

## Jonathan Bremner QC

**Year of Call:** 2005 England 2021 Scotland **Year of Silk:**  
2018 (England & Wales)

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### Professional Career to date

2021: Admitted to the Faculty of Advocates  
2020: Bencher of Inner Temple  
2018: Appointed Queen's Counsel (England & Wales)  
2005: Called to the English Bar (Inner Temple)

### Education & Professional Qualifications

Bachelor of Civil Law (2004, Distinction) (Hertford College, University of Oxford);  
BA Law and French Law (2003, First) (Hertford College, University of Oxford);  
Diploma in French Law (2002, Mention Bien) (University of Paris II)

### Areas of Expertise

- Company, Corporate Finance and Tax

### Professional Experience

Jonathan Bremner specialises in tax. His practice focuses on complex, substantial tax litigation and advisory work. Calm, incisive and forensic in his approach, Jonathan enjoys working collaboratively with clients and other professional advisers. His clients are drawn from a wide range of industry sectors and include large multinationals, major listed companies, owner-managed businesses and high-net worth individuals, as well as local and central government.

Jonathan was called to the English Bar in 2005 and was appointed Queen's Counsel in England & Wales in 2018. He practises in England from One Essex Court (Chambers of Lord Grabiner QC) in London. Jonathan called to the Scottish Bar in 2021.

### Recent Cases

Jonathan has a broad tax practice. His recent focus has been on the following areas:

#### International tax

International tax issues (e.g. double taxation relief, permanent establishments, transfer pricing etc) form a substantial part of Jonathan's practice. Examples of recent cases include:

***Irish Bank Resolution Corp v HMRC*** [2020] EWCA Civ 1128, [2020] STC 1946 (also acted before the **UT** and **FTT**): acted for HMRC successfully resisting treaty challenge to attribution of chargeable profits of the permanent establishment of an overseas bank (business profits article of the UK / Ireland double tax treaty; separate enterprise principle).

***Royal Bank of Canada v HMRC*** [2020] UKFTT 267 (TC), 22 ITLR 747: appearing for HMRC in a

substantial dispute concerning the tax treatment of profits relating to a North Sea oil field and the application of the immovable property article of the UK / Canada double tax treaty (on appeal to the UT).

**Bloomberg Inc v HMRC** [2018] UKFTT 205 (TC), [2018] SFTD 1079: appeared for HMRC successfully resisting high value claim for intangible fixed assets raising complex issues as to the interpretation of the business profits article of the US / UK double tax treaty.

Advising a large FTSE 100 listed multinational in relation to deductibility and transfer pricing issues concerning a business restructuring.

Acting for a US technology company in a transfer pricing dispute before the Mauritian Assessment Review Committee.

## EU tax issues

Jonathan has significant, wide-ranging experience of issues concerning the compatibility of the UK tax code with EU law, having acted in numerous cases in the **CFC and Dividend GLO**, the **Franked Investment Income GLO** and related matters. Recent work includes:

Appearing for the claimants in the Supreme Court in **Test Claimants in the FII Group Litigation v HMRC** [2021] UKSC 31. Jonathan has acted in these exceptionally complex and high-value proceedings since 2013 including a ten day hearing before the Court of Appeal ([2016] EWCA Civ 1180, [2017] STC 696), a 16 day trial before the High Court in May/June 2014 ([2014] EWHC 4302 (Ch), [2015] STC 1471) and numerous interim applications (e.g. [2013] EWHC 3757 (pleadings); [2015] EWHC 2883 (Ch) (costs)).

Appearing for the claimants in the Supreme Court in **Prudential Assurance Company Ltd v HMRC** [2018] UKSC, [2018] STC 1657 (the test case in the **CFC and Dividend Group Litigation**); also appeared before the **Court of Appeal** and the **High Court**.

Acting for Intercontinental Hotels Group in its successful claim to recover tax levied in breach of EU law: **Six Continents Ltd v HMRC** [2016] EWHC 2426 (Ch), [2017] STC 1228 (also acted in successful related interim payment application: [2015] EWHC 2884 (Ch)).

Appearing in the Upper Tribunal for British American Tobacco in its challenge to the “restitution interest” tax provisions in Part 8C Corporation Tax Act 2010 (July 2018: **BAT Industries plc v HMRC**; stayed part-heard).

Appearing for HMRC before the Court of Justice of the European Union in Case C-646/15 **Trustees of the P Panayi Accumulation & Maintenance Settlements** [2017] STC 2495 (appointment of non-resident trustees; compatibility of exit tax with EU law) and in subsequent proceedings before the FTT: [2019] UKFTT 622 (TCC), [2020] SFTD 209 (on appeal to the UT).

## Business and corporate tax

Jonathan frequently acts and advises in relation to a wide range of business and corporate tax issues. Recent work has included:

Appearing before the Court of Appeal for companies in the FTSE 100 Smith & Nephew group in successful claims for £680m foreign exchange losses (**HMRC v Smith & Nephew Overseas Ltd** [2020] EWCA Civ 299; also appeared before the FTT and UT);

Appearing for HMRC before the Court of Appeal in **Farnborough Airport Properties Company Ltd v HMRC** [2019] EWCA Civ 118, [2019] STC 517 (successfully resisting claim for group relief following the appointment of administrative receiver).

Appearing before the FTT for a global packaging group in successful claims for group relief: **LINPAC Group Holdings Ltd v HMRC** [2020] UKFTT 60 (TC), [2020] SFTD 575.

Acting for HMRC in a substantial dispute concerning the availability of capital allowances in relation to the construction of a nuclear decommissioning centre: **Urenco Chemplants Ltd v HMRC** (July 2021;

UT – on appeal from **[2019] UKFTT 522 (TC)**).

Acting in a test case concerning the availability of business premises renovation allowances (**London Luton Hotel BPRA Fund LLP v HMRC** [2021] UKUT 147 (TCC) (also acted in **FTT**)).

### **Employment and personal taxes**

Jonathan has extensive experience of employment and personal tax issues. Recent work has included:

Appearing before the Supreme Court in **RFC (2012) PLC v HMRC** [2017] UKSC 45, [2017] STC 1556 (the Rangers Football Club employee benefit trust litigation). Jonathan acted in this long running dispute from 2010, appearing before the **FTT** and **UT** and assisting Scottish counsel in the **Court of Session (Inner House)**.

Acting in disputes concerning employee remuneration structures established by a wide variety of employers.

Appearing for the taxpayer in **Root2 Tax Limited v HMRC** [2019] UKFTT 744 (TC) (spread betting contracts; employment income/NIC).

Advising in relation to tax issues arising from HMRC's COVID-19 Self-Employed Income Support Scheme and Job Retention Scheme.

Appearing for HMRC before the Court of Justice of the European Union in Case C-646/15 **Trustees of the P Panayi Accumulation & Maintenance Settlements** [2017] STC 2495 (trust taxation / exit taxes / EU law) and in subsequent proceedings before the **FTT**: [2019] UKFTT 622 (TCC), [2020] SFTD 209 (on appeal to the UT).

### **Value Added Tax**

Jonathan has wide-ranging experience in VAT. Recent work has included:

Appearing before the Court of Appeal in **LIFE Services Ltd v HMRC** [2020] EWCA Civ 452, [2020] STC 898 (welfare exemption; also appeared before UT: **[2017] UKUT 4849 (TCC)** and **[2019] UKUT 2, [2019] STC 419**).

Appearing for the liquidators of MG Rover Group before the Court of Appeal in substantial litigation concerning the compatibility of the UK VAT grouping rules with EU law: **MG Rover Group v HMRC** [2019] EWCA Civ 485, [2019] STC 1134 (VAT grouping; also appeared before the **UT** and **FTT**).

Appearing before the Court of Appeal in **Newey (trading as Ocean Finance) v HMRC** [2018] EWCA Civ 791, [2018] STC 1054 (abuse of rights; also appeared before **CJEU**, **UT** and **FTT**).

Appearing before the Upper Tribunal in **St Andrew's College Bradfield v HMRC** [2016] UKUT 491 (TCC), [2017] STC 83 (sporting exemption).

Appearing before the Supreme Court in **Airtours Holidays Transport Ltd v HMRC** [2016] UKSC 21, [2016] STC 1509 (third party consideration; also appeared before **CA**, **UT** and **FTT**).

### **Other indirect taxes**

Jonathan regularly acts in cases involving other indirect taxes (e.g. SDLT, landfill tax, customs duties and excise duties). Recent work has included:

Appearing before the First-tier Tribunal for Scotland in a substantial landfill tax dispute: **Barr Environmental Ltd v Revenue Scotland** (heard over three weeks in December 2019 and February-March 2020; decision awaited).

Appearing before the FTT in **Hannover Leasing v HMRC** [2019] UKFTT 262 (TC) (SDLT: section 75A FA 2003).

Appearing before the Court of Appeal in *Invicta Foods Ltd v HMRC* [2018] EWCA Civ 2204 (customs duty; also acted before **UT** and **FTT**).

Advising casinos and online gaming providers on gaming duty and remote gaming duty issues.

Acting for HMRC resisting judicial review challenges to HMRC excise duty enforcement action.

### **Public law (tax-related)**

Jonathan regularly acts for taxpayers and for HMRC in disputes relating to the public law validity of HMRC action. Examples of recent work include:

Acting for a group of investment funds in High Court judicial review proceedings challenging HMRC's refusal to apply published guidance.

Acted in High Court judicial review proceedings concerning the chargeable gains treatment of disposals of a property portfolio by an investment fund and the applicability of HMRC published guidance.

Acted in a dispute concerning HMRC's decision to withdraw venture capital trust approval status for two well-known VCTs.

Acting in tax-related High Court judicial review proceedings concerning personal tax issues (e.g. amendments to partner returns; disclosure of tax avoidance schemes; accelerated payment notices).

Acting for a housing association in a dispute concerning HMRC's withdrawal of a VAT ruling.

### **Tax-related commercial disputes**

Jonathan regularly acts for corporate and private clients in tax-related commercial disputes. Examples of recent work include:

Acting and advising in relation to High Court contractual tax warranty and indemnity claims arising under share purchase agreements.

Acting for a FTSE100 multinational in LCIA arbitration proceedings concerning the VAT treatment of cross-border supplies and the construction of tax indemnity provisions.

Acting in High Court proceedings concerning tax indemnities for Swiss VAT: *Kuoni Travel Ltd v Boyle* [2013] EWHC 877 (QB).

Acting in High Court proceedings between customers and suppliers for restitution of overcharged VAT.

Acting in *Mehjoo v Harben Barker* [2014] EWCA Civ 358, [2014] STC 1470 (also acted in **High Court**) – professional negligence; duty to refer.

### **Directories**

#### **Corporate Tax**

"Very accessible, well liked by clients and thorough." "He is very impressive, shows good attention to detail and produces quality advocacy." (Chambers UK 2021 (London Bar) – Tax)

"Arguably the leading tax lawyer of his generation. Excellent strategic sense, fearsomely bright, and both a forceful and a polished performer in court." (Legal 500 2021 (London Bar) – Corporate Tax)

"Ferociously intelligent, enormously hard-working and very assured on his feet." "He's a very meticulous and very clever tax lawyer." (Chambers UK 2020 (London Bar) – Tax)

“Brilliant technical mind, strong common sense, admirable and experienced advocate.” (Legal 500 2020 (London Bar) – Corporate Tax)

“Superb both in terms of technical analysis and as an advocate.” “He is thorough and quick, and he works well in a team.” (Chambers UK 2019 (London Bar) – Tax)

“Unruffled when arguing multi-billion pound points.” (Legal 500 2019 (London Bar) – Corporate Tax)

#### **VAT / indirect tax**

"Very bright and hard-working." "He is very thorough and extremely intelligent - a pleasure to work with." (Chambers UK 2021 (London Bar) – Indirect Tax)

"Responsive, coherent and clear in his advice." (Chambers UK 2020 (London Bar) – Indirect Tax)

“Brilliant technical mind, strong common sense, admirable and experienced advocate.” (Legal 500 2020 (London Bar) – VAT)

“His technical ability is very strong, his client-handling skills are excellent and he is commercially focused.” (Chambers UK 2019 (London Bar) – Indirect Tax)

“He is extremely clever, has a deep knowledge and understanding of tax.” (Legal 500 2019 (London Bar) - VAT)

#### **Personal tax**

“He has an enviable knowledge of the law but remains accessible and client friendly, which is not easy with tax law.” (Legal 500 2021 (London Bar) – Private Client: Personal Tax)

“One instructing solicitor describes him as ‘approachable, client-friendly and pragmatic,’ and another notes: ‘I think he gives very thoughtful advice, he is very approachable and he is good with clients. He is one of my favourite barristers to instruct on tax matters.’” (Chambers High Net Worth 2021 (London Bar)) – Tax)

“Provides you with clear advice.” (Legal 500 2020 (London Bar) – Private Client: personal tax)

“He is unafraid to give firm advice.” (Legal 500 2019 (London Bar) – Private Client: personal tax)