



Basis Period Reform

A note from the Bar Council's Taxation Panel

Summary

- New rules coming into effect for tax year 2023/24 will require all self-employed barristers to calculate their taxable income on a tax year basis (i.e. the year to 5 April).
- For those with a year ending 31 March to 5 April, the new rules will make no practical difference.
- For those with a different year end, the new rules are likely to result in the acceleration of tax liabilities.
- Those affected should speak to their accountant and/or consider HMRC's guidance¹. The Bar Council's Taxation Panel expects to publish a more detailed assistance note in due course.

1. The current rules

1.1. Currently self-employed barristers are taxed on a "current year basis". This means they are taxed on their profits for the accounting period ending in a given tax year (i.e. the year to 5 April).

1.2. If the accounting period ends early in the tax year (e.g. 30 April), this generally results in an effective deferral of tax. For example, earnings in the 12 months to 30 April 2022 would be profits for the tax year 2022/23, and (ignoring payments on account) tax would only be due on those profits on 31 January 2024.

1.3. If the accounting period ends on or shortly before 5 April, tax is payable sooner. For example, earnings in the 12 months to 4 April 2022 would be profits for the tax year 2021/22 and (again ignoring payments on account) tax would be due on those profits on 31 January 2023.

¹ <https://www.gov.uk/guidance/changes-to-reporting-income-from-self-employment-and-partnerships>

1.4. See further the Part One (Income Tax) of the Bar Council's Taxation Handbook: <https://www.barcouncilethics.co.uk/documents/taxation-handbook/>

2. The new rules

2.1. The new rules will require all barristers to pay tax on profits arising within the relevant tax year regardless of their accounting year end. (These rules are not specific to barristers but apply to all unincorporated businesses including sole traders).

2.2. In broad terms, this will treat all barristers as if they had a 5 April year end and therefore, relative to the position for those with a 30 April year end under the old/current rules, will result in an acceleration of tax as illustrated above.

2.3. There are two provisos to this.

2.3.1. First, the new rules will effectively treat anyone with a year end of 31 March to 5 April inclusive as having a 5 April year end.

2.3.2. Secondly, for all others (i.e. those with a 6 April to 30 March inclusive year end) the profits for the tax year are taken as a proportion of the profits for the relevant accounting periods, rather than requiring a recalculation of the amounts actually earned in the tax year. Thus, for a barrister with a 31 December year end, the profits for tax year 2 (e.g. 2025/26) would be 75% of the profits for accounting period 1 (ending 31 December 2025) and 25% of the profits for accounting period 2 (ending 31 December 2026).

2.4. For simplicity, many barristers may wish to change their accounting dates to a date between 31 March and 5 April so as to align the accounting period profit with the tax year profit.

3. The transitional rules

3.1. For the transition period (i.e. tax year 2023/24), and subject to the "spreading" rules explained below, barristers will be taxed on their profits for their accounting period ending in the year plus their profits for the rest of the tax year to 5 April 2024. The accounting period profits are the "standard part" and the profits for the period to 5 April 2024 are the "transition part".

3.2. For example, a barrister with a tax year ending 30 April will be taxed for 2023/24 on the profits for the accounting period ending 30 April 2023 (12 months) plus their profits for the further period to 5 April 2024 (11 months). These are the "standard part" and "transition part" respectively.

3.3. This is subject to “spreading.” The amount to be spread is the transition part of the profit reduced by any “overlap relief” (referring to overlap profits that may already have been taxed twice on commencement of practice or transition to the earnings basis in 1997: see the Taxation Handbook at paragraph 398 onwards). One fifth of this figure is brought into charge in each of the five tax years starting with 2023/24 (although a barrister can opt out of this and accelerate the charge over a shorter span if it is beneficial for them to do so based on reviewing their position from one tax year to the next over the five years. (Note: The ability to spread at all or continue spreading is lost in the tax year of retirement).

3.4. For a barrister with consistent earnings, the effect of the new rules will be to bring an additional 20% into charge for each of the next five tax years, starting with 2023/24. (This “additional” charge is an acceleration of the charge that would otherwise apply on retirement.)

Example:

Barrister A has a 30 April year-end and a taxable profit of £100,000.
The working is the following:

- 1 May 2022: period of account starts for Barrister A;
- 6 April 2023: tax year commences;
- 30 April 2023: Barrister A’s tax year ends;
- 5 April 2024: tax year ends

Standard part/period: 1 May 2022 to 30 April 2023

Transitional part/period: 1 May 2023 to 5 April 2024.

In 2023/24:

- the ‘standard part’ profit – profit for the 12-months in the accounting period ending during the 2023/24 tax year: **£100,000**
- the ‘transition part’ profit (after deduction for overlap relief, if any) for Barrister A this is the profits for 1 May 2023 – 5 April 2024: **£90,000**

Barrister A is liable to pay tax on one fifth of the transition part profit (£18,000) in each tax year from 2023/24 – 2027/28 (so that the tax on the last £18,000 will only be due on 31 January 2029)

3.5. The position can be more complicated and barristers will want to consider:

3.5.1. Whether or not spreading in subsequent years will push the barrister into a higher tax band, so that accelerating the spread may prevent that higher rate.

3.5.2. For barristers currently on the earnings basis, the impact of changing to the cash basis of accounting in 2024-25.

3.5.3. The use of non-Bar losses available for relief in a given tax year. Barristers should carefully consider their individual situation and take advice on it where necessary.

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The Taxation Panel of the Bar Council's Remuneration Committee

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