paya Limited and others v Revenue & Customs](#) [2019] UKFTT 583 - application of IR35 to BBC television news presenters
- [Urenco Chemplants Ltd & Anor v Revenue & Customs](#) [2019] UKFTT 522 (TC) - Capital allowances claim in relation to nuclear reprocessing plant and nuclear safety features
- [Lloyds Banking Group et al v HMRC](#) [2019] EWCA Civ 485 ? VAT grouping and recovery of overpaid VAT; application of decision of Supreme Court in *Taylor Clark*
- [Tesco Freetime v HMRC](#) [2017] UKFTT 614, [2019] UKUT 18 ? VAT treatment of Clubcard loyalty scheme
- [Travel Document Service v HMRC](#) [2018] EWCA Civ 549 ? ?main purpose? test in the context of UK corporation tax
- [Hutchison 3G Ltd v HMRC](#) [2018] UKFTT 289 ? VAT treatment of mobile telephone monthly charges
- [Marathon Oil UK LLC v HMRC](#) [2017] UKFTT 822 ? tax relief for decommissioning of North Sea assets
- [GdF Suez v HMRC](#) [2015] UKFTT 413, [2017] UKUT 68 - taxation of corporate debt claims in Enron bankruptcy; relationship between tax and accounts and the "fairly represents" rule
- [Taylor Wimpey v HMRC](#) [2017] UKUT 34 ? VAT treatment of ?white goods?; compatibility of Builder?s Block with EU law and items ?ordinarily incorporated? in buildings
- [National Exhibition Centre v HMRC](#) [2012] FTT (First Tier Tribunal), [2015] UKUT 23 - VAT financial services exemption for payment processing; judgment now received from the CJEU, [2016] EUECJ C-130/15
- [Peninsular & Oriental Steam Navigation Company Ltd v HMRC](#) [2015] UKUT 312, [2016] EWCA Civ 468 - double tax relief claim for foreign profits repatriated to the UK through dividend transactions; claim allowed in (small) part by Court of Appeal
- [IFX Investment Co, Sportech and others v HMRC](#) [2012] FTT (First Tier Tribunal), [2014]

UKUT 398, [2016] EWCA Civ 436 ? liability to VAT in relation to the ?Spot the Ball? game;  
Appellants successful in the Court of Appeal

- [Hudson Contract Services](#) v Secretary of State for Business, Innovation and Skills and Construction Industry Training Board [2016] EWHC 844 (Admin) - lawfulness of new arrangement for the charging of industry training levy through use of the Construction Industry Scheme

- [Anson](#) v HMRC [2011] UKUT 318 (TCC), [2012] UKUT 59 (TCC), [2012] Court of Appeal [2013] EWCA Civ 63, [2015] UKSC 44 ? transparency of Delaware LLC for the purposes of double taxation relief (appeal allowed by Supreme Court)

- [Lloyds TSB Equipment Leasing \(No 1\) Ltd](#) v HMRC [2012] UKFTT 47 (FTT), [2013] UKUT 368, [2014] EWCA Civ 1062 ? leases of LNG vessels and consideration of the ?overseas leasing? rules and a ?main? tax purpose; matter remitted to FTT, [2015] UKFTT 401

- [Bupa Insurance Ltd](#) v HMRC [2014] UKUT 262 (Upper Tribunal) - meaning of "beneficial entitlement" and beneficial ownership"

- [Interfish Ltd](#) v HMRC [2014] EWCA Civ 876 (Court of Appeal) - corporate tax treatment of sponsorship of professional rugby club

- [Wintershall E&P Ltd](#) v HMRC [2014] UKFTT 318, [2015] UKUT 334 (Upper Tribunal) - levying of supplementary charge on North Sea ?ring fence? chargeable gain

- [Howden Joinery Group plc](#) v HMRC [2014] UKFTT 257 (First Tier Tribunal) - deduction in respect of management expenses incurred by parent in meeting group guarantees of retail premises; appeal to be heard in the Upper Tribunal in 2015

- [Reed Employment](#) v HMRC [2011] FTT 200, [2013] UKUT 109, [2014] EWCA Civ 32 (Court of Appeal) ? VAT on employment business commission and recovery of overpaid VAT; EU principles of equal treatment, fiscal neutrality and effectiveness

- [Pollen Estate](#) v HMRC [2013] EWCA Civ 753 (Court of Appeal) ? exemption from SDLT for charities and Crown bodies

- [WHA, Viscount](#) v HMRC [2013] UKSC 24 (Supreme Court) - VAT analysis of tri-partite arrangements and the "economic reality" principle

- [ITV Services](#) v HMRC [2013] EWCA Civ 867 (Court of Appeal) ? liability of television actors to

## NICs

- [Axa UK v HMRC](#) [2010] STC 2825 (ECJ) and [2011] EWCA 1607 (Court of Appeal) - VAT financial services exemption for payment processing
- [Weight Watchers \(UK\) Ltd v HMRC](#) [2011] UKUT 433 (TCC)(Upper Tribunal) ? employment status dispute as to the position of 1,700 Weight Watchers ?Leaders?
- [Bayfine UK Products v HMRC](#) [2011] STC 717 (CA) ? application of Article 23, US-UK Double Tax Treaty in structured finance transaction.
- [Lower Mill Estate v HMRC](#) [2011] STC 636 (UT) ? holiday home development and application of abuse of rights principle.
- [T-Mobile v HMRC](#) [2011] STC 316 (ECJ) ? VAT financial services exemption for payment processing.