



**The VAT treatment of Legal Aid Agency contingency payments to barristers.
Note from the Bar Council's Taxation Panel.
10 July 2025.**

1. Status of this note

The Taxation Panel of the Bar Council's Remuneration Committee, chaired by Richard Vallat KC, is a group of tax barristers, and accountants (from: Place Campbell Chartered Accountants; Philip Friede & Co Chartered Accountants; and Citroen Wells Chartered Accountants). We produce a Taxation Handbook:

<https://www.barcouncilethics.co.uk/documents/taxation-handbook/>

This note is a supplement to the assistance provided in the Handbook.

The Bar Council does not give tax advice or legal advice. This note is not tax advice and barristers should speak to their accountant regarding their personal tax situation.

2. Background

The Legal Aid Agency (LAA) has suffered a cyber attack, and it is currently unable to process the civil / family legal aid billing of barristers. The LAA have therefore set up a contingency payment option. The latest version of the LAA Guide is here:

https://assets.publishing.service.gov.uk/media/6855656735070b6957ab902a/Contingency_Payment_-_Providers_Guide_Version_1.4.pdf

We have been asked to help barristers to understand the VAT implications of receiving these contingency payments.

3. LAA contingency payments and VAT

VAT is generally due on barrister's fees at the earliest of (a) when the fee in respect of services is received by a barrister; or (b) when a barrister issues a VAT invoice in respect of those services. This is called the "tax point". (See further Regulation 92 of the VAT Regulations 1995 (SI 1995/2518) and VAT Notice 700/44 explaining the special time of supply rules for barristers).

The tax point for LAA contingency payments depends on (a) whether and when an invoice is issued and (b) whether the contingency payments are treated as loans, or a prepayment for legal services.

If an invoice is issued before payment (whether of a contingency payment or a fee), VAT will become due, regardless of whether and when the invoice is paid.

In respect of the second question, one argument is that contingency payments should be treated as loans because (i) the contingency payments are not directly connected to any ongoing services that are provided; and (ii) the contingency payments must be recouped once the period of system outage has been resolved. On this basis, there would be no tax point (and therefore no need to account for VAT) unless and until an invoice is issued in respect of particular legal services. A VAT invoice would only need to be issued when the LAA has resolved the system outage. In practice, the payment of those invoices will be set off against contingency payments that have been made, so barristers should save a proportion of the contingency payments so that they can settle this future VAT liability.

However, we understand that HMRC take the alternative view, namely that the contingency payments are received in respect of services, and therefore should be brought into account for VAT purposes. On this basis, a VAT invoice should be issued in respect of each contingency payment received and an adjustment may be required when the correct fees are calculated in due course.

This approach may also be administratively simpler, in that chambers may prefer to treat contingency payments as income for the purposes of calculating contributions etc. If the contingency payments are treated as payments for services, the same figures could be used for VAT.

For the avoidance of doubt, the difference in treatment will only affect the time at which VAT falls due, not the overall amount of VAT.

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