

Called 1987

Silk 2001

Jonathan Peacock QC



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, 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 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 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 new Oxford MSc in Taxation course and is the author of numerous articles and several books on aspects of revenue law.

Member of the VAT Practitioners Group (VPG), the Society of Trust & Estate Practitioners (STEP) and the UK Offshore Industry Tax Committee (UKOITC).

Chairman of the Revenue Bar Association (2013-2016).

Member of the Bar Council, International Committee and of the Conseil des Barreaux Europeens (?CCBE?) Tax Committee.

Trustee of "TaxAid", the tax advice charity.

Bencher of the Middle Temple.

Education

Corpus Christi College, Oxford (1983-1986): Law Moderations, Distinction, Finals, First Class Honours.

Middle Temple (Senior Scholar).

Directories

In internationally respected legal directories he has been described as:

(Direct tax) - *"He has a razor-sharp mind and is terrifyingly good. An extremely good advocate who is always well prepared".*

(Indirect tax) - *"A great tactician and a formidable legal mind who cuts through complex issues and explains tax in an easily digestible way? A pleasure to work with and a consummate barrister, he is very smooth, authoritative and impeccably prepared".* **Chambers & Partners, 2018 Star Individual**

(Direct tax) - *"He has an excellent mind and is a pleasure to work with."*

(Private client) - *"Hugely experienced; a top-choice for instructing solicitors".* **Legal 500, 2017**

?He is seen as a standout figure at the Tax Bar with the gravitas to handle the most sophisticated and significant cases. He has a real command of the court and a really good eye for strategy, and for how to play the hearing. He is an advocate judges very much like listening to as he's very clear and has a light touch. He also works very, very hard."

*?A ?genius? of the Indirect Tax Bar, singled out for his intellectual acumen and his wealth of experience in the area. He has a huge amount of gravitas. He works high-stakes and stressful conferences very astutely and is very thorough. He is very, very clever, provides excellent advice to the clients and is a very good advocate." **Chambers Guide 2016, Star Individual***

*?He represents taxpayers in some of the largest corporate tax cases [and is a] standout advocate [in VAT]? **Legal 500, 2016***

?He has a vast knowledge of tax law at his fingertips and a manner which puts clients at ease very quickly.

*Very collaborative and also very good in court, where he presents his arguments in a crisp, logical manner. Very calm, focused and measured - perfect for fraught litigation?: **Chambers Guide 2015, Star Individual***

*"Completely unflappable; calm under the most intense pressure" **Legal 500, 2015***

Who'sWho Legal: UK Bar 2015, Most Highly Regarded Leading Silks: *"a standout financial and insurance services specialist, a tactical litigator; there is no better advocate at the tax bar"*

The Chambers 100 UK Bar: *?[He] is regarded as a very accessible and cerebral practitioner who has a very clear and precise advocacy style, and produces persuasive and thoughtful written submissions?*

*"He has a very clear intellect. He can unravel a complex problem and distil it in very simple terms." **Chambers Guide 2014, Star Individual***

Tax Silk of the Year 2014, **Chambers UK Bar Awards**

*?The star among upcoming silks?(direct tax) ?A brilliant advocate, very commercial and efficient?(indirect tax) ?Prepared to go the extra mile on behalf of clients? (personal tax) **Legal 500, 2014***

Recognised for his *"effective and skilled advocacy... very knowledgeable [with] a calm, measured manner. He is logical and coherent and his advice is as digestible as it possibly can be."* (**Chambers Guide 2013** ? direct tax: Star Individual)

"Hot property [and] the silk of choice at the moment? precise, thorough and persuasive." Other barristers say of him: "He is the one we all have to fear." (**Chambers Guide 2013** ? indirect tax)
?An excellent technical lawyer, and good at simplifying complex matters for clients? (**Legal 500, 2013**)

"an excellent advocate and a pleasant, courteous opponent who deserves great respect? His compelling courtroom presence is viewed as one of his major strengths, as is his lengthy experience of a host of major tax cases? (**Chambers Guide 2012** ? direct tax: Star Individual)

"[He] can present powerful arguments in a very smooth way? and is one of the strongest tax practitioners at the Bar? (**Chambers Guide 2012** ? indirect tax)

?an excellent technical lawyer, and good at simplifying complex matters for clients? (**Legal 500, 2012**)

A "formidable advocate," strong on both direct and indirect taxation, who is noted for his first-class litigation skills. He earns praise for his "tremendous presence in court," as well as his user-friendly approach (**Chambers Guide 2011**).

?Extremely good?? [and has a] phenomenal reputation? (**Legal 500, 2011**).

?[T]he star of the younger generation and probably the next to break into the top level.? A top-class litigator, he is "incredibly bright, excellent on his feet and a real fighter." He is a "very clever man," noted for his "thorough preparation and powerful advocacy." "[H]e is so good that opponents are hard pushed to pick holes in his presentation." (**Chambers Guide, 2010**).

?[A] quite formidable barrister who wears his brilliance lightly? collaborative, approachable and fleet-footed in court? (**Chambers Guide, 2009**)

?[E]xceptional? (**Legal 500, 2009**)

A ?red-hot whiz kid? with ?extremely good court skills? who is ?very much in tune with modern, entrepreneurial business? (**Chambers Guide 2008**)

?[O]utstanding technical ability with commercial awareness? a very thorough professional? (**Legal 500, 2008**)

He has an ?incredibly fluent, persuasive and thoughtful? advocacy style married with ?charm and logic? (**Chambers Guide, 2007**)

?[V]astly intelligent and a real fighter? [he is a] clear and practical adviser?(Chambers Guide, 2006)

A ?class act? [a] real star, he fights his corner and never gives up? (Chambers Guide, 2005).

Winner - Tax Silk of the Year (**Chambers Guide**) in 2008

Nominated - Tax Silk of the Year (**Chambers Guide**) in 2009

Recent articles

[Taxing a "fair representation" of profits](#) - Bloomberg BNA European Tax Service, July 2015

[The new "Diverted Profits Tax"](#) - Bloomberg BNA European Tax Service, February 2015

[VAT and the "payment processing exemption"](#) - Bloomberg BNA Indirect Taxes, February 2015

["Beneficial entitlement to profits and ownership of assets"](#) - Bloomberg BNA Tax Planning, European Tax Service, January 2015

Co-author: "[The Employment Practitioner's Guide to Taxation](#)" , Third Edition - Bloomsbury Publishing, Feb 2014

Legal Information

Jonathan Peacock QC 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

[Union Castle Mail Steamship v HMRC](#) [2018] UKUT 316 - corporation tax dispute over accounting de-recognition of derivative contracts

[SSE Generation Limited v HMRC](#) [2018] UKFTT 416 ? capital allowances in relation to underground hydro-electric plant

[Done Brothers v HMRC](#) [2018] UKFTT 406 ? VAT treatment of gaming machines and fiscal neutrality

[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

[News Corp UK v HMRC](#) [2018] UKFTT 129 ? VAT treatment of online newspapers (The Times, The Sunday Times, The Sun) and fiscal neutrality

[Investec Bank plc v HMRC](#) [2018] UKUT 69 ? financial dealer acquiring lease receivables in partnership and Double Tax Relief

[Marathon Oil UK LLC v HMRC](#) [2017] UKFTT 822 ? tax relief for decommissioning of North Sea assets

[Tesco Freetime v HMRC](#) [2017] UKFTT 614 ? VAT treatment of Clubcard loyalty scheme

[South Eastern Power Networks Plc v HMRC](#) [2017] UKFTT 494 ? closure notice application in the context of corporation tax consortium relief

[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

[Gala 1 Ltd v HMRC](#) [2016] UKUT 564 ? VAT grouping and recovery of overpaid VAT; application of *Taylor Clark*

[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.