

The question of ownership will depend on the nature of the work to be done.

For example:

Nature of work	Type of document	Who has ownership?
Auditing		
Preparation of audit report whether carried out under statutory provisions or not	Any documents prepared by member solely for purpose of carrying out his duties as auditor	Member
	Audit Report	Client

Accountancy		
Preparation of accounting records	Accounting Records	Client
Preparation of financial statements from client's records	Financial statements	Client
	Draft/office copy of financial statements ¹	Member
	Correspondence with third parties	Member ²
Preparation of financial statements from incomplete records where not instructed by client to work from those records	Schedules	Member ³
Analysis of banking accounts prepared by member	Reports, memoranda or notes	Client
	Drafts of the above	Member ⁴
Other accountancy	Records prepared by the member which are required by law to be kept by the client	Client
Other accountancy	File copies of any documents including drafts	Member

1 If, however, the client has specifically asked for drafts to be prepared for him, they will belong to the client because then the drafts are the 'product' which is required by the client.

2 Provided that the client has not required the member to produce these documents for him (*Chantrey Martin & Co v. Martin* [1953] 2 QB 286).

3 However, in the case of a body incorporated under statutory provisions, the position is different. For example, s.386 of the Companies Act 2006 sets out the accounting records which a company must keep. Where schedules have not been kept by the client company but such schedules were prepared for the client company in order that it should comply with these legal requirements they would belong to the company.

4 See above.

Nature of work	Type of document	Who has ownership?
Tax assistance and advice		
Preparation and submission of accounts, returns and computations or VAT returns to HM Revenue & Customs ('HMRC') and other tax compliance work	Accounts, schedules and computations, correspondence between the member and HMRC in relation to the same	Client ⁵
Agreement of the client's tax liabilities including those following an enquiry or investigation	Any documents	Client
Preparation of a report for a client to submit to HMRC in connection with an enquiry or investigation	The report and supporting schedules	Client
	Papers used in preparing the report	Client
Provision of advice to a client on tax liabilities arising out of an enquiry or investigation	The report and supporting schedules	Client
	Papers used in preparing the report	Member
Tax consulting, advice or planning	Drafts, internal memoranda, etc.	Member
	Letters, reports or documents of advice	Client

Consulting and advisory work		
Corporate advisory services	Reports and other deliverables	Client
	Other papers produced as part of the engagement but not provided to the client	Member

Insolvency		
Appointments as administrators, administrative receivers or liquidators	Any documents	Please refer to the footnote ⁶
Appointment as a receiver	Any documents created as agent for the company which owns the assets to which the debenture relates ⁷	Company
	All other documents ⁸	Member

⁵ *Chantrey Martin & Co v. Martin* [1953] 2 QB 286.

⁶ As administrators, administrative receivers or liquidators, the fundamental duties of an insolvency practitioner are regulated by Insolvency Act 1986 and Insolvency Rules 1986. In that capacity, members may therefore wish to seek legal advice.

⁷ The overwhelming majority of modern debentures provide that the receiver is the agent of the company and s.44 Insolvency Act 1986 deems any administrative receiver to be an agent of the company until the company goes into liquidation. However, there will be rare cases where neither of these conditions applies such that the receiver will be the agent of the debenture holder in which case documentation may be created as agent for, and be the property of, the debenture holder.

⁸ Members are reminded that the majority, if not all, documentation produced as receiver will be in the capacity of agent either of the company or the debenture holder (see footnote 8 above). Therefore, a member seeking to rely on a lien in such circumstances may wish to seek legal advice.