PKF International Limited

Doing Business in the UK

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GLOBAL
EXPERTISE

Contents

Foreword

This publication provides an overview of the most important aspects of doing business and investing in the UK and we trust that you find it informative and useful.

The UK remains one of the most attractive places in the world to invest in, and trade with, ranking in the Top 10 for Ease of Doing Business assessed by the World Bank. It continues to receive the most foreign investment of any country in Europe and has one of the most competitive tax regimes in the world. Key partners for inward investment continue to be the USA, Japan, China, India and Australia. The UK also remains an active outward investor, and whilst circa 50% of this currently goes to Europe, other key partners include the Americas, China and Australia.

If you are considering setting up, investing in or acquiring a UK business or trading in the UK, your next step should be to talk to us. The PKF UK network of firms have a great deal of experience in helping businesses cross borders. As one of the top networks of accountants and business advisers in the UK, with offices in all the major business centres, we provide a comprehensive range of services to inward investors across a broad range of business sector, including:

- Auditing of UK and foreign subsidiaries and holding companies
- Corporate finance advice with regards to acquiring / disposing of subsidiaries and fund raising
- Business advice regarding setting up of operations in the UK and selling into or out of the UK
- Taxation compliance and advice services
- Outsourcing and bookkeeping

We specialise in advising growing and entrepreneurial owner-managed businesses, AIM and Main Market companies and UK subsidiaries. Our aim is to work closely with our clients to understand their goals and help to achieve them.

Demographic and Environmental Overview

Geography and Population

The United Kingdom of Great Britain and Northern Ireland (more usually referred to as the United Kingdom or the UK) is a state consisting of the nations of England, Scotland, Wales and Northern Ireland. Also, under UK sovereignty, though not part of the UK itself, are the Crown dependencies of the Channel Islands and the Isle of Man. These dependencies pursue their own policies over taxation, employment, health and education, but are subject to UK control on matters such as defence.

The UK is an island of 243,000km^2. Its population in 2021 was 68 million, virtually the same as France yet in an area less than half the size. The language spoken is English and London is the largest city and capital. Its time zone is GMT or GMT+1 for Daylight Saving Time/British Summer Time.

Political System

The UK is a constitutional monarchy. The constitution is uncodified and partly unwritten, comprising constitutional conventions, statutory law and common law. The head of state is the Monarch who since 1952 has been Queen Elizabeth II (for more information see **www.royal.gov.uk**), although this is a largely ceremonial role. Parliament is at the centre of the UK's political system (see **www.parliament.uk**). It is the supreme legislative body and the UK Government is drawn from and answerable to it. Parliament is made up of the House of Commons and the House of Lords.

The House of Commons consists of 650 Members of Parliament, elected in general elections held at least once every five years and using the first-past-the-post voting system. A Conservative majority government was formed following the December 2019 election.

The House of Lords comprises a (non-elected) mixture of hereditary and appointed members. It scrutinises bills that have been approved by the House of Commons and, while it is unable to prevent Bills passing into law, acts as a check on the House of Commons that is independent from the electoral process.

The political head of the country is the Prime Minister, who must have the support of the House of Commons. The Monarch appoints the Prime Minister, guided by strict convention. The post usually goes to the leader of the majority party in the House of Commons. Boris Johnson was appointed Prime Minister in July 2019 as the new head of the Conservative (minority) government. The General Election held in December 2019 returned a Conservative majority government, which Mr Johnson continues to lead. The Prime Minister selects the other ministers who make up the Government.

Although government in the UK has traditionally been centralised, there has been a recent move towards devolution. As a result, Scotland and Wales have their own parliaments and Northern Ireland has the Northern Ireland Assembly.

Members of these bodies are elected by a form of proportional representation. Two fully devolved taxes have applied in Scotland since 1 April 2015; Land and Buildings Transaction Tax, which replaced Stamp Duty Land Tax on transactions taking place in Scotland; and Scottish landfill tax, which replaced landfill tax on transactions taking place in Scotland.

Revenue Scotland is responsible for the collection and administration of these two devolved taxes. The Scottish parliament also has the power to set its own rates and bands for income tax. Scottish income tax applies to the non-savings and non-dividend income of Scottish taxpayers from 6 April 2017 onwards. HM Revenue & Customs (HMRC) remains responsible for collecting and administering Scottish income tax.

The Scottish Government is partly funded by the UK Government Block Grant, and partly self-funded through raising revenue from devolved taxes and borrowing. The Block Grant is determined by:

1. the longstanding Barnett formula (which allocates expenditure between Northern Ireland, Scotland, England and Wales);
2. Block Grant deductions in relation to tax devolution; and
3. Block Grant additions for welfare devolution. Alongside this, the Scottish Government retains all revenues from devolved taxes and sets borrowing levels within agreed limits.

A number of tax powers have also been devolved to the Welsh Parliament/Senedd Cymru and the Northern Ireland Assembly. Further details are set out in the Introduction and Summary of Taxation in the UK.

Economics

The UK is one of the three largest economies in Europe, alongside France and Germany, and the sixth largest economy in the world. There has been a trend over the last 30 years to reduce public ownership through privatisation programmes. There has also been a switch from once dominant manufacturing industries to services, particularly banking, insurance and business services although recent governments have announced that they wish to reverse this trend.

Brexit

The UK joined the European Union (EU) – then known as the European Economic Community – in 1973. The EU is a single trading area with no internal tariffs and with common standards applying to virtually the full range of commercial life (for more detail see **www.europa.eu**). These close economic links were cemented by the launch of the euro as a single currency in 1999, although the UK opted to retain the pound sterling.

The UK officially left the EU on 31 January 2020. Under the terms of the Withdrawal Agreement, an agreement reached to ensure the orderly exit of the UK from the EU, EU law continued to apply to the UK until 31 December 2020. During this period, which is formally known as the 'transition period', the UK will continue to participate in the EU's Single Market and Customs Union.

From the 1st January 2021, i.e. following the end of the transition period, the UK no longer participates in the EU's main trading arrangements (the single market and the customs union) and is now deemed to be a 3rd Country which operates a full, external border as an independent nation and is free to strike its own trade deals for buying and selling goods and services around the world. The UK have agreed trade deals with numerous non-EU countries and continue to negotiate further trade deals.

In addition, the UK has now entered into a new trading relationship with the EU, under the EU-UK Trade and Cooperation Agreement (TCA) which was agreed between the UK and EU on 24 December 2020.

With the exception of trade from and to Northern Ireland ("NI"), which is subject to the Northern Ireland Protocol, all goods entering the EU from GB (defined as England, Scotland & Wales) or leaving the EU to go to GB are subject to customs formalities since 1 January 2021.The UK Government have implemented a phased approach to the introduction of the new trading rules which includes giving traders in standard goods up to 6 months to complete customs declarations and pay duties etc. This deferred declaration does not apply to controlled goods, or to Roll on–Roll off (Ro-Ro), both of which require advanced declaration.

Northern Ireland

In terms of the Northern Ireland Protocol, which came into effect on 1st January 2021 and was designed to avoid a hard border with Ireland whilst ensuring the UK, including Northern Ireland, leaves the EU as a whole, the UK government has announced that special provisions will apply. These include:

1. Movement of Goods – NI to GB

The UK Government committed to guaranteeing, in legislation, unfettered access for Northern Ireland's businesses to the rest of the UK internal market from 31 December 2020, ensuring that trade from Northern Ireland to Great Britain continues as it did prior to 1 January 2021. This means no declarations, tariffs, new regulatory checks or customs checks, or additional approvals for "qualifying goods" from Northern Ireland businesses to be placed on the UK market.

"Qualifying Goods" are defined in law by the UK government to mean goods:

- that are present in Northern Ireland and are not subject to any customs supervision, restriction or control which does not arise from the goods being taken out of the territory of Northern Ireland or the European Union; or are
- Northern Ireland processed products.

A limited number of goods will be subject to standard export procedures. It is understood that a further, more developed, framework for qualifying status will be introduced in 2021 which is likely to see the definition of "qualifying goods" tightened.

2. Movement of Goods – GB to NI

As set out in the Government's Command Paper (the UK's approach to the Northern Ireland Protocol), there are some changes for goods movements into NI from GB. The Protocol means that UK authorities apply EU customs rules to goods entering Northern Ireland.

The movement of goods from GB to NI is now treated as an import into the EU. For that reason, full electronic import declarations are now required and goods that are cleared through the import process are then in free circulation within the EU, i.e. they can be sold, processed or moved anywhere in the EU without further formality. In addition to the submission of import declarations, certain products are subject to additional checks and controls on movement from GB to NI, such as goods of animal and plant origin.

The UK Government has confirmed that export or exit declarations are not required for goods leaving GB for

NI. However, these changes will entail some new administrative process for traders, notably:

- new electronic import declaration requirements, for goods entering Northern Ireland from the rest of the UK. These import declarations will be required regardless of the fact that a Free Trade Agreement (FTA) has been reached between the EU and the UK;
- processes are fully digital and eligible to be facilitated by the Trader Support Service, an end-to-end Support Service to help all traders, regardless of size and at no additional cost, to move their goods between Great Britain and Northern Ireland.
- the regime will be administered by UK authorities - meaning a minimal proportion of checks only as required by the levels of risk.
- the UK Government position remains that there should be no tariffs payable on all internal UK trade. As detailed further below, where goods moving between GB and NI are deemed to be of GB origin, the goods will not be subject to customs tariffs under the TCA. However, if the goods being transported into NI are deemed to be of EU or rest of world origin, potential tariffs may be applied. In this scenario, NI based traders need to consider the availability of the UK Trader Scheme or the potential opportunity to waive tariffs. These processes are needed to make sure that tariffs are not paid on trade within the UK and that goods going to Ireland/EU will pay tariffs when they should.

3. Trade in goods between NI & Ireland/NI & EU Member States

Trade in goods across the island of Ireland together with trade in goods between NI and other EU member states is to continue unaffected, with no change at the border, no new paperwork, and no tariffs or regulatory checks.

4. Trade in goods between NI and ROW

Northern Ireland is to benefit from any new UK Free Trade Agreements – ensuring the benefits of those agreements are felt right across the United Kingdom.

Application of customs tariffs under the TCA

Under the Trade and Cooperation Agreement (TCA), to benefit from the preferential rules (i.e. no tariffs or quotas), goods will need to be considered of UK origin when moving to the EU or EU origin when moving to GB. Where goods are provided by GB distributors and these goods have been sourced in the EU or rest of world without substantial processing in GB, the movement of these goods into NI may attract tariffs. The TCA contains detailed rules around what constitutes sufficient processing to change the origin of a good. If the goods entering NI are not entitled to zero tariffs under the Trade and Cooperation Agreement, NI traders need to consider the availability of:

- UK Trader Scheme (UKTS): Under the UK Trader Scheme, authorised businesses are entitled to undertake that the goods that they are moving into Northern Ireland are “not at risk” of onward movement to the EU and therefore not liable to EU tariffs. The UKTS will apply where the goods are for sale to, or final use by, end consumers located in the UK or are brought into NI for processing for a number of specific purposes, as outlined in HMRC guidance;
- Claim a waiver on the goods brought into NI: Waivers for duty on goods that would otherwise incur ‘at risk’ tariffs are provided in the form of ‘de minimis aid’ and most businesses can claim up to a maximum of €200k aid on a rolling basis over 3 tax years.

Services

The provision of services by UK companies (including NI) in the EU has also changed post 31 December 2020 as the UK is no longer operating under the European Economic Area (EEA) regulations for cross-border trade. Services provided by UK businesses and professionals will be regarded as originating from a 'third country'.

The Trade and Cooperation Agreement (TCA) and joint declarations contain a number of provisions which are likely to impact service providers, including around the right to establish in the EU, recognition of professional qualifications, free flow of data and the movement of people. In particular many service providers await the outcome of the EU's adequacy process, which will enable the continued free flow of data between the UK and EU going forward.

Despite the fact that a TCA was agreed by the UK and the EU, Brexit is currently presenting challenges for businesses throughout the UK. However, these challenges are not insurmountable and the adoption of a pro-active and agile approach will ensure that businesses can meet these challenges and thrive in a post-Brexit world.

Recommendations

1. Register for an EORI number

An EORI (Economic Operators Registration Identification) number is a tax reference number available from HMRC which is essential for all GB businesses trading between GB and EU after 31 December 2020.

Northern Ireland businesses also need to consider whether they ought to obtain and use an XI EORI number and an XI VAT number. NI businesses should use their XI VAT number when trading in goods with the EU after 31 December 2020. The XI prefix recognises NI businesses' unique position under the NI Protocol, ensuring they can continue to avail of EU simplifications such as triangulation, supply and install simplifications and the intra-community supply provisions (i.e. where the movement of goods between NI and EU member states can be treated as an intra-community supply rather than an export from NI and import into the EU).

2. Understand the impact on your supply chain

The origin of goods will be key in determining the amount of duty payable on goods moving between GB, NI and the EU. It is imperative that firstly you understand the commodity code applicable to the goods you want to move, if the tariff is greater than zero, the origin of the good will determine if preferential tariffs can be availed of. If major supply chain disruption is likely, traders may wish to consider alternative route options.

3. Communicate with suppliers, agents, customers and staff

Hold discussions with your suppliers, and customs/ logistics agents and ensure roles and responsibilities of each party are clearly defined and understood. If increased costs will be passed on to the customer or there is likely to be a significant impact on lead time, discuss these changes with customers in advance. Ensure designated personnel within your organisation are clear on their responsibilities and have sufficient knowledge and training to ensure additional regulatory and certification requirements can be satisfied.

4. Consider the VAT implications of Brexit

After 1 January 2021, where goods are imported for e.g. from non UK/ European countries to GB and from EU to GB, import VAT will be payable. UK VAT registered traders are entitled to avail of Postponed VAT Accounting, whereby traders can account for import VAT on their VAT return, rather than at the point of entry to the UK, at which point a simultaneous VAT input credit can be claimed, This potentially holds significant cashflow benefits for businesses throughout the UK.

Many EU simplifications, such as the VAT MOSS scheme, triangulation and the supply and install simplification are longer be available for GB based businesses and businesses must consider whether this will result in additional registration requirements in the EU. There are also implications for providers of services that are of a professional/ technical/ intangible nature and the use and enjoyment provisions. Impacted traders need to consider these changes in order to ensure continued compliance.

5. Consider additional regulatory requirements

After 1 January 2021, UK bodies are no longer authorised to certify compliance with EU regulatory standards and so, if a business relies on UK Notified Bodies and places goods on the EU market, it is vital that they source an EU-based Notified Body. This may have knock-on impacts on the marketing and labelling of goods.

There has been much concern as to the potential implications for the recognition of EU professional qualifications in the UK (and vice-versa) post-Brexit. The TCA outlines the framework for recommendations for future mutual recognition agreements to be agreed between the UK and the EU by regulated professions, which would allow direct access for the respective regulated professionals.

There are also potential implications for the free flow of data post Brexit and many companies await the outcome of the EU's adequacy process, which will enable the continued free flow of data between the UK and EU going forward.

6. Determine the cashflow implications

Prepare a cashflow forecast that incorporates potential tariffs, duties and VAT. Expected exchange rate fluctuations should also be incorporated. Consider whether current banking facilities are sufficient to support any additional cash needs in the business.

7. Utilise available supports, including:

- HMRC Grants to help business complete customs declarations. Funding is available for training, hiring new staff and for IT improvements.
- InterTradeIreland's Brexit Planning Voucher worth up to £2,000 (incl. of VAT) per business and their range of advisory services; and
- Supports from local Chamber of Commerce

Covid

The Covid pandemic is a fast-moving situation both in the UK and around the world. The latest advice can be assessed through Covid hubs maintained by several of the UK PKF firms:

- www.pkf-francisclark.co.uk/coronavirus-updates
- www.johnstoncarmichael.com/coronavirus
- www.pkf-littlejohn.com/coronavirus-resource-centre
- www.pkffpm.com/covid19

Exchange Controls

There are no exchange controls in the UK.

Regulatory Environment

Businesses and investors coming to the UK must comply with regulatory law governing how they operate. This law changes often and the compliance burdens on businesses are increasing. A detailed exploration of these issues is outside the scope of this booklet, and the following represents an overview only.

Legal systems

There are minor differences in the legal systems of England, Wales and Northern Ireland.

However, many aspects of the Scottish legal system, in particular property law, are quite different and appropriate advice should be obtained when setting up a business there.

Money laundering

The Proceeds of Crime Act 2002 (supplemented by the Money Laundering Regulations 2017) extended the offence of money laundering to the proceeds of any crime. Money laundering is now so widely defined that it includes, for example, benefits (in the form of saved costs) arising from a failure to comply with a regulatory requirement where that failure is a criminal offence.

On 10 January 2020 the 5th Money Laundering Directive was adopted by the UK in full and the requirements are not impacted by Brexit.

The regulated sector required to disclose knowledge or suspicion of money laundering to the law enforcement agencies includes banking, financial services, life insurance, bureaux de change and other money service businesses, estate agents, casino operators, insolvency practitioners, tax advisers, accountants, auditors, and businesses providing services in relation to the formation, operation or management of a company or trust. The 5th Money Laundering Directive brought letting agents, art dealers and crypto currencies into scope and tightened customer due diligence requirements for regulated sectors. This includes firms providing indirect tax services who must identify their ultimate client.

The principal money laundering offences include:

- concealing, disguising, converting, transferring or removing criminal property;
- becoming concerned in an arrangement in which someone knowingly suspects or facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person; and
- acquiring, using or possessing criminal property.

The legislation includes offences of failing to report suspected money laundering, ‘tipping off’ about a money laundering disclosure, ‘tipping off’ about a money laundering investigation and prejudicing a money laundering investigation.

It is necessary for businesses in the regulated sector to do a number of things:

- ensure that they know their clients, such as by requiring anyone with whom they conduct business to provide proof of identity and undertaking ongoing monitoring where applicable. Electronic ID verification can be considered as a reliable source of evidence, where the electronic process is free from fraud and provides sufficient assurance on the identity of the individual;

- keep records of the proof of identity for at least five years after the end of each business relationship;
- ensure policies can identify transactions that are complex or unusually large;
- undertake enhanced due diligence for any transaction where either of the parties is established in a high-risk third country, or where the transaction is complex or unusually large;
- policies should be amended to ensure that when new products, business practices or technology are adopted, the business assesses and mitigates the money laundering and terrorist financing risks of these.
- when a business takes on a limited company or LLP as a client, it must check that details of the Persons with Significant Control have been filed with the registrar (i.e. Companies House) and report any discrepancies identified;
- operate effective money laundering training programmes for staff, and internal controls and procedures to prevent money laundering; and
- maintain internal procedures requiring anyone who knows or suspects that a person is money laundering to report it to a nominated officer – known as the money laundering reporting officer.

It is a criminal offence for those employed in the regulated sector to fail to report knowledge, or even reasonable suspicion, of any criminal activity giving rise to the proceeds of crime.

Bribery Act 2010

The Bribery Act, which came into force on 1 July 2011, introduced rigorous new anticorruption regulations that affect individuals and all businesses that are either incorporated or carry on business in the UK.

The Act introduced two general offences covering the offering, promising or giving of a bribe (active bribery) and the requesting, agreeing to receive or accepting of a bribe (passive bribery). It also sets out two further offences which specifically address commercial bribery – bribery of a foreign public official in order to obtain or retain business or an advantage in the conduct of business, and failure to prevent bribery on behalf of a commercial organisation. It is the last of these offences that will affect commercial organisations the most.

A business or organisation will be guilty of an offence if it fails to prevent an 'associated person' from bribing another with the intention of obtaining or retaining an advantage for the business or organisation. 'Associated person' is defined widely and can include employees, agents and subsidiaries depending on the circumstances.

Two areas that businesses should be particularly alert to are corporate hospitality and facilitation payments (small payments to public officials designed to ensure the prompt performance of duties). However, corporate hospitality will only amount to bribery if it can be proved that the person offering it intended the recipient to be influenced to act improperly.

Organisations found guilty of an offence can face an unlimited fine and be banned from bidding for EU public contracts. If found guilty on indictment, individuals can be subject to a maximum penalty of ten years' imprisonment and an unlimited fine.

Organisations need to ensure that they have a robust and tailored risk assessment to understand the threats posed and put in place procedures designed to meet business and jurisdictional risk. Monitoring and adjusting procedures on a regular basis is critical to providing an up to date and effective protection against bribery and corruption. These procedures need to be "reasonable in all the circumstances" and appropriate to the organisation's operations.

Due to the operational changes to business created by Covid 19 it is recommended that the risk assessment is reviewed as a priority and staff given the appropriate levels of training.

Criminal Finances Act 2017

Since 30 September 2017 it has been a criminal offence in the UK if a business fails to prevent its employees or any person associated with it from facilitating tax evasion. Businesses must ensure that they are aware of, and have control over, how their employees, agents or service providers are operating to reduce the risk of exposure to the new offence.

The offences have increased compliance requirements across all business sectors. Businesses are likely to have to conduct more due diligence in relation to their suppliers, contractors and employees and will probably have to look much more closely at where, and the manner in which, payments are made for goods and services, especially if offshore accounts are involved or payments are made in cash.

The first offence applies to all businesses, wherever located, in respect of the facilitation of UK tax evasion. The second offence applies to businesses with a UK connection in respect of the facilitation of non-UK tax evasion.

The offences apply to companies, limited liability partnerships, limited partnerships and partnerships. They make a business vicariously liable for the criminal acts of its employees and other persons 'associated' with it, even if the senior management of the business was not involved or aware of the criminal activity. 'Associated persons' are employees, agents and other persons who perform services for or on behalf of the business, such as contractors, suppliers, agents and intermediaries.

For either of the offences to apply, the employee/associated person must have criminally facilitated the tax evasion, in its capacity as an employee/associated person, providing services to the business. A business will not be criminally liable for failing to prevent the facilitation of tax evasion if the facilitator was acting in a personal capacity.

A business will have a defence if it can prove that it has put in place reasonable prevention procedures to prevent the facilitation of tax evasion taking place, or that it was not reasonable in the circumstances to expect there to be procedures in place.

UK businesses are required to undertake a risk assessment to identify the risks of facilitation of tax evasion within the organisation and the potential gaps in the existing control environment. The risk assessment should be documented so that it can provide an audit trail to support any policy decisions regarding the implementation of new procedures to reduce the risk of exposure to the offences.

Aside from the possibility of incurring a heavy fine, a successful prosecution under either of the new offences could give rise to serious reputational damage for an organisation.

Although there appears to have been little action taken by HMRC under the Act, they have announced that it has a number of active investigations and will be increasing the number of cases which it expects to result in successful prosecution.

Data Protection

The processing of personal data on a computer (or other digital device) or in an organised manual filing system is currently subject to the UK data protection regime which includes the Data Protection Act 2018 (DPA) and the General Data Protection Regulation (GDPR). The regime sets out how personal data is processed by organisations, businesses or the government. Processing personal data includes storing, using, analysing, combining, deleting or disclosing it.

Processing personal data is subject to seven key 'data protection principles'. Anyone responsible for processing personal data must make sure it is:

- processed fairly, lawfully and transparently;
- processed only for the specified, explicit purposes it was originally collected for;
- processed in a way that is adequate, relevant and limited to only what is necessary;
- accurate and, where necessary, kept up to date;
- kept for no longer than is necessary;
- handled in a way that ensures appropriate security, including protection against unlawful or unauthorised processing, access, loss, destruction or damage; and
- processed responsibly with appropriate measures and records in place, demonstrating accountability and compliance with the other principles.

Specific protection is required for more sensitive information, such as:

- race
- ethnic background
- political opinions
- religious beliefs
- trade union membership
- genetics
- biometrics (where used for identification)
- health
- sex life or orientation

There are separate safeguards for personal data relating to criminal convictions and offences.

A business involved in processing personal data must check on the Information Commissioner's Office (ICO) website to see if they need to register with the ICO. The ICO is the regulating body for data protection in the UK.

A business must have a lawful basis when processing personal data. There are six to choose from, most require processing is necessary for a specific purpose, for example in connection with performance of a contract or to protect the vital interests of the individual. A business must have technical and organisation measures in place to help prevent unlawful or unauthorised processing of personal data or loss or destruction. It must also demonstrate that it is accountable by documenting which basis it relies on for each processing activity.

The UK left the EU and the temporary transition phase on 31 December 2020. The GDPR will be retained in UK domestic law and sit alongside the DPA. Both the DPA and the UK GDPR will be amended but the key principles, rights and obligations will remain the same. Maintaining lawful data flow between the UK, Europe, or non-European countries and vice versa may require additional measures to be put in place.

Diversity Pay Gap Reporting (Gender and Ethnicity)

Under the Equality Act 2010 companies are legally required to not discriminate against employees or potential employees based on protected characteristics such as race, sex, age or disability etc.

From 2017 gender pay gap reporting legislation requires any organisation with 250 or more employees (based in England, Scotland or Wales) to publish and report specific figures about their gender pay gap. This is the difference between the average earnings of men and women expressed relative to men's earnings. The figures must be calculated using a 'snapshot date', which is the 5 April each year for private sector businesses and charities, and employers then have a year to publish after this date.

If an organisation has fewer than 250 employees on the 'snapshot date' it can still publish and report the data voluntarily, but it is not legally obliged to do so.

There has been a government consultation to determine if mandatory reporting of ethnicity pay gaps would help to address pay disparity. There is expected to be a formal review of the legislation in 2022.

Competition

Competition law is designed to maintain a competitive economy by controlling the ability of companies to operate through a monopoly in their respective areas. In the UK, the main authority is the Competition and Markets Authority (CMA) that encompasses the whole economy and aims to promote competition, both within and outside the UK, for the benefit of consumers.

The CMA's role is supplemented by a number of others in relation to particular sectors such as energy, financial services, telecommunications and broadcasting, water, etc. As of 1 April 2015, the Financial Conduct Authority has extensive powers to require the self-reporting of significant competition infringements.

The Competition Act 1998 contains prohibitions on matters that prevent, restrict or distort competition or which affect trade within the UK, or conduct by undertakings amounting to abuse of a dominant position. The regulations give a non-exhaustive list of the types of agreement that will be caught, namely those which:

- directly or indirectly fix purchase or selling prices or any other trading conditions;
- limit or control production, markets, technical development or investment;
- share markets or sources of supply;
- apply dissimilar conditions to equivalent transactions with other trading parties, placing them at a competitive disadvantage; or
- make the conclusion of contracts subject to supplementary obligations that have no connection with the subject of the contract.

An agreement only infringes prohibitions if it has an appreciable effect on competition in the UK and fails to qualify for an exemption. There is no appreciable effect on competition if:

- the agreement is between competitors: their aggregate market share does not exceed 10% of any relevant market affected by the agreement;
- the agreement is between non-competing undertakings: their market share does not exceed 15% of any relevant market affected by the agreement; or
- competition in the relevant market is restricted by various parallel networks of agreements with similar effects: thresholds are reduced to 5%.

To be exempted an agreement must:

- provide efficiency gains;
- allow consumers a fair share of the resulting benefits;
- not impose restrictions beyond those indispensable to achieving those objectives; and
- not eliminate competition.

Failure to comply with the legislation has significant consequences for both companies and individuals including fines (up to 10% of group turnover), contract becoming void and criminal sanctions for individuals.

Acquisitions and Mergers

Mergers are regulated by the CMA under Part III of the Enterprise Act 2002, as amended by the Enterprise and Regulatory Reform Act 2013. In certain narrow cases of public interest, the Secretary of State is also involved in the decision-making process.

The UK has a wide definition of merger. It includes not only obtaining legal control, but also de facto control and obtaining material influence. The acquisition of material influence through voting rights or by other means may be sufficient and has been found at shareholdings below 18%. Therefore, many minority investments and participations are to be assessed as if they were mergers in the regular sense, providing the jurisdictional thresholds over the page are met.

A transaction may be investigated by the CMA if the merger meets either the:

- Share of supply test. This is met if the transaction creates or enhances a 25% share of supply or purchases in the UK or a substantial part of the UK.
- Turnover test. This is met if the business being acquired has a UK turnover in excess of £70 million in the previous business year.

However, these limits have been modified since their introduction and lower or different limits may apply to business in certain protected sectors such as military and dual-use technologies, quantum technology, computing hardware, artificial intelligence, advanced materials and cryptographic authentication. In these sectors, separate legal advice should be sought.

If the jurisdiction thresholds are not met, the authorities cannot intervene and examine it.

There is no current obligation to notify a merger to the UK authorities even if these jurisdictional thresholds are met or if it may have anti-competitive effects.

Following notification (or, if the merger has not been notified, the date it was made aware of it) the CMA has up to 40 working days to make its assessment. It can then either clear the merger or refer it for an in-depth ‘Phase 2’ investigation by an independent panel. The CMA must refer a transaction for a Phase 2 investigation where it believes there will be a Substantial Lessening of Competition (SLC).

The Phase 2 panel must decide within 24 weeks (which can be extended by eight weeks), whether the merger would result in a SLC within any market in the UK, after which time it can either clear the transaction or prohibit it.

Disclosure

The EU introduced new EU Mandatory Disclosure Rules (EU MDR) in 2018 which Member States were required to transpose into their domestic law. These rules require disclosure to the tax authorities of cross-border arrangements that fall within certain broadly defined hallmarks. This directive (known as DAC6) ceased to apply in the UK at 11pm on 31 December 2020. The directive applies to cross-border tax arrangements, which meet one or more specified characteristics (hallmarks), and which concern either more than one EU country or an EU country and a non-EU country. It mandates a reporting obligation for these tax arrangements if in scope no matter whether the arrangement is justified according to national law.

Reporting under DAC 6 will still be required for a limited time, but only for arrangements which meet hallmarks under category D, in line with the UK's obligations under the Free Trade Agreement with the EU.

Category D arrangements are those which "which undermine tax reporting/transparency" and include –

- Arrangements which have the effect of undermining reporting requirements under agreements for the automatic exchange of information
- Arrangements which obscure beneficial ownership and involve the use of offshore entities and structures with no real substance.

This change applies retrospectively so no disclosures will need to be made for any arrangements that fall into any of the other hallmarks set out in DAC 6.

Reporting obligations apply to arrangements where the first step was entered into on or after 25 June 2018. Reports are due to be made in respect of these arrangements by 28 February 2021, although an earlier reporting deadline of 30 January 2021 applies to:

- Arrangements which were made available for implementation, or ready for implementation, or where the first step in the implementation took place between 1 July 2020, and 31 December 2020, and
- Arrangements in respect of which a UK intermediary provided aid, assistance or advice between 1 July 2020 and 31 December 2020.
- For all arrangements where the reporting trigger occurs on or after 1 January 2021, the disclosure will be required to be made within 30 days of the relevant trigger date.

There may therefore be a number of historic arrangements that intermediaries were expecting to report to HMRC where the UK reporting obligation has now fallen away. However, it is possible that other parties based in an EU member state and involved in the transaction may need to report the arrangements to their respective tax authorities. During 2021/22, the UK intends to consult on and implement the OECD's Mandatory Disclosure Rules as soon as practicable, to replace DAC 6 and transition from European to international rules.

Forms of Business Organisation

It is possible to do business in the UK through a variety of different entities and business arrangements. The main types are set out below.

Companies

A common entity for doing business in the UK is that of a limited liability company so that the liability of the owners is limited to a known amount. A company is a separate legal entity under UK law and can own assets, conduct business, employ people and remain in existence in perpetuity unless formally wound up or liquidated.

A company may be limited by shares or, in certain circumstances, by guarantee, and carries the suffix 'limited' (generally abbreviated to ltd) or 'public limited company' (abbreviated to plc). A company may also be unlimited (so that one or more of its owners' liability for the actions of the company is unlimited) but this structure is rarely used in practice.

The advantage of a plc is that it may issue its shares to the general public, subject to numerous legal formalities. Before a plc may commence business, it must apply for a certificate to commence business and to borrow. In order to obtain this, it must have a minimum authorised share capital of £50,000 of which 25% must be fully paid (i.e. where authorised capital is £50,000, £12,500). Shares in a plc are freely transferable and may be listed and traded on the London Stock Exchange (LSE) or other markets – such companies are referred to as 'quoted' or 'listed'.

Conversely, shares in a private company are transferable only in accordance with the company's own internal regulations as set out in the articles of association. This latter form of company is therefore the one most frequently favoured by family businesses and overseas investors.

A limited company can be formed with minimum difficulty. There are several specialist agencies that have pre-formed companies, called 'off the shelf' companies ready for use.

Companies incorporated in the UK have to comply with certain filing and legal requirements, including the following:

- A copy of the company's memorandum and articles of association must be drafted and filed at Companies House, which is generally responsible for overseeing and administering the Companies Act 2006. The memorandum contains basic information about the company including its name and scope of activities, whilst the articles set out the rules for the operation of the company's internal affairs.

- Accounts must be prepared in accordance with a standardised series of accounting principles and rules and must, in many cases, be audited by a registered auditor. Certain smaller companies are exempt from this audit requirement.
- Accounts must be filed at Companies House within nine months of the financial year end for a private company and six months for a plc.
- All companies and organisations subject to corporation tax have to file their corporation tax return online and pay any corporation tax and related payments due electronically i.e. by direct debit. The tax return, computations and – crucially – the accounts must be submitted in an electronic format called iXBRL (Inline eXtensible Business Reporting Language).
- A general meeting of shareholders must be held each year, although private companies are exempt from this obligation (unless their articles specifically require a meeting) so that many matters may be dealt with instead by written resolution. However, a meeting would still need to be called to dismiss a director or remove an auditor before the end of its term of office.
- A Confirmation Statement must be filed every 12 months including details of shareholder information, share capital or the company's SIC activity code.

Companies must also maintain a Persons with Significant Control (PSC) register, with changes in PSCs being notified to Companies House no more than 28 days from the date of change.

The fundamental concept underlying UK company law is that a company and its shareholders are separate legal persons. A UK company therefore has rights and duties independent of its shareholders and directors and can take and be the subject of legal action in its own name.

Place of Business or Branch

An overseas company can establish a presence in this country by setting up a branch.

The Companies Act 2006 (together with associated regulations) requires every overseas company which sets up a UK establishment to deliver certain documents to Companies House.

A UK establishment arises when an overseas company employs personnel based permanently in the UK who are capable of dealing with third parties on its behalf. The company must register the establishment with Companies House within one month of establishing operations in the UK.

To do this, the company must complete form OS IN01 and send it to Companies House, accompanied by certified copies of various constitutional documents of the company, a copy of the latest set of published accounts and a £20 registration fee. A UK establishment is also subject to regulation imposed by the Companies Act 2006 and has to provide certain information regarding the overseas company and the establishment to the Registrar. There is no statutory requirement for a UK establishment to have an audit, but the overseas company is required to file financial information as for a UK company.

Moreover, it may be required to present detailed results when filing tax returns with HMRC.

Partnerships

Many businesses in the UK are not conducted through the medium of a company and consequently do not normally have the protection of limited liability. The business might be carried out by one person on his or her own, or by several in a partnership.

The law of England and Wales and Scottish law treat partnerships differently. The former does not recognise it as a separate legal entity and looks through the partnership to individual partners. The latter recognises the legal persona of a partnership. For tax purposes all are regarded as transparent. It is also possible to create Limited Partnerships whereby there is a 'general' partner who carries the unlimited liability of the partnership, while the limited partners are limited in their exposure to the level of their capital contributions. Limited partners are not permitted to participate in the general management of the partnership.

A Limited Liability Partnership (LLP) is a different type of entity: LLPs have to meet similar financial disclosure and statutory filing requirements to UK companies including filing an annual return and accounts and notifying the Registrar of any changes of members or members' details, plus the need for an audit in appropriate cases. An LLP is a separate legal entity from its owners (the members), and the members' assets are protected in the event of the business becoming insolvent. However, legal action can be taken against individual members who are found to be negligent or fraudulent in their actions.

From a tax perspective, the members of an LLP are taxed in a similar way to an unlimited partnership, i.e. a LLP is regarded as transparent apart from in certain limited circumstances. Although not required by the Act, most LLPs adopt an agreement regulating the relationship between their members. In the absence of an agreement, default provisions are set out in the Act.

Joint Ventures

A joint venture involves co-operation on a project between two or more parties, where they may agree to share expenses and/or income from the project. This is not a partnership and its legal implications need to be clearly understood by the parties concerned. Often these are formed as joint venture companies to provide this clarity and are subject to the same legislation and regulations as companies covered above.

Trusts

A trust is a concept recognised in UK law that separates the legal ownership of an asset from the beneficial ownership (i.e. the enjoyment) of the asset. Trustees legally own the assets, but the beneficiaries may benefit from them. Although a trust cannot trade in its own right, the trustees themselves can carry on a trade, profession or vocation for the benefit of the trust's beneficiaries provided there is an express power for them to do so in the trust deed. A trust can also own all the shares of a trading company or the assets with which the trade is carried on (for example, it might own the trading premises).

A person who creates a trust and transfers assets into it is known as the 'settlor'. The settlor appoints persons as trustees to hold the assets. The trustees owe a duty to the beneficiaries to manage the assets in the beneficiaries' best interests. It is not uncommon for the settlor both to be a trustee and a beneficiary of the trust.

Trusts are commonly used to address family issues, manage tax liabilities and to protect business assets. The UK tax treatment depends on a number of factors, including the nature of the trust, the residence status of the trustees for tax purposes, and the settlor's residence, domicile and any remaining interest in the trust.

The four most common types of trust are:

1 Interest in possession trusts

Give an individual the right to receive the income from the assets during his or her lifetime.

2 Discretionary trusts

Give the trustees discretionary power over the distribution of income and capital, i.e. no one is entitled to it by right.

3 Trusts for bereaved minors and '18-25' trusts

Trusts for children where income can either be accumulated or used for their benefit while they are under a specified age (either 18 or 25 depending on the type of trust chosen). There are a number of conditions which must be met in order to qualify for the beneficial tax treatment accorded to such trusts.

4 Bare trusts

Give an individual an absolute right to the asset and income from it, but the trustees are the legal owners of the asset.

The taxation of trusts is notoriously complex with each of the different types of trust being taxed differently for different taxes.

Financial Reporting and Accounting

Statutory Accounting Requirements and Principles

Requirement to keep accounting records

UK law requires companies to keep adequate accounting records and to prepare accounts for each financial year, which have to be filed at Companies House. The requirements for LLPs are similar to those for companies.

Tax legislation requires the retention of records used in the completion of tax returns and these must be adequate to support the figures shown on the tax return. Sole traders and partnerships must keep records of all receipts and payments and all sales and purchases of goods. There is currently no specific legal requirement as to the form of accounting records to be kept by sole proprietors, although there are proposals (referred to as Making Tax Digital) for this to be changed and it is expected this legislation will be introduced from April 2023.

Certain records are referred to as 'statutory records' and are required to be retained by legislation. In general, such records are likely to be specified in regimes that require transactions to be recorded throughout the course of each monthly or quarterly accounting period, for example Value Added Tax (VAT), or for income tax purposes, such as the records noted above. The Companies Act 2006 also specifies certain accounting records that must be kept and for how long these must be retained.

Generally, tax legislation requires that accounting records be retained - in the case of a person carrying on a trade, profession or business alone or in partnership or via a company, until the fifth anniversary of 31 January next following the year of assessment (which ends on 5 April) or, in the case of companies, the sixth anniversary of the end of the period.

Otherwise (for non-trading records), records must be retained until the first anniversary of 31 January next following the year of assessment. If accounting records are kept outside the UK, accounts and returns sufficient to disclose the financial position of the business and to enable directors to prepare a balance sheet and a profit and loss account must be sent to and kept in the UK.

Applicable accounting frameworks

There is an overriding requirement for a company to prepare accounts, usually for 12 months, which shows a true and fair view. If a company has one or more subsidiaries, it must also prepare group accounts, unless the group is small (and meets certain other criteria) or the company is itself a subsidiary of another company that meets specific financial reporting and related conditions, or if the results of the subsidiaries taken together are not material to the results of the group.

The accounts can be prepared under either:

- UK GAAP (Generally Accepted Accounting Principles, i.e. UK reporting standards and all supporting rules and guidelines); or
- International Financial Reporting Standards (IFRS) as adopted by the European Union (or, after 31 December 2020, as adopted by the UK).

UK GAAP includes FRS 101 and FRS 102 which were adopted to bring UK GAAP more into line with IFRS. Small companies can adopt Section 1A of FRS 102 that follows the standard recognition and measurement principles but are not required to make the same volume of disclosure. Micro-entities can alternatively choose to adopt FRS 105 which greatly simplifies the reporting requirements. To qualify as a small company (or micro-entity) an entity must (with some exceptions) meet two out of three criteria for the current and preceding accounting year. These criteria are turnover less than £10.2m [£632,000 for micro], gross assets less than £5.1m [£316,000] and employees less than 50 [10].

Any group whose debt or equity securities are traded on a regulated market (including the LSE main market) or on the Alternative Investment Market (AIM) is required to apply the relevant IFRS accounting framework in the preparation of its consolidated accounts.

Companies Act requirements

The directors of a company must prepare a balance sheet, a profit and loss account, and, in most cases, a cash flow statement for each financial year.

The Companies Act 2006 (and supporting regulations) prescribes the form and content of the balance sheet, profit and loss account and additional information to be provided by way of notes, for example; details of directors' remuneration. The requirements for LLPs are similar to those applying to companies.

In addition to the financial statements, the annual report must include a directors' report and (unless the company qualifies as small) a strategic report whilst companies listed on the LSE main market must also present a directors' remuneration report and a corporate governance statement.

Audit Requirements

Who needs an audit?

Companies and LLPs must have their accounts audited unless they qualify for exemption.

The rules on eligibility for audit exemption are complex and advice should be sought to determine whether or not the company or LLP is exempt. Generally, though subject to specific detailed exceptions, accounts do not have to be audited if the company or LLP meets two out of three of the following tests in two out of three consecutive years:

- has a turnover of not more than £10.2m;
- has a balance sheet total of not more than £5.1m; and/or
- has not more than 50 employees

In addition, the company or LLP must not trade on a regulated market in a European Economic Area state (or, after 31 December 2020, a UK regulated market), be an authorised insurance company, banking company or similar trade (or be in a group containing such a trade) and must not be part of a group (anywhere in the world) that exceeds the above limits.

Subsidiary companies are also exempt from the mandatory audit requirement subject to the following conditions:

- its parent undertaking must be established under the law of a European Economic Area state and prepare consolidated accounts in which the subsidiary is included;
- the company's shareholders unanimously agree to dispense with an audit in the financial year in question;
- the parent must give a statutory guarantee of all the outstanding liabilities to which the subsidiary is subject at the end of the financial year until the liabilities are satisfied in full; and
- the company cannot be traded, nor an authorised insurance company, a banking company, an e-money issuer, an investment firm (as defined by the Markets in Financial Instruments Directive) or a UCITS management company (as defined by the Undertakings for Collective Investment in Transferable Securities legislation), nor carry on insurance market activity and cannot be a trade union or an employer's association.

For financial years commencing on or after 31 December 2020, this audit exemption will only apply to parent companies established under UK law.

It should be noted that this subsidiary exemption is not limited by the size of the subsidiary or the size of the group as a whole, nor are members of a group with a public company member excluded. Certain documents will need to be filed at Companies House, including confirmations of shareholder agreement and the parent guarantee, and the group accounts will need to disclose that the exemption has been taken by the subsidiary(ies) and be filed with the subsidiary accounts.

However, many entities consider that an audit is beneficial and will continue to be audited even where they fall within the exemption. Some of the main benefits of a company having its accounts audited are:

- to meet lenders' or creditors' expectations;
- to reassure directors that they have met their accounting responsibilities for the benefit of shareholders who are not directors;
- to minimise questions from the tax authorities;
- to provide feedback to the directors on their systems and controls, although the auditor will not necessarily perform a detailed assessment of the entire system;
- to improve the company's credit rating;
- to provide an independent check on the company's accounting function; and
- to get the company used to having audits if it expects to grow and would need to be audited in the future.

Business Finance

The UK has a sophisticated and well-developed system of providing funding for businesses, covering debt finance from large and small organisations, equity finance from institutions and individuals and grant funding from regional and national awarding bodies.

This includes funding of subsidiaries or branches of foreign businesses.

Debt Funding

Debt funding provides a business the opportunity to grow using external funds without any loss of control. Unlike equity, debt funding has defined servicing costs and must be repaid within a defined period. Debt funding is readily available in the UK for all businesses from the usual international and national banks, as well as numerous other funders. As well as the usual provision of term loans, overdrafts and asset-based facilities (such as invoice discounting and leasing) mezzanine funding (more expensive funding but where security is less relevant, and more focus is on cash generation) is also accessible.

In response to Covid-19 the UK Government introduced, via the British Business Bank, a number of “Coronavirus Loan Schemes” the most popular of which are Bounce Back Loan Scheme (“BBLS”) and Coronavirus Business Interruption Loan Scheme (“CBILS”). These schemes see lenders (banks and other lenders) lend money to eligible businesses engaged in trading or commercial activity in the UK, with the UK government underwriting some or all that debt.

Equity Finance

Equity finance focuses on those projects and businesses that require more flexibility than can be provided through traditional debt. The injection of equity funding will result in some dilution of ownership. Whilst such investments demand a significant return to the investors for the risks involved, they can provide the platform for a business to capitalise on strategic opportunities; thereby providing the means for the business owners to add significantly more value to their investment than would be possible using the existing funds available.

Private Equity

Private equity houses, venture capitalists and, increasingly, family offices (funds managed on behalf of wealthy individuals or families) provide a ready source of equity funding for businesses in the UK. The amounts of money potentially available via this source are significant, but success in securing such funding is not straightforward.

Private equity investors typically demand a significant return on their investments and require evidence of a sound management track record, a robust business proposition and a clear exit plan. In return, they may provide not only financial support but also, if they specialise in the business sector concerned, valuable relevant experience and contacts that will assist in developing the business growth.

Mainstream private equity funding is concentrated on expansion and development capital and/or management buy-outs where the business is already established and profitable, although a number of specialised funds are dedicated to early stage ventures, typically in high tech or scientific areas.

Equity funding for UK expansion for nondomestic businesses are available, although more complex and usually for larger deals.

Details on the major equity funding institutions can be found on **www.bvca.co.uk**.

Business Angels

For relatively low levels of equity, wealthy individuals, usually known as business angels, may provide the best source. Business angels will typically provide sums below £250,000, although investments of £1m or more are not unknown. The level of involvement in the day-to-day running of the business expected by such an individual will vary. Some seek no day-to-day involvement whatsoever, while others are keen to secure full-time employment within the business and add value to their investment with their experience.

Access to business angels can be obtained through informal channels or via more established introduction services that try to match potential investors with businesses seeking finance. Tax reliefs, such as the ones available under the Enterprise Investment Scheme, may be essential to the investor and the investment will need to be structured accordingly.

More recently, the advent of crowd funding (pooling groups of smaller investors and sometimes institutions) has greatly increased the provision of equity funds, although they still tend to be focused on amounts less than £1m.

Flotation

Becoming a public company and offering shares for sale on one of the public markets may provide the solution to businesses seeking to expand further. Such a listing will not only provide access to capital, and a market for trading in the shares, but may also increase public profile and credibility. It also offers the advantage that a company may use its own quoted paper to fund acquisitions.

The LSE offers two different markets: the Official List and the Alternative Investment Market (AIM). The former offers a higher profile and access to larger funds but has more demanding criteria including a three-year track record of trading and earnings although the standard listing allows reduced criteria where only minimum EC standards are met, compared to the stringent demands of premium listing. It also offers some specialist segmentation such as techMARK™.

The AIM market is frequently more attractive for smaller, growth orientated businesses where the amount of funding required is typically in the range of £10m to £50m. The costs of listing on AIM are slightly less than the Official List but the main advantage is that the compliance requirements in connection with acquisitions are less onerous and hence less expensive. Other advantages include tax reliefs for investors for qualifying companies and lower ongoing compliance and corporate governance costs.

The costs of flotation and ongoing corporate governance are key considerations for any company contemplating a float, as well as the risk of takeover. The pressure from institutional shareholders and market volatility can be a significant distraction from the day-to-day management of the company and longer-term strategies may be more difficult to pursue. More details can be found at:

www.pkf-l.com/services/capital-markets

There are also alterative markets on which shares in certain large companies can be publicly traded, albeit in more restricted terms such as **www.assetmatch.com**.

Grants

Businesses thinking of setting up or expanding factories, offices or distribution units in the UK should be aware that there may be grant schemes available that can help reduce the cost of a specific investment.

These grant options should be considered at the earliest possible opportunity as funding is limited and competition for grants is intense. Grants are generally for a specific project and are dependent on a number of factors, including:

- **location –** they are typically more available in areas that are undergoing regeneration and / or considered to be disadvantaged;
- **size –** many grants are available to micro or SME sized businesses;
- **business sector –** which in turn may depend on location of the business; and
- **type of project –** a number of grant schemes/ competitions aimed at Research and Innovation projects.

Alternative finance

The expansion of alternative funding mechanisms (known as "AltFi") has grown dramatically in recent years with the UK being a leader, behind only the USA and China in activity. AltFi generally refers to financial channels, processes, and instruments that have emerged outside of the traditional finance system such as regulated banks and capital markets. It can include grants (focused mainly on the charity sector), debt and equity. As would be expected it is fast developing with many new lenders including crowd funding platforms and new entries into the market. We can provide up to date advice on this area upon contact.

Introduction and Summary of Taxation in the UK

Overview of Taxes within the UK

The principal UK direct taxes are income tax, corporation tax, inheritance tax (IHT) and capital gains tax (CGT). While not strictly a tax, national insurance contributions (NIC) are also charged on salaries and an individual's self-employed earnings. In addition, certain indirect taxes are charged on transactions entered into by both individuals and businesses, e.g. VAT, stamp duty, stamp duty land tax (SDLT) and customs duty.

Administration

The assessment and collection of taxes is administered by HMRC. There are a number of geographically based tax districts dealing with local taxpayers. In addition, there are specialist divisions and units, including an international division, which review the more technical areas of UK tax and deal with the more substantive or serious cases. All taxpayers subject to UK direct taxes are required to assess their own tax liabilities and many are required to make returns.

Summary of Key Points of UK Taxation

- A company resident in the UK is generally chargeable to corporation tax on all its sources of income and capital gains, wherever arising. Companies with overseas permanent establishments may, however, make an election to exempt profits and losses from those permanent establishments from UK tax if certain conditions are met.

- Dividends received by UK companies from both UK and non-UK companies are generally exempt from corporation tax if certain conditions are met. These conditions are stricter for smaller recipient companies.

- Where income or gains arising overseas are taxable on a UK resident company due to the conditions for exemption not being met, double taxation relief is available in respect of the foreign tax suffered.

- Non-resident companies are liable to corporation tax if they carry on a trade in the UK through a permanent establishment. Capital gains arising on a non-resident company in respect of the sale of assets used in, or for the purposes of a trade carried on through a UK permanent establishment are also subject to corporation tax.

- Controlled foreign companies' legislation is in place to ensure that profits diverted from the UK to subsidiaries resident in low tax jurisdictions are included in a controlling UK company's taxable income.

- Transfer pricing rules impute arm's length pricing to transactions between connected parties whether located overseas or in the UK. For small or medium sized entities, the application of the rules are generally restricted to transactions with countries with which the UK does not have a suitable double tax treaty.
- There is a 'diverted profits tax' which imputes a tax charge of 25% (increasing to 31% from 1 April 2023) on profits 'artificially diverted' from the UK through transactions which have no economic substance, where the arrangements are not otherwise caught by controlled foreign companies or transfer pricing rules. As this relatively new tax is not covered by UK Tax treaties, the charge may not be creditable for overseas tax purposes.
- Country-by-Country reporting regulations apply to multinational groups with a UK parent company and turnover of £586m or more. For accounting periods commencing on or after 1 January 2016, such entities must provide HMRC with an annual report which discloses certain financial and fiscal information for each country in which the group carries on its business.
- Companies, partnerships, groups or sub-groups with turnover >£200m or balance sheet total over £2bn in the previous tax year are required to publish their tax strategy on the internet. If part of a multinational group, the strategy should cover matters relevant to UK tax.
- UK companies/groups with net UK interest exposure above £2m are required to apply rules (with effect from 1 April 2017) to limit corporate tax deductibility of interest expenditure. A fixed interest rate will apply, limiting the allowable net interest exposure to 30% of a group's UK EBITDA; also a group ratio rule will apply to replace the current worldwide debt cap. This will be based on the external net interest to EBITDA ratio for the worldwide group.
- Since 1 April 2017 UK companies/groups have been able to use carried forward trading losses against profits from other trading income streams other than those that created the loss or against trading profits generated by other group companies. Where group taxable profits >£5m, the amount of loss that can be offset will be restricted to 50% of the amount of profit that could be offset against the carried forward losses.
- The corporate income loss restriction regime is being extended to include a corporate capital loss restriction. Since 1 April 2020 capital losses carried-forward may only be used to offset 50% of any net chargeable gains, subject to any allocation of a group's annual £5m deductions allowance. Transitional rules apply to periods straddling 1 April 2020. There will be no change to the basic rule that capital losses can only shelter chargeable gains. Chargeable gains can also be sheltered by income losses carried-forward apart from pre-April 2017 trading losses.
- The main corporation tax rate will increase from 19% to 25% from 1 April 2023 on profits over £250,000. The rate for small profits under £50,000 will remain at 19%. Where a company's profits fall between £50,000 and £250,000, the lower and upper limits, it will be able to claim an amount of marginal relief providing a gradual increase in the corporation tax rate. The lower and upper limits will be proportionately reduced for short accounting periods and where there are associated companies. Close investment holding companies, will not be eligible for the lower rate of taxation.
- The UK government has temporarily extended the period over which businesses (including companies) may carry-back trading losses from one year to three years, with cap of £2m. The cap applies separately to unused trading losses made by companies, after carry-back to the preceding year, in relevant accounting periods ending between 1 April 2020 and 31 March 2021 and a separate maximum of £2m for periods ending between 1 April 2021 and 31 March 2022. The cap will also be subject to a group-level limit, requiring groups with companies that have capacity to carry back losses in excess of £2m to apportion the cap between its companies.

- VAT is charged on the supply of most goods and services in the UK, the acquisition in the UK from other EU member states of any goods, and the importation of goods from places outside the EU member states. In addition, UK VAT should be accounted for on certain services purchased by a UK business from non-UK suppliers.
- Income tax at 20% must be withheld from payments of interest or royalties, although since April 2016 banks are no longer required to deduct income tax from certain payments of interest, principally where the recipient is a UK resident individual.
- Double tax treaties reduce or remove this charge in many cases, but this must be claimed formally from HMRC prior to making any non-withholdable payment. There is no withholding tax on dividends, wherever the recipient is based. The EU Interest and Royalties Directive (IRD) which provided an exemption from withholding tax in respect of certain payments of interest and royalty payments ceased to apply to the UK when the Brexit transition period expired on 31 December 2020 but the legislation giving effect to the IRD in UK law continued to apply. This legislation will now be repealed and will cease to apply to payments on or after 1 June 2021. Existing exemption notices issued by HMRC that the IRD applied to payments of interest will be revoked on 1 June 2021 even where the date of expiry on existing notices extends beyond 1 June 2021. Residents of an EU member state can still apply for relief under the provisions of a relevant bilateral double taxation agreement either by way of relief at source or repayment. Prior HMRC clearance is required in relation to interest payments that a reduced double taxation agreement rate is available. Where an EU company has previously applied for exemption under the IRD and an exemption notice has been issued, the company can write to HMRC confirming that the relevant treaty conditions apply.
- Resident and UK domiciled individuals are subject to income tax on their worldwide income as it arises. Non-residents are normally only subject to income tax on income arising in the UK.
- UK resident but non-UK domiciled individuals can choose to be taxed only on their income and capital gains arising in the UK together with income and gains remitted to the UK from overseas in a given tax year (the Remittance Basis). However, long term residents are required to pay an annual charge to qualify for this treatment.
- Non-domiciled individuals who come to take up UK employment in the UK, elect to be taxed on the Remittance Basis, and who were not resident in the UK for any of the previous three tax years, can claim overseas work day relief for duties carried out wholly or partially abroad, during the first three tax years following arrival in the UK.
- A UK domiciled or deemed domiciled individual is potentially subject to IHT on the transfer of any property owned by him or her, whilst a non-UK domiciled individual may only be subject to IHT on the transfer of property situated in the UK. IHT is a combination of gift and death tax.
- Since 6 April 2015, non-residents owning UK residential property have been subject to CGT in respect of gains arising on disposal of that property. In most cases, only increases in value from that date will be subject to charge.
- These rules were extended from April 2019 to include disposals of UK commercial property owned by non-UK residents. Various rebasing options are available, depending on when the property was first acquired.
- UK residential property owned by non-natural persons (e.g. companies) is subject to an annual tax (Annual Tax on Enveloped Dwellings) but there are reliefs where the property is used in certain property businesses, including letting.
- UK resident trusts are liable to UK tax on worldwide income and gains. Non-resident trusts are liable to UK tax only on UK income.

- Anti-avoidance legislation exists to attribute the income and gains of offshore trusts and companies to UK residents who set up such structures and their UK resident beneficiaries.
- Trusts are subject to their own IHT regime on worldwide assets. However foreign assets settled by a non-UK domiciled person (who was also not deemed domiciled) are broadly excluded unless they consist of – or derive their value from – UK residential property.
- HMRC wishes to become one of the most digitally advanced tax administrations in the world. By 2023, HMRC will require most businesses, self-employed people and landlords to maintain digital tax accounts and submit quarterly, digital returns.

Devolved tax powers

The rates of tax are currently applied uniformly throughout England, Scotland, Wales and Northern Ireland. However:

1. In Scotland, there are different taxes in relation to land and buildings transaction and landfill tax. In addition, the Scottish Parliament has set an annual Scottish income tax rate (with different rate bands, tax rates and thresholds for payment of higher rate tax, which applies to all income except savings and dividend income);
2. the Welsh Parliament/Senedd Cymru gained devolved powers to set income tax rates and bands from 6 April 2019 and on 1 April 2018, land transaction tax (LTT) replaced stamp duty land tax (SDLT) in Wales. The Welsh Parliament/Senedd Cymru has set its annual Welsh income tax rate for 2020/21 (which applies to all income except savings and dividend income), but this currently results in Welsh tax rates being the same as those in England and Northern Ireland; and
3. a law has been passed providing for the devolution of corporation tax (“CT”) powers to the Northern Ireland Assembly, but this is subject to commencement regulations, which have yet to be laid. Northern Ireland intends to set its own CT rate at 12.5% once it has power to do so. However, the Northern Ireland Executive is not actively pursuing a lower rate of corporation tax from the UK government. The main issue is whether NI could afford a lower rate of CT because in order for it to secure a reduction in the main rate of UK CT (currently 19%), the executive would have to agree to a reduction in the Block Grant it receives from the UK government to fund public services in the province. Given Brexit and Covid-19, the issue of a devolved CT rate for NI has receded and is unlikely to be delivered for the foreseeable future.

Further details of the above differences are set out as appropriate in Appendix 1.

There are also a number of regional tax incentive schemes and exemptions to encourage investment in certain economically depressed parts of the UK.

The only local taxes in the UK are property taxes levied by the local authorities in whose area the property is situated (council tax for private residences, business rates for commercial property).

Tax Implications of the Form of Business in the UK

Many businesses intending to trade in the UK do so either through a UK establishment of an overseas company or through a separate UK subsidiary company. From a general legal perspective, a UK company may be more desirable than a UK establishment of the overseas company because it has a separate legal personality and may protect an overseas investor from exposure to claims arising in the UK. In general, if profit earning activities are conducted in the UK, the profits from those activities will be liable to UK corporation tax.

1. Operating through a UK Company

A UK resident company is liable to corporation tax on all its sources of income and chargeable gains, wherever these arise. A company is deemed to be resident in the UK, for tax purposes, if it is incorporated in the UK or its central management and control is exercised in the UK. Many other countries also rely on a definition of tax residence based on the place of incorporation and effective management and therefore it is not impossible for a company to be resident in more than one country. Most of the UK's tax treaties cover this situation by having a tie-breaker clause which generally resolves the position for the purposes of claiming relief under the treaty by determining residence as the place of effective management.

A non-UK resident company carrying on a trade in the UK through a permanent establishment (located in the UK) is liable to corporation tax on all income and gains attributable to that permanent establishment.

A company is required to self-assess its own tax liabilities and payments. Coupled with this requirement is a responsibility to keep detailed documentation.

Corporation tax rates are fixed for each financial year commencing 1 April. If a company's accounting period does not coincide with the financial year, its profits must be time apportioned and the corporation tax rate applied accordingly.

Since 1 April 2015, there has been a standard rate of corporation tax rate for non-ring fence profits. At Budget 2015, the corporation tax main rate (for all profits except ring fence profits) was set at 19% for the years starting 1 April 2017, 2018 and 2019 and at 18% for the year starting 1 April 2020. A further reduction to 17% for the year starting 1 April 2020 was announced at Budget 2016. At Budget 2020 however, the government announced that the corporation tax main rate (for all profits except ring fence profits) for the years starting 1 April 2020 and 2021 would remain at 19%, and at Budget 2021, it was announced that the main corporation tax rate will increase from 19% to 25% from 1 April 2023 on profits over £250,000. The rate for small profits under £50,000 will remain at 19%. Where a company's profits fall between £50,000 and £250,000, the lower and upper limits, it will be able to claim an amount of marginal relief providing a gradual increase in the corporation tax rate.

Payment of corporation tax

Large companies are those companies with taxable profits in excess of £1.5m (or who are liable to pay the bank levy). Where a company is a member of a group of companies, the limit of £1.5m is reduced proportionately by the number of related 51% group companies within its group, plus one (companies are related 51% group companies if (i) Company A is a 51% subsidiary of Company B, (ii) Company B is a 51% subsidiary of Company A, or (iii) Company A and Company B are 51% subsidiaries of the same company).

Where a company is 'large' for a second successive period, or where its taxable profits exceed £10m (divided by the number of 51% group companies, where appropriate), it will be required to pay its corporation tax liability for that period in quarterly instalments. The first payment is generally due six months and 13 days after the start of the accounting period and quarterly thereafter.

In evaluating the number of related 51% companies for the purposes of reducing the £1.5m, £10m and £20m limits, the number is counted at the end of the accounting period ending on the day before the commencement of the accounting period concerned. If there was no previous accounting period, the number of 51% group companies is taken at the beginning of the current accounting period.

Companies with an annual corporation tax liability of £10,000 or less are not required to pay taxes by instalments. For these companies, which are not required to pay their Corporation Tax in instalments, the payment date is nine months and one day after the end of the relevant accounting period. A UK company must normally submit a tax return within 12 months of its accounting year end.

For accounting periods starting on or after 1 April 2019 companies with annual taxable profits of £20m or more (divided by the number of 51% group companies as above) are required to pay quarterly, four months earlier, on the third, sixth, ninth and final month of their 12 month accounting periods - for a 31 December year end, payments will be due on 14 March, 14 June, 14 September and 14 December of that year.

Non-resident landlords

From 6 April 2020, non-UK resident companies are chargeable to corporation tax rather than to income tax on profits of a UK property business and 'other UK property income'. There are transitional rules that apply for accounting periods that straddle this commencement date. Therefore, where the non-resident landlord is a company, it is required to submit corporation tax returns for income arising from this date and will be subject to the corporate interest restriction on its finance costs.

Digital services tax

Since April 2020, a new digital services tax of 2% has applied to the revenues of certain digital businesses to reflect the value they derive from the participation of UK users, pending an appropriate international solution. The tax will apply to annual 'UK' revenues above £25 million from activities relating to Internet search engines, social media platforms, and online marketplaces (of businesses with in-scope annual global revenues of more than £500 million). Loss-makers will be exempt, and businesses with very low profit margins will be subject to a reduced effective rate.

Capital gains

Capital gains made by companies are taxed at the standard rate of corporation tax.

Non-resident companies are only taxed on capital gains from the sale of assets used in, or for the purposes of, a trade which is carried on through a permanent establishment located in the UK. Since April 2015 non-UK residents have been charged on certain disposals of residential property in the UK. This charge was extended to include disposals of non-residential UK property from 1 April 2019. There are special provisions allowing tax deferrals by UK resident and non-resident companies for reinvestment/migration.

Capital losses can only be offset against capital gains arising in the same financial year or carried forward indefinitely to set against future capital gains. It is not possible to carry back capital losses.

A capital gain or loss arising on the disposal of shares in a trading company may be exempt from UK corporation tax where at least 10% of the ordinary share capital has been held for a minimum period of 12 months. This relief is called the “Substantial Shareholdings Exemption”. These rules were relaxed for disposals on or after 1 April 2017.

The changes mean that the company making the disposal no longer has to be a trading company or member of a trading group. The company being sold no longer needs to meet the trading condition immediately after the disposal to an unrelated party. Also, the holding of a 10% stake requirement is relaxed provided at least 10% was held for a 12-month period within the six years prior to the disposal.

Transfer pricing

The UK transfer pricing legislation applies to both intra-UK as well as cross-border transactions and affects individuals and partnerships as well as corporate bodies. Broadly, the legislation applies where the terms of a transaction, or series of transactions, between two connected parties differs (in price, value or terms) from that which would have been made between independent parties dealing at arm’s length. Where this results in a UK tax advantage for one of the connected parties (e.g. a reduced profit or increased loss), the taxable profit or loss must be computed using the arm’s length price. The UK follows the Organisation for Economic Cooperation and Development (OECD) guidelines in relation to the methods used for determining arm’s length prices.

A company is required to self-assess transfer pricing adjustments and must maintain contemporaneous documentation to support the calculations and to demonstrate that such transactions are at arm’s length. The burden of proof lies with the taxpayer. If a business negligently or fraudulently fails to meet these obligations, it may be liable to penalties of £3,000 for each incorrect return and up to 100% of the unpaid tax, in addition to any unpaid tax and interest that is due. To minimise the administrative burden on them, smaller groups (those with combined annual turnover and/or total assets of no more than €10m and fewer than 50 employees) are exempt from these rules.

Medium sized groups (those with fewer than 250 employees and either an annual turnover of less than €50m or net assets of less than €43m) should maintain records of relevant transactions. However, their taxable profit will only be adjusted by HMRC where there has been blatant manipulation of transactions or transfer prices leading to a significant loss of UK tax.

Value Added Tax and customs duties

VAT is charged on the supply of most goods and services made by businesses in the UK. VAT is collected at each stage of the supply chain, generally when title to the goods passes or when services are performed. The burden of the tax falls on the ultimate consumer. Supplies of goods or services made in the UK by foreign entities can give rise to a requirement to register for VAT in the UK. VAT registration is compulsory for businesses established in the UK making annual taxable supplies in excess of the registration threshold. The registration threshold has been set at £85,000 since 1 April 2017 and is expected to remain at this level until 31 March 2024. Voluntary registration is sometimes available for businesses trading below this level. There is no VAT registration threshold for businesses making taxable supplies in the UK that have no UK business address. Such businesses must register for VAT immediately upon making taxable supplies in the UK unless the reverse charge rules apply.

The UK reverse charge applies to most services when provided by a non-UK supplier to a UK VAT registered business customer.

It may be possible for associated companies to form a UK VAT group rather than have a standalone VAT registration for each company. Key benefits are disregarding transactions between VAT group members and potentially simplified administration. There are, however, joint and several liability obligations, and VAT grouping may have a detrimental impact on VAT deduction if any members do not undertake fully taxable activities.

The standard rate of VAT in the UK is 20%. Some supplies, such as the grant of certain interests in land, insurance, education, financial services, and health and welfare, are exempt from VAT (i.e. no VAT is charged but recovery of VAT on related purchases will be restricted). There is the 'option' for businesses to charge VAT on non-residential property transactions in order to recover VAT incurred, however, this Option to Tax is subject to anti-avoidance restrictions. A 5% reduced rate of VAT applies to some qualifying uses of fuel and power, certain residential property conversions and a few other items. Until 30 September 2021, a 5% reduced rate of VAT applies to certain hospitality and leisure products. This rate will increase to 12.5% from 1 October 2021 to 31 March 2022, before returning to 20% from 1 April 2022.

The export of goods from the UK, plus UK supplies of some other goods and services (e.g. books, food, children's clothing) are generally zero-rated, a 0% rate of VAT.

VAT-registered businesses with an annual taxable turnover not exceeding £150,000 (excluding VAT) may elect to simplify their VAT accounting by using the 'flat rate' scheme. Under the scheme, businesses account for VAT at a flat rate on gross turnover rather than on every single transaction. They are, however, not able to recover VAT on expenditure other than on capital items over £2,000 (including VAT). Anti-avoidance legislation applies to charge a higher flat rate, in quarters where a business does not make a sufficient volume of relevant business purchases.

VAT is also charged on the importation of goods into the UK from non-EU countries, receipt of many international services in the UK and the acquisition in the UK of goods from other EU member states.

Businesses that are required to charge VAT on the goods or services they sell can recover the whole or part of the VAT incurred on the purchases made in generating the sales.

However, VAT cannot be recovered on purchases used to generate sales that are exempt from VAT. Input VAT recovery is limited to VAT on costs relating to supplies of standard, lower or zero-rated goods or services. Where a business makes both exempt and taxable supplies, the business is referred to as 'partially exempt' and input tax is restricted accordingly. Overhead costs that cannot be directly attributed to particular taxable goods or services are apportioned so part of the VAT can be recovered.

Similarly, a business that undertakes a mixture of business (economic) and non-business (non-economic) activities must undertake a business/non-business calculation to establish a VAT recovery restriction to reflect non-business activities. It is possible a business may have a combined business/non-business partial exemption calculation.

The net amount of VAT, after deducting recoverable VAT, must be paid over to HMRC on a regular basis (usually quarterly) supported by a tax return. Large concerns may be required to make monthly payments on account. If a business is in a regular VAT repayment position it may request HMRC permits it to submit monthly VAT returns. The benefit for the business is improved cash flow.

The EU is a customs union and accordingly customs duties are payable on many goods at the point the goods are first imported from outside the EU and cleared. Imports from certain countries or for certain uses may be subject to reliefs. The responsibility for the validity of the relief remains with the importing trader. Once goods have cleared customs with all customs charges paid, they may move freely between EU member states.

From 1 January 2021 the UK is no longer an EC member state for VAT and customs purposes. As a third country, all goods purchased from outside the UK will be imports, and all goods sent from the UK to another country will be exports. Consequently the movement of goods between GB (England, Scotland, Wales) and the EU will be considered an export and import from 1 January 2021. Full customs formalities will apply, customs duty may be payable depending on the origin of the goods and import VAT will be payable. Northern Ireland's position from a VAT and customs perspective is different under the NI Protocol, with goods continuing to move freely between NI and EU member states post 31 December 2020.

National Insurance Contributions

NIC is a social security charge on earnings. Contributions are payable by employers, employees and self-employed persons. Businesses (or individuals) employing individuals to work permanently in the UK will have to deduct NIC from the salary paid and pay it over to HMRC. There are exemptions for short-term periods of employment where the employing business is based outside the UK but, even if a business does not have a permanent establishment in the UK, it may be necessary for payroll deduction arrangements to be set up.

The UK has a number of reciprocal arrangements with other countries that operate social security systems.

For the year to 5 April 2021, NIC is charged on employees at a rate of 12% on earnings over £169 per week up to earnings of £962 per week and 2% thereafter.

In addition, employers must pay NIC at 13.8% on the total salary in excess of £732 per month paid to the individual. Employers must also pay NIC at the same rate on the value of most non-salary remuneration given to employees, e.g. the value of any private medical insurance.

An employment allowance of £4,000 (£3,000 to 5 April 2020) per year applies for businesses, charities and community amateur sports clubs, to be offset against their employers' NIC. The allowance is claimed as part of the normal payroll process. Only one company in a group may claim. There are some excluded employers such as certain employers of domestic staff, public authorities, companies whose sole employee is the director and those which carry out functions wholly or mainly of a public nature, however the allowance is available to employers of care and support workers where the duties of employment relate to the employer's personal, family or household affairs. From 6 April 2020 this allowance is only available to employers with a secondary Class 1 NIC liability below £100,000 in the preceding tax year. This £100,000 threshold will apply cumulatively in the case of connected employers.

Employers with employees under the age of 21 or apprentices under the age of 25 are not required to pay employers' NIC on earnings up to £4,168 per month for those employees.

Different contribution rates may apply if the employee opts out of the UK's State Second Pension or where an individual is self-employed (see Appendix I for more information).

There are a limited number of exemptions, e.g. where certain pension contributions are made to non-government schemes on behalf of employees, so it is often possible to structure remuneration packages to reduce such costs.

Apprenticeship Levy

An apprenticeship levy came into effect in April 2017 at a rate of 0.5% of an employer's pay bill. A £15,000 allowance for employers will mean that the levy will only be paid on employers' pay bills over £3m.

It is thought that less than 2% of UK employers are required to pay the levy.

Fringe Benefits Tax (FBT)

No FBT is payable by the employer as the employees are normally taxed on benefits provided by virtue of their employment. However, NIC may be payable by the employer on the cash equivalent of the benefit provided.

Benefits in kind

There are two ways to report benefits, either through payroll reporting each time a payment is made or annually. An annual return is required regardless of which way benefits are reported.

Local taxes

Local authority rates are charged on occupiers of commercial property in the UK based on the rateable value of real estate at a level determined by central government.

Other taxes

Insurance premium tax is payable at the standard rate of 12% on most premiums under insurance contracts. A higher 20% rate applies to sales of motor cars, light vans and motorcycles, electrical or mechanical domestic appliances, and travel insurance.

Stamp duty, at a rate of 0.5%, is payable by the purchaser (whether or not UK resident) on the transfer of shares in a UK incorporated company.

Determination of taxable income

Trading profits

The starting point for assessing a company's annual tax liability is the company's profit and loss account, drawn up under either UK GAAP or IFRS as shown in its published financial statements. Certain statutory adjustments are made to the accounting profit or loss to arrive at the company's taxable profits, such as depreciation/capital allowances as covered below.

Other routine tax adjustments to a company's reported profits are to disallow any expenditure on client entertaining or hospitality and any general reserves against stock, work-in-progress, debts and future expenditure such as repairs.

Taxable trading profits are calculated by determining assessable income and subtracting allowable deductions. Generally, to be deductible, expenditure must be incurred wholly and exclusively for the purposes of the trade and be revenue in nature rather than capital.

Tax adjustments are made to the profit derived using UK accounting standards.

Depreciation

Depreciation is not deductible and relief is instead given for investment through capital allowances. Capital allowances are granted for depreciation of equipment and other assets at the following rates (using the reducing balance method, unless stated otherwise):

- An annual investment allowance provides for 100% tax relief on expenditure of up to £200,000 on most types of plant and machinery costs but excludes cars. This allowance increased to £1m between 1 January 2019 and 31 December 2021, after which it is expected to revert to £200,000. Where a business has an accounting period that straddles the date of change the allowances have to be apportioned on a time basis.
- **Plant, machinery and equipment** –18% where working life is less than 25 years. For certain assets where the working life is at least 25 years or the asset is one on a list of 'integral features' incorporated in a building, the writing down allowance is 6%.

- **Motor cars –** cars used in the business with CO_2 emissions of up to 110g/km (130g/km for expenditure incurred before 1 April 2018, 160g/km for expenditure incurred before 1 April 2013 (corporation tax) or 6 April 2013 (income tax)) form part of the general plant and machinery pool and attract allowances at 18%, whereas cars with higher emissions go into a special rate pool with annual allowances limited to 6%.
- A new "super-deduction" will be introduced from 1 April 2021 until 31 March 2023 allowing companies to benefit from a 130% first-year allowance for capital expenditure on qualifying new plant and machinery assets. This deduction will allow companies to potentially reduce tax payable by 25p for every £1 invested in eligible plant and machinery. The super-deduction will apply to expenditure on new main pool plant and machinery that ordinarily qualifies for the 18% main pool rate of writing down allowances.
- A temporary first year allowance of 50% known as the 'SR allowance' will also apply to companies investing in new plant and machinery qualifying for special rate pool plant and machinery. This will include qualifying expenditure on integral features in a building and long life assets that normally only qualify for 6% writing down allowances.
- These measures will not apply to qualifying expenditure on second hand or used plant and machinery and will not apply to expenditure incurred in respect of contracts entered into prior to 3 March 2021. Any companies that have already contracted for the provision of plant and machinery will only be able to claim capital allowances at the normal standard rates. Certain general exclusions to first year allowances will also apply including, for example, expenditure on cars, plant or machinery for leasing etc. for which the super-deduction will not apply. Where an accounting period straddles 1 April 2023 the rate of the super-deduction will be apportioned accordingly. A further consequence of the super-deduction is that there will be amendments to the disposal rules for plant and machinery that has qualified for the allowance. Disposal receipts will be treated as balancing charges rather than an adjustment to the plant and machinery pools.
- **Structures and buildings allowances (SBA) –** the SBA provides 3% (2% from 28 October 2018 to 31 March 2020 {companies}/5 April 2020 {unincorporated businesses}) tax relief for the cost of new or renovated commercial structures, where construction commenced on or after 29 October 2018. Relief is limited to the original cost of construction or renovation, relieved across a fixed 33-1/3 year period, regardless of ownership changes. No balancing charges or allowances will apply, so there will be no clawback on sale – the allowances will pass on to the next owner.
- **Research and development (R&D) –** 100% capital allowances are available to companies which incur capital expenditure on facilities or equipment for the carrying out of R&D. In addition, enhanced relief for revenue expenditure may be available in some cases. See 'Incentives' below.
- **Investment in energy-saving equipment and environmentally friendly equipment (enhanced capital allowances (ECAs)) –** 100% first year capital allowances are available for expenditure on designated energy efficient equipment and cars with very low CO_2 emissions (50g/km or less, or electric cars). ECAs on energy and water-efficient plant have been abolished from 31 March 2020, but allowances for brand new low emission (< 50g/km CO_2) cars, gas refuelling stations and zero-emission goods vehicles will remain in place until 31 March 2021 and those for electrical vehicle charge points until 31 March 2023.
- Freeport locations are planned at East Midlands Airport, Felixstowe & Harwich, Humber, Liverpool City Region, Plymouth & South Devon, Solent, Thames and Teesside. An enhanced 10% structures and buildings allowance will be available for expenditure on the construction or renovation of non-residential structures and buildings in freeport areas brought into use on or before 30 September 2026. In addition there will be a 100% ECA for investment in new or unused plant and machinery for a qualifying activity. This will be available until 30 September 2026 and be subject to clawback if the plant or machinery moves out of the freeport within five years.

SDLT relief will be given on purchases of land and buildings until 30 September 2026 subject to clawback if the property is not used in a qualifying manner for three years, and full business rates relief will available for five years to all new businesses, and certain existing businesses where they expand. This relief can start on any date up to 30 September 2026. There is also a proposal for an employers' NIC relief for eligible employees in freeport sites from April 2022 to be available until at least April 2026, with a possible extension to April 2031.

The tax treatment of intangibles is complex and changed fundamentally on 1 April 2002. Intangible fixed assets created or acquired prior to 1 April 2002 are subject to the chargeable gains rules whereas, generally, tax relief for intangible fixed assets created or acquired prior to 1 April 2002 (defined initially in line with GAAP) is given in line with the amounts recognised in a company's accounts.

The rules have changed many times, including a change in Budget 2020 that made an exception to this general rule:

- from 1 July 2020, tax relief is available in line with the accounting treatment in respect of pre 1-April 2002 assets acquired from overseas related parties.
- In respect of post-1 April 2002 assets, a 4% fixed rate election can be made instead of following the accounting treatment to provide relief in certain circumstances e.g. where the assets are not amortised for accounting purposes.

Generally there is no tax relief for the amortisation of goodwill or certain other customer related intangibles. Some relief is available however in respect of goodwill or customer related intangibles acquired from unrelated parties after 1 April 2019 where the assets are acquired as part of a business that includes qualifying intellectual property. A 6.5% fixed rate deduction is available in respect of these intangible fixed assets, capped at six times the expenditure on the qualifying intellectual property assets acquired.

Specialist advice should be obtained in this area.

Stock / Inventory

Stock and work in progress are valued at the lower of cost and net realisable value, being the only basis acceptable for tax purposes.

Capital gains and losses

As discussed above, capital gains are included within the profits chargeable to corporation tax for an accounting period. Gains are normally computed by deducting the cost of an asset from its sale proceeds. An indexation allowance for inflation is available to companies who acquired an asset before 31 December 2017, up to that date. The indexation allowance is frozen from 1 January 2018. Capital losses can only be set against current or future capital gains, and not against income.

Dividends

Dividends received by UK companies from both UK and overseas companies are generally exempt from corporation tax subject to various conditions.

Interest deductions

Interest is generally deductible on an accruals basis as long as the borrowing is for an allowable purpose but there are many anti-avoidance rules to restrict relief. The main exception is where, under certain circumstances, the interest is payable to a connected party and remains unpaid for more than 12 months after the end of the accounting period. Relief for such interest is deferred until it is paid unless the lender is liable to UK corporation tax and has brought the interest receivable into account.

Up to 31 March 2017 a ‘worldwide debt cap’ regime applied to large groups and restricted tax deductions for interest payments by UK members of a multinational group by reference to the group’s overall external finance costs. The rule was aimed at preventing a group obtaining a tax deduction to the extent that net financing expenses in the UK exceeded the group’s worldwide external gross financing expenses. The UK’s transfer pricing rules apply to debt. Interest paid to a parent or fellow subsidiary (under common control and whether UK or overseas) is not deductible to the extent that the payment would not have been made if the companies had not been connected. There are no statutory debt/equity restrictions.

UK companies/groups with net UK interest exposure above £2m have been required to apply new rules since 1 April 2017 to limit corporate tax deductibility of interest expenditure. A fixed interest rate will apply, limiting the allowable net interest exposure to 30% of a group’s UK EBITDA; also a group ratio rule will apply to replace the previous worldwide debt cap. This will be based on the external net interest to EBITDA ratio for the worldwide group.

Losses

Trading losses may be:

- set off against income and capital gains of the same accounting period;
- carried back for set off against income and capital gains of the previous year;
- carried forward against future trading profits from the same trade. Where within a period of three years there is both a greater than 50% change in a company’s ownership and a major change in the nature or conduct of a trade, relief from the carry forward or carry back of losses will be denied from the date of the change in ownership;
- anti-avoidance provisions apply to deny the use of brought forward losses to certain arrangements where a company seeks to obtain a corporation tax advantage through the use of brought forward losses and it is reasonable to assume that the value of the corporation tax advantage exceeds the value of any non-tax advantages; and
- since 1 April 2017 companies have been able to use carried forward trading losses (not otherwise relieved against current or preceding year profits, or surrendered as group relief) against profits from other trading income streams other than those that created the loss; or by surrendering losses that they are unable to deduct from their own profits during that accounting period against trading profits generated by other group companies. There is a temporary extension to the period over which businesses (including companies) may carry-back trading losses from one year to three years, with cap of £2m. The cap applies separately to unused trading losses made by companies, after carry-back to the preceding year, in relevant accounting periods ending between 1 April 2020 and 31 March 2021 and a separate maximum of £2m for periods ending between 1 April 2021 and 31 March 2022. The cap will also be subject to a group-level limit, requiring groups with companies that have capacity to carry back losses in excess of £2m to apportion the cap between its companies.
- from 1 April 2020 capital losses carried forward may only be used to offset 50% of any net chargeable gains, subject to any allocation of a group’s annual £5m deductions allowance. Transitional rules will apply to periods straddling 1 April. There will be no change to the basic rule that capital losses can only shelter chargeable gains. Chargeable gains can also be sheltered by income losses carried-forward apart from pre-April 2017 trading losses.

Where group taxable profits >£5m, the amount of loss that can be offset will be restricted to 50% of the amount of profit that could be offset against the carried forward losses.

Foreign sourced income

The UK has controlled foreign company (CFC) legislation which is designed to tax holding companies on the profits of subsidiary companies in a 'low tax territory' (countries where the tax rate is less than three-quarters of the corresponding UK tax on those profits).

UK resident companies that hold a 25% or greater interest in a CFC may be taxed on the profits of the CFC but there are a number of exceptions to this rule. Since 2012, the regime has been targeted specifically at overseas profits that have been artificially diverted from the UK and a number of exemptions exist to take some companies or a proportion of their profits out of the charge. There is also a gateway test that companies can pass to avoid a CFC charge. A partial exemption for finance companies ensures that, in broad terms, profits caught under these rules are taxed at a quarter of the main corporation tax rate.

Incentives

There are a number of grants and other forms of assistance available to businesses in the UK.

Certain expenditure incurred in respect of qualifying R&D activities carried on by companies qualifies for enhanced tax relief. If the qualifying expenditure is incurred by small and medium sized companies, the relief is generally an additional deduction of 130%.

Where such companies have a tax adjusted loss for a period, all or part of the losses can be surrendered for a repayable credit at a rate of 14.5%. For accounting periods beginning on or after 1 April 2021, the amount of SME payable R&D tax credit that a company can receive in any one year will be capped at £20,000 plus three times the company's total PAYE and national insurance contributions liability, in order to deter abuse. From 1 January 2018, large companies may claim a taxable credit equal to 13% of the qualifying expenditure (12% before 1 April 2020). Prior to 1 April 2016, large companies had the alternative option of claiming an enhanced deduction equal to 30% of the qualifying expenditure. In some circumstances, a small or medium sized company may be required to claim relief at the large company rates.

The Patent Box allows companies with qualifying patent income to be taxed on that income at an effective rate of 10% by way of a deduction against profits. The relief was phased in from 1 April 2013 to 1 April 2017. The way in which the Patent Box relief is calculated changed with effect from 1 July 2016; however, if a company elects into the Patent Box regime for periods ended prior to 30 June 2016, it will be entitled to claim relief calculated under the previous rules until 30 June 2021, but only in respect of income from patents which existed as at 30 June 2016.

A 100% business rate discount is available to businesses that move into an Enterprise Zone. In addition, 100% capital allowances are available in respect of certain types of expenditure by businesses and companies based in some Enterprise Zones.

Foreign tax relief

Certain foreign taxes paid on income and gains of a UK resident company may be credited against the corporation tax on the same profits or relieved by way of deduction against profits. The foreign tax relief cannot exceed the UK corporation tax charged on the same profits.

Domestic and foreign dividends received by UK resident companies are generally tax exempt (however, see below re dividend payments from EU subsidiaries from 1 January 2021). Various conditions need to be met and those conditions are different depending on whether or not the recipient is a small company.

Corporate groups

Tax losses (other than capital losses but see below) may be surrendered within a 75% UK group effectively allowing consolidation of losses against profits and capital gains. Where a UK group company takes over the trade of a 75% fellow UK group member, the unused trading losses and capital allowances are transferred to the acquiring company. The trade losses are offset against future profits of the trade transferred. Companies may also benefit from consortium relief. A company is owned by a consortium if at least 75% of the ordinary share capital is held by companies, each of whom owns at least 5%.

The transfer of assets within a 75% group of UK companies does not give rise to a capital gain. If the transferee company leaves the group within six years of such a tax-free transfer, a capital gain may arise based on the market value of the asset at the time of the transfer. If the company leaves the group as a result of another company making a disposal of its shares, the gain forms part of the disposal proceeds deemed to be received by the company selling the shares.

A company with capital losses may elect to treat a gain which would have been realised by another UK group company as if it had been realised by it. The practical effect is to give a form of ‘group relief’ for capital losses.

Withholding tax

Subject to the terms of the tax treaty, withholding taxes must usually be deducted from interest and royalties. From 1 January 2021, some EU member states may start to deduct tax from interest and royalty payments made into the UK which used to be exempt. The amount of tax deducted will depend on the double taxation agreement between the UK and the EU member state. Some EU countries may also start to deduct tax from dividends paid by EU subsidiaries to UK parent companies, which used to be exempt. The amount of tax deducted from these dividend payments will depend on the double taxation agreement between the UK and the EU member state.

If a UK company receives royalties and interest in the UK from an associated company in an EU member state, it will only be able to apply full or partial exemption under the current rules until 1 June 2021, however it should still be possible to claim back some or all of the tax it has already paid under the relevant double taxation agreement.

Other administration issues

Making Tax Digital

Making Tax Digital (MTD) is a key part of the Government’s efforts to reduce the tax gap, so it is likely that HMRC will continue to push hard to ensure the project stays on track, even though it is scaling back some of its other digital projects. The Government and HMRC have announced the proposed start dates for mandatory digital tax filing.

MTD currently applies only to VAT registered businesses and 1 April 2020 was meant to see the end of the ‘soft landing period’ for the requirement to have a digital link between software that makes up the VAT return, however, HMRC has announced an extension to this deadline. This means that all businesses now have until their first VAT return period starting on or after 1 April 2021 to put digital links in place. HMRC has also updated its guidance to say that, from 1 April 2022, all VAT registered businesses will be within the scope of MTD for VAT regardless of turnover. This means that, for voluntary registrations, the MTD rules will apply for the first VAT return period starting on or after 1 April 2022. Quarterly reporting for income tax is expected to be introduced from April 2023. This will affect businesses and landlords, and partnerships with business or property income that only have individuals as partners, who will need to keep their business tax records digitally and send quarterly summaries of their income and expenses to HMRC using functional compatible software. MTD for business (MTDfB) will be mandatory but will only apply to those with business income (turnover plus gross rental income) over £10,000.

The MTD for corporation tax pilot is then expected to launch on 1 April 2024, and from 1 April 2026, it is expected that incorporated businesses will need to keep their business tax records digitally and send quarterly summaries of their income and expenses to HMRC using functional compatible software. MTD for corporation tax is expected become mandatory from this date.

Senior Accounting Officer (SAO)

A UK company must appoint a SAO if, either alone or when its results are combined with other UK companies in the same group, it has a turnover of more than £200 million, and / or a relevant balance sheet total of more than £2 billion for the preceding financial year.

The SAO must be the director or officer of the company who has overall responsibility for the company's financial accounting arrangements and must take reasonable steps to ensure that the company establishes and maintains appropriate tax accounting arrangements to allow tax liabilities to be calculated accurately in all material respects.

Each year the company must:

- Firstly, notify the name of its SAO to HMRC after the financial year has ended
- Submit a certificate to HMRC that must either confirm that appropriate tax accounting arrangements have been established and maintained or, where it is deemed that this isn't the case, must explain what the shortcomings were
- The certificate must comply with certain prescribed specifications and must be unambiguous.

The obligations apply in respect of corporation tax, VAT, PAYE, insurance premium tax SDLT/LBTT (in Scotland)/LTT (in Wales), SDRT, petroleum revenue tax, customs duties, excise duties including air passenger duty and bank levy, but not in respect to national insurance contributions.

The certificate must be submitted to HMRC no later than the company's accounts filing deadline.

Where the obligations under the SAO regime are not adhered to, penalties may be due as follows:

- A penalty will be chargeable on the company if it fails to notify the name of its SAO;
- A penalty will be chargeable on an SAO personally if they fail to meet their main duty, fail to give HMRC a certificate within the required timescale, or they provide a timely certificate that contains a careless or deliberate inaccuracy.

Each of these penalties is a fixed amount of £5,000.

Country by Country Reporting (CbCR)

CbCR is a direct filing requirement for parent companies of Multinational Enterprises (MNEs) with turnover exceeding €750m.

The CbC report requires information to be provided annually covering each territory where the MNE has a taxable presence.

Only the parent entity of a MNE is required to file a CbC report, with other tax authorities then sharing the document. The CbC report must therefore contain data for all MNE group entities wherever they are based and regardless of their size.

The CbCR filing deadline in the UK is twelve months after the year end (as for the corporation tax return).

UK taxable entities within CbCR but where a parent entity has filed a full report overseas therefore must notify HMRC of:

- The name of the company or partnership making the filing
- That entity's unique tax reference number
- The territory where filing will be made

Only one notification is required for group entities within the UK, so one company may file the notification and include the names and tax reference numbers of the other relevant UK entities, including partnerships and branches or permanent establishments.

The deadline for notification will usually be the end of the accounting period for which the report is being prepared.

There are two types of penalties associated with CbCR:

- £300 penalty for not filing on time (plus a daily £60 penalty is then applied for each day filing remains outstanding after the assessment of the £300 penalty)
- £3,000 penalty for providing inaccurate information

Publication of Tax Strategy (PoTS)

Large businesses operating in the UK are required to publish a tax strategy that can be easily found on their website. The rules apply to:

- UK companies, partnerships and groups with a turnover above £200m or a balance sheet over £2bn.
- Small UK entities if the UK entity is part of a multinational group that meets the OECD definition of a multinational enterprise, i.e. groups with an annual global consolidated turnover of more than €750m and subject to country-by-country reporting requirements.

The regulations require the entities to report annually on:

- How the business manages UK tax risks
- Its attitude to tax planning
- The level of risk the business is prepared to accept for UK taxation
- How the business works with HMRC

The strategy must be approved by the Board of Directors before publication.

If the conditions for publication are met in the previous financial year, a strategy must be published before the end of the current financial year. After the publication of the first strategy, a new one must be published in the next financial year or within 15 months, whichever is sooner.

There is an initial penalty for non-compliance of £7,500, and further penalties for continued non-compliance. There is also a clear overlap with the existing SAO regime and HMRC's Business Risk Review, especially in relation to demonstrating tax governance and risk management.

The Corporate Criminal Offence (CCO) of the failure to prevent the facilitation of tax evasion

The CCO of the failure to prevent the facilitation of tax evasion occurs when a person acting on behalf of a relevant body (such as an employee, agent or service provider) with a UK connection facilitates the evasion of UK or foreign tax by a third party.

This legislation covers all businesses including limited companies, partnerships and LLPs etc. It does not matter if they are operating commercially or not, so charities are also covered. If convicted, a business will face an unlimited fine in respect of the acts of its employees and reputational damage.

It is every organisation's responsibility to ensure they take time to review, document and adapt their business processes to minimise the risk of committing the CCO. HMRC's guiding principles give some basis for what they consider to be reasonable steps, but this is, as yet, untested. They have, however, indicated that, at the very least, a business risk assessment should be undertaken and documented by every organisation and this should be reviewed (and additionally documented) at least annually.

Notification of uncertain tax positions

HMRC is running a consultation on a new requirement for large businesses to annually notify HMRC of the uncertain tax positions they have taken, where the uncertain tax treatments, either individually or combined, exceed £1m.

Large businesses for these purposes have not yet been defined but it is possible that the rules will apply to businesses that are also in the Publication of Tax Strategy (PoTS) regime i.e. UK companies and groups with £200m UK turnover and £2bn UK balance sheet, also UK entities of any size that are a part of a group with €750m global revenues.

As it stands, the notification should be a single, annual process which encompasses all of the relevant taxes with the same submissions deadlines as the Senior Accounting Officer (SAO) rules i.e. 6 months or 9 months after the year end, aligned with the statutory accounts filing deadline.

The details that a business must provide in its notification also currently align with the SAO rules requiring a concise description of the technical issue and an indication of the tax at stake.

It is expected that the penalties for non-compliance will also be similar to those of the SAO regime, with a proposed £5,000 penalty for failing to notify HMRC of the person responsible for submitting the certificate, and £5,000 on the person responsible, or the entity, where they should have notified but failed to do so.

2. Operating through a branch or agent in the UK

There is no branch profits tax in the UK. A UK branch of a non-resident company is taxable on its profits and gains in the same way as a UK resident company.

UK legislation reflects the OECD model double taxation agreement in charging to tax profits of a non-resident company only to the extent the profits are attributable to a trade carried on through an establishment in the UK.

A UK establishment is a branch within the meaning of the EC 11th Company Law Directive (89/666/ EEC) or a place of business that is not a branch, but is a place where the company regularly conducts its business in the UK, i.e. either a fixed place of business through which the business is at least partly carried on or an agent that routinely enters into contracts on behalf of the company (other than an independent agent acting in the normal course of his or her business).

A fixed place of business includes the following:

- a branch;
- an office;
- a workshop or factory;
- a mine, oil well, quarry or any similar place of extraction of natural resources or a related exploration structure; and
- a building site or similar.

A company is not regarded as having a UK establishment if the activities carried on by the agent or at the fixed place of business consist only of activities of a preparatory or auxiliary nature, such as the purchase, storage, display or holding of goods for processing for the company by another person. For example, if a non-resident company has a fixed place of business in the UK through which it purchases goods, arranges for their modification and then exports them for its own use outside the UK, no part of its profits will be liable to corporation tax. If, instead of exporting them for its own use, the goods are sold to customers, albeit not by persons in the UK, part of the profit of that activity will be subject to UK tax because those activities form an integral part of the company's trade.

If a non-resident company does carry on trade through a UK establishment, all profits attributable to that part of its trade conducted in the UK and income and capital gains arising from property held by the establishment will be subject to the full rate of corporation tax, currently 19%. In most instances, a UK branch will be taxed in the same way as a UK company, including benefiting from various reliefs available to companies in a group relationship.

From 1 January 2020, when a company becomes resident in the UK or a company that is not resident in the UK begins to hold an asset for the purposes of a trade carried on by the UK company through a permanent establishment, the asset or assets concerned will be deemed to have been acquired by the company at market value if the company has been subject to an EU exit charge in relation to them.

3. Selling into the UK

A. Direct Selling from Abroad

Direct selling into the UK can take place either directly from an overseas head office or via sales personnel based in the UK. However, if the intention is to avoid exposure to UK corporation tax, contractual arrangements should be made outside the UK, without the use of sales staff in the UK. Such staff may constitute a permanent UK establishment and thereby create a taxable presence.

Reference should always be made to any relevant tax treaty with the UK for the reasons noted in the previous section. The VAT implications depend on whether the items being sold into the UK are goods or services and whether or not the goods are being sourced from another EU member state or elsewhere.

In the case of goods, if the company selling into the UK is responsible for the importation of the goods and delivering them to its customer, that company will be required to be VAT registered in the UK irrespective of whether or not it has a presence in the UK.

For VAT registration purposes, the physical presence of the seller, e.g. staff and offices in the UK, is not relevant. The goods themselves constitute a place of belonging for VAT purposes.

Prior to Brexit if the seller was based within another EU member state and was selling to VAT registered businesses in the UK, there was no requirement to register for VAT in the UK, provided it could obtain the customer's VAT registration number and showed it on the VAT invoice. For the supplier, the supply was not subject to VAT, but the customer had to account to HMRC for the VAT on acquisition.

From 1 January 2021, the UK is considered a third country. This means that where EU based sellers sell to consumers in GB, this will be deemed an export from the EU and an import into GB. An import will be deemed to have taken place where goods are imported into:

- Great Britain (England, Scotland and Wales) from anywhere outside the UK; or
- Northern Ireland from outside the UK and EU. Under the terms of the NI Protocol, given Northern Ireland's unique position, the movement of goods between the EU and NI will continue unaffected with no new paperwork, tariffs or regulatory checks.

The importer will be required to file customs declarations and pay customs duty, if relevant. Import VAT will also be payable on the movement of the goods into GB. Import obligations can be carried out by the seller, the buyer or an agent appointed by the seller to act on their behalf depending on the IncoTerms used. If the customer is responsible for clearing the goods through customs and paying any duties and VAT on importation, then the selling company is not regarded as making any supplies for VAT purposes and is not liable to be VAT registered in the UK. Goods sold by EU traders to NI based VAT registered customers can continue to be zero rated, with the NI based consumer self-accounting for the VAT arising, as was the case prior to Brexit.

Prior to Brexit, if goods were brought to the UK from another EU member state as 'call off' stock, i.e. they were assigned to a single identified customer, but ownership of the goods remained with the supplier until they are called off by that customer, the UK allowed the VAT to be dealt with by the customer as described above. Provided certain conditions are met, the EU supplier would not have been required to register for VAT in the UK in respect of call off stocks. However, if the goods are acquired from elsewhere in the EU as 'consignment stock', i.e. to meet future demand before a customer has been identified, the overseas company will be making supplies of goods from the UK and must register for VAT. From 1 January 2021 EU call-off stock arrangements have ended. Any business that now imports goods into the UK following the end of the transition period must be registered for UK VAT to make a domestic supply, and to be able to recover any VAT. Goods already in GB at the end of the Transition Period will continue to be subject to the current call-off stocks and consignment rules in place.

Normally, if a company supplying services does not have a physical presence in the UK then it is not liable to be registered. Business customers receiving services from suppliers based outside the UK will continue to be required to account for VAT under the reverse charge procedure.

On 1 December 2012, the UK VAT registration threshold was removed from all non-established businesses supplying taxable goods and services in the UK. This means they must register for VAT in the UK, however small their turnover. This measure predominantly affects businesses that sell goods and services from a temporary presence in the UK, e.g. at a trade fair, speciality market or similar event.

Legal and contractual issues

The sale of goods and services into the UK necessarily involves two parties from different legal jurisdictions. Consequently, as a first step, it is always useful to state whether a contract is subject to English law or that of the seller's country of residence. The points below need to be borne in mind when negotiating contracts of sale with UK customers:

- The exact terms of the contract should be set out in writing and should include a statement that the contract will only be considered valid when confirmed by the supplier in writing. It is important to make sure that the terms on which sales are to be made are properly explained to the purchaser and accepted by him or her (or they may not be upheld in law should there be a dispute).
- Where a contract is silent on VAT in the UK, the price quoted is deemed to be inclusive of VAT.
- The contract document will also set out the price to be charged or the mechanism for its calculation and should also detail the exact nature and characteristics of the goods or services being supplied.

- The seller's conditions of sale should be incorporated into every contract. Where the contract is for the supply of goods, it is usual to include a clause that ownership of the goods shall not pass to the purchaser until all amounts due under the contract have been paid. This type of clause is often combined with a contractual agreement that the purchaser is liable to compensate the seller if, before full payment is received, the goods are damaged while in the purchaser's possession.
- The preceding comments are merely an outline of some of the more significant factors to be considered. Specific legal advice appropriate to individual circumstances should always be obtained.

B. Selling into the UK through a UK based agent

A UK based agent will typically fulfil the role of accepting sales orders and referring them back to the overseas principal. An agent is therefore different in nature from a distributor who purchases and resells goods on his or her own account. The agent could be an individual or a company and may be dependent on or independent of the overseas business.

If the agent is a dependent agent of a foreign company or, for example, a UK company connected with it, then a UK taxation liability may arise for the foreign company as that company will be deemed to be carrying on part of its business in the UK.

Where an independent UK agent is being used, acting in the normal course of his or her trade, the UK's double tax treaties typically provide that such an arrangement will not constitute a taxable presence in the UK for the overseas principal, provided the agent is acting in the ordinary course of his or her business. For VAT purposes, this is not always the case.

If a subsidiary company or a branch is the agent, then the transactions between the UK operation and the non-resident parent will be taxed separately based on arm's length terms. Where goods are imported from outside GB, the VAT implications depend upon who is responsible for the importation of the goods. If it is the overseas company then it will be required to VAT register. However, if ownership of the goods passes first to the agent, who then imports and sells them to the ultimate customer, the overseas company will not need to be registered for VAT. If the customer is responsible for importation, the vendor does not become liable to register for VAT.

Voluntary VAT registration is possible to recover VAT incurred in the UK. From 1 January 2021 the UK is no longer considered to be an EC member state for VAT purposes. This may create additional UK VAT registration requirements for EU businesses, particularly where goods are being sold to customers based in GB.

Legal and contractual issues

The precise terms of the contract with an agent can vary widely, but they will generally be subject to the Commercial Agents (Council Directive) Regulations 1993, which include provision for compensation on termination. While the agency agreement may be informal, certain clauses are fairly common. It is recommended that you always take specific legal advice in connection with contract terms, but typical clauses are those that refer to the exact extent of the respective duties of both agent and principal, the territory for which the agent will be responsible and whether or not the agent is the sole agent in that territory. It is advisable to include a clause in the contract indicating whether the agent can accept orders on behalf of the principal or, alternatively, that such orders must be referred to the principal for acceptance. The fee paid to an agent is normally calculated on the basis of a percentage of sales income.

C. Selling into the UK through a UK based distributor

A distributor differs from an agent in that a distributor actually acquires goods from the non-resident company and resells them in its own name. A distributor is therefore effectively a customer of the overseas business.

Selling through a distributor in the UK should not create a UK tax presence for the overseas business. However, many of the preceding remarks concerning agents apply equally to distributors. For instance, where a UK branch of the overseas enterprise acts as a distributor, the branch will be taxed on its UK profits. The mark-up made by a UK distributor needs careful reviewing as the taxable profit on sales to overseas affiliates will be computed based on arm's length prices.

Once again, the VAT implications depend on who is responsible for the importation of the goods. In these circumstances, it would normally be the distributor that is the importer, meaning that the overseas company need not register for VAT. In the unlikely event the overseas company imports the goods in its own name then sells them to the distributor after their arrival in the UK, then the overseas company would be liable to register. From 1 January 2021, EU based businesses selling into GB through a UK based distributor will need to work with UK distributors to determine who will be responsible for importing the goods into GB. EU based traders selling goods in Northern Ireland through a distributor will continue to apply the pre-Brexit VAT treatment.

Legal and contractual issues

Areas to consider include agency agreement clauses defining territorial trading boundaries and a statement of respective responsibilities. Competition law may also need to be considered and it is recommended that expert legal advice is sought. Moreover, as the distributor route involves the sale of goods to the distributor, it may well be prudent from the overseas supplier's point of view to consider clauses that govern the distributor's selling price and a reservation of title clause. This prevents title to the goods passing to the distributor until the distributor has paid its supplier. If the distributor sells the goods in advance of this event, then the distributor is deemed to sell the goods as agent for the supplier.

It should be noted that, although the goods are acquired and sold on by the distributor, the manufacturer, importer and supplier are still legally liable under UK law for any damage or injury incurred as a result of the supply of the goods. It is therefore advisable to consider appropriate insurance cover.

D. Selling into the UK through e-commerce

The significant increase in e-commerce over recent years has seen the UK make a considerable investment at business and government levels to put the necessary technological infrastructure in place.

Direct tax issues

In the field of direct taxation, there are three main issues:

- whether a web site on a server situated in the UK represents a taxable presence here. The UK Government has stated that a server may not in itself give rise to a taxable UK establishment. In practice, the nature of activities in the UK under the principles considered above will determine whether there is a UK tax presence or not;
- to what extent profits are attributable to e-business activities where there are related overseas parties, i.e. transfer pricing issues; and
- whether a payment represents a royalty in relation to the use of digitised products, e.g. online software or music.

Generally, if the customer utilises the product for his or her own purposes and is not exploiting it, then the payment would not normally represent a royalty and there would not be a requirement to withhold tax.

Since 1 April 2020, a 2% Digital Services Tax (DST) has applied to the revenues of search engines, social media platforms and online marketplaces (financial and payment services are exempt), irrespective of how they monetise their platforms. Tax liabilities are calculated at group level but are charged to individual entities in the group whose revenues involve UK users. These entities contribute to the tax thresholds in proportion to their contribution. The thresholds mean that DST only applies to groups with global revenues over £500m and UK revenues over £25m, which includes an allowance so that a group's first £25m of revenues derived from UK users will not be subject to the DST.

- Online marketplace transactions are considered to involve UK users if at least one of the parties is UK based, however the tax revenue charged is reduced by 50% if the other user is located in a country with a similar tax to the DST.
- Advertising revenues are considered to have derived from UK users when the advert is intended for UK audiences.
- A 'safe harbour' principle is available for in-scope companies who operate low profit margins or losses, allowing such entities to use an alternative basis of charge to calculate their liabilities and effectively lead to a lower DST liability, or no liability if they are loss making.
- DST is deductible as an expense of business, provided it is incurred wholly and exclusively for the purposes of a trade. However it is not creditable against any UK corporation tax liability. This may result in double taxation.

VAT issues

VAT represents a large proportion of a product's selling price and often plays a major part in the pricing considerations of retail suppliers. The principal issues arising in relation to VAT are related to the place of supply of goods and services and, in part, to whether the supply is of goods or services. For the purposes of VAT, e-commerce can be divided into direct and indirect e-commerce.

Indirect e-commerce is concerned with the supply of tangible goods and is comparable to shopping by catalogue. In this case, the internet only provides a facility through which a prospective customer can view and order goods via the vendor's web site.

Prior to Brexit, the distance selling rules applied. This meant that a seller based in another EU member state who supplied goods to non-VAT registered customers in the UK was entitled to charge the VAT rate applicable in their home member state.

Where sales to the UK exceeded the annual 'distance selling' threshold of £70,000, the seller was required to register for VAT in the UK and charge VAT at the UK rate applicable to the goods. Additionally, the legislation governing imports and exports to and from the EU also applied to goods ordered through the internet.

However, from 1 January 2021, HMRC introduced new rules where goods are deemed to be sold through online marketplaces. HMRC's definition of an online marketplace is a business using a website or mobile phone app to handle the sale of goods to customers which meets all of the following conditions:

A. in any way sets the terms and conditions on how goods are supplied to the customer;

B. is involved in any way in authorising or facilitating customers' payments; and

C. is involved in the ordering or delivery of the goods

From 11pm on 31 December 2020, consignments of goods with a value of £135 or less that are outside:

- the UK and sold through an online marketplace to customers in Great Britain (England, Scotland and Wales) will have UK supply VAT charged at the point of sale.
- the UK and EU and sold through an online marketplace to customers in Northern Ireland will have import VAT charged.

Where those goods are sold through an online marketplace, the online marketplace will be liable for the VAT unless the goods are being sold:

A. from Northern Ireland to a Northern Ireland customer (where the seller remains liable for VAT); or

B. where the sale is to a VAT registered business customer (in which case the business customer will self-account for VAT).

Online marketplaces will also be liable for the VAT on goods of any value that are located in the UK at the point of sale and sold by an overseas business through an online marketplace.

For consignments valued at more than £135, normal VAT and customs rules will apply on importation of the goods into GB from the EU and the overseas seller will be liable for any import VAT and customs duty. When the goods are sold to the customer, the overseas seller will be considered to have made a zero-rated supply of the goods to the online marketplace. UK VAT will be charged at the point of sale and accounted for by the online marketplace (subject to the exceptions for sales to Northern Ireland based customers or VAT registered business customers, as referenced above).

For GB businesses selling goods to private consumers in the EU post Brexit, goods sent from the UK to private consumers in the EU will be zero rated and import VAT will be payable on arrival of the goods into the EU member state where the customer belongs. The importer in the EU Member State will also be required to file customs declarations and pay customs duty, if relevant.

It is important to note that the distance selling rules will continue to apply to Northern Ireland based traders making supplies to private customers based in the EU.

UK traders must also be aware of the implications of the EU July 2021 e-Commerce VAT package. This will result in the introduction of a One-Stop-Shop system (“OSS”) which will allow the company to remit VAT due on sales to consumers in member states in which it does not have a VAT establishment through a single EU-wide VAT return (thereby avoiding multiple VAT registrations and EU reporting obligations). An Import One Stop Shop (IOSS) will also be introduced for UK businesses selling goods from outside the EU to EU private consumers valued at less than €150.

Direct e-commerce encompasses transactions where the internet provides the means of delivery of intangible property or digitised products. Examples include software and music. These are treated as services when delivered over the internet and the VAT rules applicable to services govern the status of these transactions.

Where digitised products are supplied to a customer in the EU, the place of supply of the transaction is where the customer belongs. For business-to-business transactions, the EU business accounts for VAT in the member state concerned and there is no requirement for the non-EU business to register in the EU. However, where the supply is to a non-business or private individual, the non-EU supplier has an obligation to register for VAT in the EU and charge EU VAT.

Prior to Brexit, UK based traders could use the VAT MOSS scheme to account for all EU VAT on the supply of digitised products to EU based private customers in one EU member state, However, for sales made on or after 1 January 2021, traders in the UK are no longer able to use the UK’s VAT MOSS Scheme. To continue to use VAT MOSS, traders will have to register for the Non-Union VAT MOSS scheme in an EU member state.

Where the trader does not wish to use the VAT MOSS from 1 January 2021, they will be required to register for VAT in each EU member state where they sell digital services to VAT unregistered customers. Similarly, non-UK suppliers providing digital services to UK non VAT registered consumers will be required to register for UK VAT to report sales and pay the VAT due.

Ceasing to have a presence in the UK

An investor may cease to have a business presence in the UK in a variety of ways including sale, winding-up or migration.

A. Disposal of a business or subsidiary

The disposal of a UK business will involve various tax, legal and commercial issues.

Tax considerations

Any capital profit on the disposal of a UK business will only be taxable in the UK in the hands of the seller if the seller is a UK resident or has a UK establishment, unless UK land is involved. A person who is non-resident for a tax year is chargeable to either capital gains tax or corporation tax on chargeable gains accruing in the tax year on:

- The disposal of assets situated in the UK that have a relevant connection to the person's UK branch, agency or permanent establishment and are disposed of at a time when the person has that branch, agency or permanent establishment
- Assets not included above that are interests in UK land, and
- Assets (wherever situated) not set out above that derive at least 75% of their value from UK land where the person has a 'substantial indirect interest' in that land.

If this is not the case, then the seller will only need to consider his or her own domestic tax laws in relation to the sale.

A UK resident seller may suffer UK tax on the capital profit arising on the sale of shares in a company. Where the business is unincorporated, capital profits can arise on such assets as land and buildings, goodwill, intellectual property or equipment if sold for more than cost. Where the vendor is an individual, tax rates of 10% and/or 20% apply to most gains, with disposals of residential property not qualifying for main residence relief, and disposals of carried interests charged at 18% and/or 28% (depending on the total taxable income and gains of the individual in the tax year in which the disposal is made).

Business Asset Disposal Relief ("BADR" previously known as Entrepreneurs' Relief) may apply in certain circumstances, which reduces the rate of tax on qualifying gains to 10%. Gains qualify for BADR up to the individual's lifetime limit of £1m (£10m to 10 March 2020).

Where the vendor is a company, it may be exempt from tax on gains arising on the sale of shares in a trading company where it has held at least 10% of the share capital of the other company for a minimum of 12 months within the six years prior to the disposal.

Legal and commercial considerations

Legal agreements drafted to cover the sale of a business can be very complicated and typically include provisions for indemnifying the purchaser should any unforeseen liabilities arise. It is therefore vitally important when selling a business in the UK that specialist legal, accounting and taxation adviceis obtained.

B. Winding-up a company or striking a company off the register at Companies House

A business could cease to have a presence in the UK because the owners decide to close it down by a process of winding-up, or because the company has become inactive and the owners wish to cancel its registration at Companies House.

Tax considerations

The fact that a company goes into liquidation does not alter its requirement to pay tax or to continue to file a tax return (although the administrative responsibility for this will fall on the company's liquidator rather than the company). One of the main tax planning considerations will be that of maximising the use of any trading losses.

These losses cannot be carried forward beyond the cessation of trading and, therefore, it is important to ensure the most tax-efficient timing of events. There are few special tax rules relating to corporate insolvency, winding-up or striking off. However, due to perceived tax avoidance, HMRC has recently introduced targeted anti-avoidance rules aimed at liquidations where a capital treatment is sought, which aim to combat cases of 'phoenixism' and apply to certain distributions made in the process of winding up companies on or after 6 April 2016.

The term 'phoenixism' refers to the scenario where a company is liquidated and subsequently its business is carried on under the same or broadly the same ownership via a new entity. This may be for commercial/legal reasons or to achieve a tax saving from obtaining capital rather than income treatment on company reserves.

The rules apply to UK companies and non-UK companies that would be close if they were resident in the UK.

A business will normally prepare a tax return to the same date as its annual accounts, but this will be brought forward to the date of cessation of trade, if earlier.

Any trading losses incurred in the last 12 months of trading can be carried back and offset against the profits of the previous three years. This is an extension to the normal rule that only permits a 12 month carry back of trading losses.

Legal considerations

Sometimes the words 'insolvency' and 'winding-up' are used inter-changeably, although a company can be wound up by its shareholders at any time without it actually being insolvent i.e. through a solvent winding up known as a Members' Voluntary Liquidation (MVL). If the company is insolvent, a professional insolvency practitioner must be appointed to realise the company's assets for the benefit of its creditors. Only when the creditors have been paid in full will the company's owners be entitled to any remaining assets.

Where the company has not yet gone into liquidation, but the directors ought to know that the company has no reasonable prospect of avoiding the situation, then the directors will be responsible for additional liabilities of the company.

This is the case unless they can show that they took every reasonable precaution to minimise the potential loss to the company's creditors.

The liquidation and winding-up process can be expensive and therefore, where possible, many businesses prefer to close down their operations by striking the company off the register at Companies House. However, the striking-off process is less conclusive than winding-up since, on the application of any interested party, the courts can restore the company to life on the register within a period of 20 years, in order to deal with claims for repayment by former creditors of the company.

C. Company migration

It is possible for a company to become non-resident for UK tax purposes. This could happen to a UK incorporated company as a result of having its place of effective management in another treaty jurisdiction outside the UK. Most of the UK's tax treaty tie-breaker clauses deem the tax residence of a company to be in the country of effective management. Likewise, a non-UK incorporated company could move its place of central management and control outside the UK. In such a case, it would not be dependent upon the provisions of a tax treaty to establish its non-resident status. In each case for tax purposes, there is a deemed disposal at market value of certain types of chargeable assets held by the company (principally land, buildings and goodwill) at the time of migration.

There are relieving provisions to mitigate the effect of this charge. This occurs where the assets remain within the UK tax net (for instance by leaving them in a UK branch) or where the assets in question are located abroad and the migrating company is the 75% subsidiary of another UK company.

Before a company migrates, it must inform HMRC of this intention and provide a statement of its tax liabilities and how it proposes to settle them. A company will be liable to penalties for noncompliance with this requirement.

Repatriation of Profits

Post-Brexit, withholding taxes on dividends from EU subsidiaries or payments of interest or royalties to or from companies located in the EU may become a cash flow problem in the wake of UK's decision to leave the EU.

Prior to Brexit, the parent subsidiary directive allowed subsidiary companies to pay dividends up to UK parent company without the need to account for withholding tax. Similarly, companies often relied on the interest and royalties directive to make interest or royalty payments free from either UK or local withholding taxes.

From 1 January 2021 (1 June 2021 for the Interest and Royalties Directive), companies will need to rely on existing bilateral double taxation agreements in order to reduce or eliminate withholding tax rates. Neither the Parent Subsidiary Directive or the Interest and Royalties Directive continue to apply.

The UK has an extensive double tax treaty network which includes treaties with all the EU 27 member states. However, a number of these still allow the tax authorities in the payer company jurisdiction to levy withholding tax. Although withholding is often at relatively low rates, it is nevertheless a tax issue to be managed.

Treaty and Non-Treaty Withholding Tax Rates

The rates in Appendix 2 (page 83) reflect the lower of the treaty rate and the rate under domestic tax law. Where a treaty rate is higher than the domestic rate, the domestic rate applies. There is no withholding tax on dividends.

Foreign personnel in the UK

Business Immigration to the UK

Prior to Brexit, citizens of nearly all of the European Economic Area countries - the 27 EU countries plus Iceland, Liechtenstein and Norway as well as citizens of Switzerland had the right to live and work in the UK, including setting up a business. Citizens of British Commonwealth countries had a similar entitlement if one of their grandparents was born in the UK.

Under the Trade and Cooperation Agreement EU nationals who arrived in the UK prior to 31 December 2020 have until 30 June 2021 to apply to the EU Settlement Scheme and secure their status under the scheme. Either settled or pre-settled status provides the right to work in the UK. There is no change to how employers do right to work checks and employers will not be required to undertake retrospective right to work checks on existing EU employees. However, to hire EU nationals entering the UK after 1 January 2021, employers need to obtain a sponsor license through the new points based immigration system.

Frontier workers working in the UK prior to Brexit will also be able to continue to travel from another member state to the UK daily for work under a Frontier Worker permit. Irish citizens do not need to apply for a Frontier Worker permit but can choose to do so. If an individual has not worked in the UK by 31 December 2020 and wish to do so from 1 January 2021, a visa will be required.

Visa-free, short term business trips will be allowed for up to 90 days in any 180-day period between the UK and the EU for specific purposes. These include attending meetings, research and design, market research, training seminars and trade fairs, purchasing goods or services, taking orders, engaging in commercial transactions, and operating outbound tourism services. Work trips will also be permitted for senior business people setting up an enterprise, intra-company transfers, to fulfil a contract to provide services lasting no longer than 12 months and for self-employed professionals providing services. In all cases it is essential to refer to the domestic rules in the relevant EU member state. From 1 January, businesses may have to obtain an Intra-Company Transfer (ICT) visa for EU nationals to work in the UK on work-assignments.

It is also important to note that the Common Travel Area will continue to ensure that British and Irish citizens can continue to work and reside in the UK and Ireland.

Visas for Sole Representatives of an Overseas Company

Employees

Well-established companies based outside the UK can apply to send a senior employee (who is not a controlling shareholder) to help establish a trading presence in the UK.

However, it may be preferable to apply for a visa under the highly skilled migrant programme as this type of visa is generally more flexible.

Investors

Investors are able to qualify for a visa based on their ability to invest at least £2m in the UK. A healthcare surcharge will also apply. The investor can invest £2m or more in UK Government bonds, share capital or loan capital in active and trading UK registered companies, and will be allowed to work or study. They can apply to settle after two years if they invest £10m, and apply to settle after three years if they invest £5m. In addition, the investor has to spend at least 50% of their time in the UK and not be employed in the UK if they wish to apply to permanently settle here. Investors may not invest in companies mainly engaged in property investment, property management or property development.

Where the application is to extend a visa first granted before 6 November 2014, further conditions apply.

Entrepreneurs

The entrepreneur category is for those investing in the UK by setting up, taking over and being actively involved in the running of one or more businesses here. A healthcare surcharge will also apply. This should involve:

- investing between £50,000 and £200,000 in a new UK business (conditions apply);
- working solely in the business;
- having sufficient funds for accommodation and maintenance until the business is profitable;
- having a controlling interest in the business;
- taking a share of the business's liabilities; and
- implementing a business plan that looks to be thorough and viable.

The money to be invested in the UK should be your own and not from any other source (e.g. bank loans). It can be held in the form of cash and share capital and the investment should give you an equal or controlling interest in the business. Eligibility under this scheme is based on a points system. To apply, the entrepreneur must score 95 points made up of:

- 75 points for attributes (which are different depending on whether the entrepreneur is making an initial or an extension application);
- 10 points for English language; and
- 10 points for available maintenance (funds).

Budget 2021 reaffirmed the UK Government's intention to introduce the previously announced points-based visa for highly skilled migrants and stated that this will be in place by March 2022. A 'scale-up' stream will also be included within the highly skilled visa category. This will aim to allow individuals with a job offer from a pre-approved UK scale-up business to access a fast-track process. It is unclear from the budget statement whether this will be fast-track visa processing, fast-track settlement or both.

Employee rights

The rights that an employee enjoys under UK law are fairly extensive. Although employer burdens are lower than in some other European countries, these rights should be given due attention to avoid involvement in expensive and time consuming disputes and litigation.

Although not exhaustive, the following list indicates some of the most important areas to be considered:

- written particulars of employment
- unfair dismissal
- redundancy
- discrimination
- national minimum wage
- working time
- works councils
- information and consultation
- working conditions

Pensions

There are a wide range of pension schemes currently available in the UK. However, it is now obligatory for employers to provide employees with access to a workplace pension and automatically enrol eligible workers in it. This requirement has applied to all employers since 2018, unless:

- the employee earns less than £10,000; or
- the employee is under 22 years of age; or
- the employee has opted out.

It is also possible for other employees to opt in to a workplace pension scheme: employees between the ages of 16 and 22, those earning less than the exempt annual allowance and employees aged between the statutory retirement age and 75. All employees in pension schemes will receive contributions into the scheme from their employer. For more information see: **https://www.gov.uk/workplace-pensions**

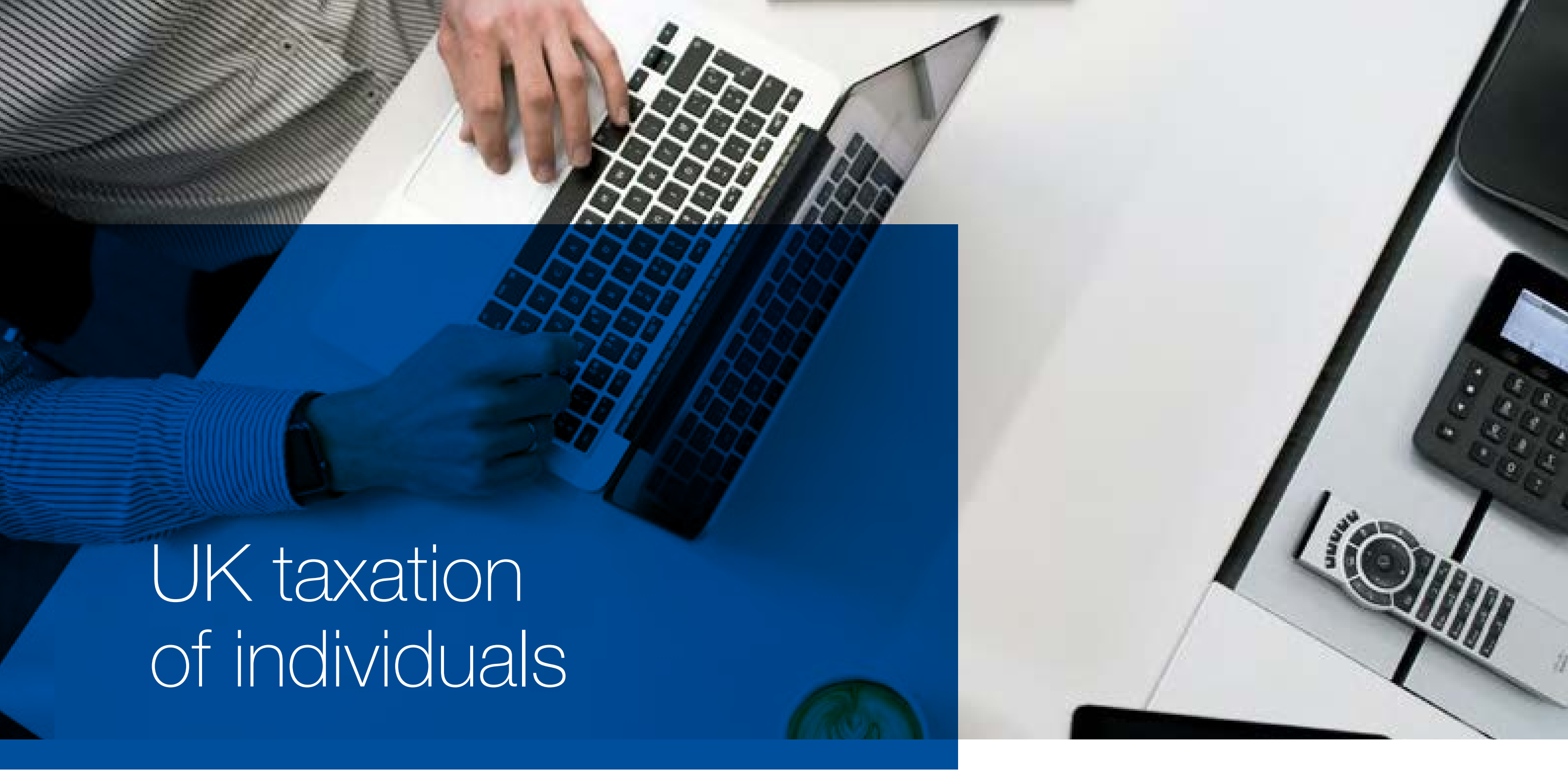
Healthcare in the UK

Free healthcare is available to all UK residents and, under the National Health Service (NHS), every civilian lawfully living in the UK is entitled to register with a local medical general practitioner (GP) on the NHS panel responsible for his or her geographical area.

In addition to providing general medical advice or treatment, the local GP is an important link between the patient and the rest of the NHS. If the patient requires surgery, in-patient treatment or other specialist consultation and treatment, he or she will be referred to the appropriate specialist by his or her GP.

Although the service provided by the NHS is generally adequate for minor ailments or treatment requiring emergency attention, many people take out private medical insurance in order to receive more prompt treatment. This also gives them more control over the timing of any hospital visit required and the standard of accommodation provided.

However, the cover provided by insurance will often not include major surgery or the treatment required for serious chronic conditions.



UK taxation of individuals

Introduction

Income tax is charged on the total income of individuals and unincorporated businesses in each tax year (running from 6 April to 5 April).

The top rate of income tax for the tax year ending 5 April 2021 is 45%. This rate applies to taxable income in excess of £150,000 per year. The basic rate of tax for the year to 5 April 2021 is 20%, with a higher rate of 40% charged on the excess of total income, net of allowances, over £50,000 (in Scotland slightly different income tax rates and thresholds apply as set out in Appendix 1).

An individual’s tax liability is calculated by aggregating all income, deducting relevant allowances and reliefs, and then applying the appropriate rates to income over the tax exempt threshold. This threshold is adjusted in most financial years but is £12,570 for the tax year to 5 April 2022. The threshold is reduced by £1 for every £2 earned over £100,000 in a tax year.

Residence and Domicile

Taxable persons comprise resident individuals, trustees and executors as well as non-resident individuals, trustees and executors in respect of their UK-source income.

Resident persons are generally subject to income tax on their worldwide income as it arises. Non-residents are normally only subject to income tax on income arising in the UK.

Broadly, UK resident individuals are liable to CGT whilst non-residents are not. However, since 6 April 2015 non-resident individuals have been liable to UK CGT on UK sited residential property on the portion of the gain arising after 6 April 2015.

Since April 2019 non-UK residents have been subject to UK tax on gains arising from direct or indirect disposals of all types of UK land and interests in UK property rich entities. This is a significant expansion from the previous non-resident capital gains tax (NRCGT) rules which applied in only limited circumstances to direct disposals of residential properties. This change will impact all overseas investors in UK property, including real estate funds. The key features of the legislation are summarised below, but note that this is complex legislation and specific advice will be required.

Unless an exemption applies, a non-resident will be subject to UK tax on gains arising from disposals made on or after 6 April 2019 of:

- Interests in UK land; and
- Interests in entities deriving at least 75% of their value from UK land (i.e. 'UK property rich' entities) where the investor has a 25% or more interest in the property rich entity.

However, the 25% de minimis is not applicable in the case of interests in UK property rich collective investment vehicles (CIVs). The rules for CIVs are complex and specific advice should be taken, in order to ensure the correct elections are made.

Where an investor makes a chargeable disposal, they must report this disposal and make a payment on account of the capital gains tax due within 30 days.

Rebasing

To ensure that only gains in respect of appreciation in value after 6 April 2019 are subject to UK tax, there will be a rebasing for tax purposes for both direct and indirect interests in UK land on 5 April 2019. It will however be possible to elect for historical cost to be used when calculating gains, where this is greater than the 5 April 2019 valuation. For indirect disposals, where historical cost is used and it gives rise to a loss rather than a gain, the loss is not allowable for offset against any other gains.

Whilst HMRC will not necessarily require formal valuations to have been undertaken at 5 April 2019, it is recommended that investors consider what valuation evidence they have available to support April 2019 valuations. Such valuation evidence may be important in the case of a future challenge from HMRC and/or in the case of a due diligence where a property rich entity is disposed (e.g. when negotiating a latent capital gains tax discount with a future purchaser).

Applicable tax rates

Non-residents realising chargeable gains post 5 April 2019 will be taxed as follows:

- Non-resident companies will be subject to corporation tax at 19% until 31 March 2023. New rates apply from 1 April 2023.
- Non-resident individuals disposing of non-residential property will be subject to capital gains tax at 10% or 20%, depending on the individual's marginal rate. Gains realised on disposal of residential property will be subject to capital gains tax at 18% or 28%, depending on the individual's marginal rate.
- Non-resident trusts disposing of non-residential property will be subject to capital gains tax at 20%; whereas gains realised on a disposal of residential property will be subject to capital gains tax at 28%.

Available exemptions

Certain classes of investors will be outside the scope of NRCGT, including sovereign immune investors and overseas pension schemes that meet specific criteria. In addition, qualifying institutional investors (QIIs) that qualify for enhanced relief under the substantial shareholdings exemption (SSE) rules will be able to benefit from relief from NRCGT where they (or entities owned wholly/partly by QIIs) dispose of UK property rich entities (with no requirement for the entity to be trading), provided the SSE conditions are met. QIIs include registered pension schemes, life assurance businesses, sovereign wealth funds, charities, investment trusts, authorised investment funds and exempt unauthorised unit trusts.

Interaction with tax treaties

HMRC recognises that the UK's taxing rights under certain double tax treaties may not allow the UK to tax all non-resident investors (depending on their jurisdiction of residence) on gains that they realise from the disposal of UK property rich entities. Whilst this is unlikely to be the case for direct disposals of UK land, there are certain tax treaties that do not include a securitised land provision, and hence do not allocate taxing rights to the UK for gains realised on the disposal of property rich entities.

Anti-forestalling rules have applied from November 2017 and allow HMRC to counteract tax advantages arising from the provisions of double tax treaties, where the taxpayer has entered into abusive arrangements.

Trading exemption

The legislation provides for a specific exemption from NRCGT in relation to the disposal of companies that are UK property rich, but where this property is used for trading purposes. HMRC expects this exemption to apply where there is a disposal of an ongoing trade where UK property is amongst the assets. It would be sufficient for the qualifying trade to be carried on by a company connected with the UK property rich company, but the seller must have the expectation for the trade to be carried on for a significant period of time following the disposal (i.e. the purchaser or a member of the purchaser's group would be expected to carry on the qualifying trade post-sale).

Other factors on residence and domicile

A statutory residence test was introduced from 6 April 2013 and provides clarity to individuals on their residence status. For individuals who have been residing outside the UK for some time it is important that care is taken with the number of visits to the UK, as being in the UK for too long a period could make an individual UK resident. HMRC treats an individual as being in the UK for a day if the individual remains in the UK at midnight.

Under the statutory residence test it is possible to be UK resident in certain circumstances when in the UK for as little as 16 days. Different rules apply to individuals leaving the UK as opposed to those coming to the UK and on every case, it is important to take professional advice and review current residence status.

Broadly, individuals are domiciled in the country or state regarded as their permanent home. Individuals acquire a domicile of origin at birth, normally that of their father, and it is retained until a new domicile of choice is acquired. To acquire a domicile of choice, a person must sever ties with the domicile of origin and settle in another country with the clear intention of making a permanent home there.

There are special rules which prevent non-domiciled individuals from being taxed on their non-UK source income and gains until they are remitted to the UK. The rules regarding remittances to the UK are complicated and some UK residents are subject to a £30,000 or £60,000 annual charge for using this facility. Specific anti-avoidance rules prevent a non-domiciled individual from using the remittance basis in respect of income earned from an overseas employment that is deemed to be connected with the individual's UK employment. Rules which took effect from 6 April 2017 mean that foreign domiciled individuals who have been resident in the UK for more than 15 out of the last 20 tax years will be regarded as deemed domiciled in the UK for income tax and CGT purposes.

Such individuals will no longer be able to claim the remittance basis of taxation once they become deemed domiciled here.

Non-domiciled individuals who come to work in the UK, and who were not resident in the UK for any of the previous three tax years, can claim overseas workday relief for the first three tax years following arrival in the UK. These rules allow a proportion of the individual's emoluments from employment to escape UK taxation until such time as those amounts are remitted to the UK, based on the number of UK and non-UK workdays carried out by the individual during the true year.

Individuals leaving the UK

UK tax residence status will be lost immediately if an individual goes to work full time outside the UK for a period covering a full tax year, subject to certain temporary visits to the UK. Where a UK tax resident individual leaves the UK for non-work reasons, the individual will continue to be treated as UK resident until it is conclusively proven that he or she has left.

For such individuals, keeping return visits to the UK to a minimum can help to prove that they have left but visits are not the only criteria – whether or not other connections with the UK have been maintained (e.g. retaining a property here and/or whether family members remain here, or children attend school in the UK) will also be considered.

Anti-avoidance measures exist to catch certain individuals who move abroad temporarily seeking to avoid capital gains or income tax. The affected individuals are those who have been resident in the UK for four out of the last seven years before departure.

The liability to CGT extends to gains arising on the disposal of assets held by the individual at the time of becoming non-resident and will come into effect if the individual returns to the UK within a period of five years.

For income tax purposes, rules were introduced in 2008 that apply where an individual has previously been resident in the UK, has relevant foreign income which arose when he or she was UK resident and has used the remittance basis of taxation to defer his or her liability to UK tax on that income.

Where such an individual becomes temporarily non-resident in the UK and remits foreign income that arose during years when he or she was UK resident to the UK during a year (or years) that he or she was not UK resident, and then returns to live in the UK within five tax years of the date of their departure, the income remitted during the period of non-UK residence is taxable in the year in which the individual resumes UK tax residence.

Allowances and deductions

Husbands and wives are taxed separately, and each is entitled to a personal allowance.

This has been set at £12,570 for the year to 5 April 2022 (although the allowance is reduced by £1 for every £2 above which an individual’s annual income exceeds £100,000) and is expected to remain at this level until 5 April 2026. The income of a minor unmarried child is also taxed separately, unless it originates from funds given to the child by the parent and it is in excess of £100.

Since 20 February 2015, married couples have been able to apply for the marriage allowance.

The allowance is a tax break which could save some couples up to £252 for the year to 5 April 2022. The allowance enables couples who are paying low or no tax to transfer up to £1,260 of their 2021/22 personal tax free allowance to their spouse. This will only benefit couples paying the basic rate of tax. Any couples with a partner earning more than £50,270 would not be eligible.

Individuals are also entitled to a dividend allowance of £2,000, meaning that income tax will not be due on the first £2,000 of dividend income.

There is also a 10% starting rate for the first £5,000 of savings income only. This does not apply if an individual has other taxable, non-savings income above this limit. Individuals earning higher amounts are entitled to the new personal savings allowance. Basic rate taxpayers will not have to pay income tax on the first £1,000 of savings income they receive, and higher rate taxpayers will not have to pay tax on the first £500 of their savings income.

Donations to UK registered charities are made net of basic rate tax. For each £80 donated by an individual, the charity receives a total of £100. Higher or additional rate tax relief is given by extending the basic rate or higher rate band by the grossed up amount of the gift (see below).

A UK resident individual under the age of 75 may join a personal pension scheme and make contributions. Tax relief for all contributions in a tax year is given on the higher of 100% of relevant UK earnings and £3,600 (gross) but is further restricted to the annual allowance. This has been £40,000 since 6 April 2014 and was previously set at £50,000 from 6 April 2011 to 5 April 2014. A tapered reduction in the annual allowance applies - the annual allowance is reduced by £1 for every £2 of adjusted income that exceeds £240,000 up to a maximum of £36,000 reduction. Those that earn £300,000 or more (or have combined income and pension inputs of this amount) will suffer a reduced annual allowance below the current minimum of £10,000, with those earning £312,000 or more capped at the minimum £4,000. The annual allowance is also reduced to £4,000 where benefits have been taken from a defined contribution scheme, subject to specific conditions.

Individuals are able to carry forward their unused annual allowances for up to three years subject to conditions. The total amount an individual may contribute into a pension over his or her lifetime (including any capital growth) is determined by the lifetime allowance which is £1,073,100 for 2021/22 (the lifetime allowance is expected to remain at this level until at least 5 April 2026).

Interest on loans taken out wholly and exclusively for business purposes qualify for tax relief. This includes interest on loans taken out to:

- acquire shares in a closely controlled company;
- acquire shares in an employee-controlled company; or
- acquire an interest in a partnership or to acquire machinery or plant for use in a partnership or employment.

The amount of unrestricted income tax reliefs an individual is entitled to take advantage of in any one tax year is restricted to the higher of £50,000 and 25% of the individual's adjusted total income. Restricted reliefs include the interest relief referred to above, as well as relief for trading and property business losses off-set against general income.

Individuals are entitled to a tax credit of up to 30% of the value invested in qualifying shares in the Enterprise Investment Scheme (EIS) on investments of up to £1m per annum; and in Venture Capital Trust (VCT) companies on investments up to £200,000 per year. A more generous relief of 50% is available on investments of up to £100,000 into small start-up companies under the Seed Enterprise Investment Scheme.

In addition to income tax relief, dividends received from ordinary VCT shares are exempt from income tax. EIS shares also qualify for capital gains deferral relief and there is no upper limit.

Individual Savings Accounts (ISAs) are tax favoured savings accounts. Any income or gains from investments in an ISA is tax-free. The ISA annual contribution allowance for 2021/22 is £20,000 , and is expected to remain at this level until 5 April 2026.

Further information on income tax rates and allowances is summarised in Appendix I to this guide.

Capital Gains

Capital gains chargeable on taxpayers other than companies are subject to CGT at a rate of 10% and/or 20% on most gains, with disposals of residential property not qualifying for main residence relief, and disposals of carried interests charged at 18% and/or 28% (depending on the total taxable income and gains of the individual in the tax year in which the disposal is made).

Business Asset Disposal Relief (BADR previously known as Entrepreneurs' Relief) may apply in certain circumstances, such as on the disposal of shares held in a trading company, all or part of a business or an interest in a partnership, provided certain conditions are met, which reduces the rate of tax on qualifying gains to 10%.

Gains qualify for BADR up to the individual's lifetime limit which is currently £1m and is not expected to increase in future.

There is an annual exemption from tax on capital gains available per individual which for the year ending 5 April 2022 and the following four tax years is £12,300.

Capital gains derived from assets outside the UK will not be subject to UK tax in the hands of a foreign domiciled individual unless remitted to the UK provided the remittance basis has been claimed for that tax year. Rules which took effect from 6 April 2017 mean that foreign domiciled individuals who have been resident in the UK for more than 15 out of the last 20 tax years will be regarded as deemed domiciled in the UK for income tax and CGT purposes. Such individuals will no longer be able to claim the remittance basis of taxation once they become deemed domiciled here. Individuals who leave the UK and become not resident for a period of less than five complete tax years may still be liable to tax on their return on any capital gains realised on assets owned prior to departure from the UK. This rule applies to those individuals who were resident for at least four out of seven tax years immediately preceding the year of departure.

Inheritance Tax

IHT is chargeable on the value of the estates of deceased persons. For those domiciled or deemed domiciled in the UK, their worldwide estate is chargeable. For non-UK domiciliaries, generally only UK assets are chargeable. The tax is also payable on certain lifetime transfers to trusts, or companies under the control of five or fewer people and some transfers made by such companies.

The operation of IHT is complex and the text below gives only an overview of these rules.

However, you should seek detailed advice from PKF, especially with regard to protecting offshore assets from the UK IHT net if you intend to come to live here for some time.

A UK domiciled or deemed domiciled individual is potentially subject to IHT on the transfer of any property owned by him or her, based on the diminution in value of his or her estate, whilst a non-UK domiciled individual may only be subject to IHT on the transfer of property situated in the UK.

IHT is a combination of gift and death tax. The first £325,000 is free of IHT (the 'nil rate band'). It normally only arises on death but, in certain circumstances, lifetime gifts can also be chargeable to IHT. The rate on lifetime chargeable transfers is 20% and property passing on death is charged at 40%. The rate (applicable on death) is reduced to 36% where the deceased leaves at least 10% of his or her net estate to charity. On death, IHT may also be levied on gifts made within the previous seven years.

Special rules apply to IHT on trusts.

There are some lifetime exemptions, which are completely free of IHT and are not subject to the seven year rule including:

- an annual exemption of £3,000;
- a small gifts exemption of £250 per donee;
- wedding gifts to a child £5,000, or grandchild/great-grandchild
- £2,500 or to anyone else £1,000.

Reliefs are also available for disposals of businesses and farmland, provided conditions are met.

Since 6 April 2017, an additional 'residence nil rate band' has applied where the value of a deceased's estate includes a property which has been their residence at some point and is left to one or more direct descendants on death. The residence nil rate band also applies where the deceased has either down-sized to a less valuable residence or ceased to own a residence on or after 8 July 2015. In such circumstances, the residence nil rate band will be available in respect of the value of the original main residence, provided that the deceased has left the smaller residence, or assets of equivalent value, to direct descendants. The residence nil rate band was phased in over four years and it increased to £175,000 from 6 April 2020. If the value of the estate is in excess of £2m, the residence nil rate band will be reduced by £1 for every £2 by which the value of the estate exceeds £2m.

Transfers between spouses and civil partners are exempt from IHT except when the transfer is made to a foreign domiciled spouse/civil partner by a UK domiciled spouse/civil partner when the exempt transfer is limited to the value of the nil rate band, currently £325,000. A foreign domiciled individual automatically acquires a 'deemed' domicile in the UK for IHT purposes if he or she has been resident in the UK for 15 out of the previous 20 tax years, unless he or she is excluded from this rule under the terms of a double taxation treaty. Once an individual has become deemed domiciled, transfers between spouses or civil partners will be fully exempt.

In addition, a non-domiciled individual may elect to be treated as UK domiciled for IHT purposes only. The effect of this would be that assets could be transferred from one member of a married couple/civil partnership to another or left to them on death with no IHT arising. However, there may be IHT consequences in respect of any gifts or bequests made by the person treated as UK domiciled irrespective of the location of the assets concerned.

Taxation of land and buildings

The tax treatment of rental income and profits made from the sale of land or buildings must be considered separately.

Sale of Land or Buildings

The tax treatment of profit made from the sale of land or buildings will depend on both the owner's situation, e.g. tax residence, and the circumstances in which the property has been held. Broadly, these circumstances fall into three categories:

- **Property developer/trader** - all property will be treated as stock-in-trade and any profits made on sale will be taxed as trading income.
- **Investor** - all property will be treated as an investment.
- **Other trader** - property held for the purpose of a non-property trade will be treated as a capital asset.

In the last two categories any profits or losses on sale should be assessed under the CGT regime (or as a capital gain/loss subject to corporation tax where the taxpayer is a company).

It is sometimes difficult to ascertain whether a property has been held as stock or an investment. In determining this, the following questions are relevant:

- What was the original intended use for the property? Can this be demonstrated by minutes of meetings or other documents?
- If the vendor is a company, what do the memorandum and articles of association state on the point? Business in the UK 72
- How was the property initially marketed - as a rental property or as a sale? If the property was initially intended to be let but was sold instead when an unforeseen offer was received, the fact that the property was not actually let should not necessarily prevent it from being treated as an investment asset.
- How long was the property held for? The longer a property is held, the more likely it is to be an investment.
- What do previous transactions indicate about the vendor's status and motives?

There is also a specific anti-avoidance rule which applies where a capital gain has arisen in certain circumstances. This rule applies to tax gains as income and applies to all persons, regardless of residence, if the land or building is in the UK.

Circumstances where this applies include when land is developed or acquired with the main objective of realising a gain on disposal and where the gain is realised in capital form on the sale of shares in a company owning the land or building, rather than of the property itself.

Growth in Land Value

In addition to CGT on the increase in the capital value of land, a specific tax can now be levied by the Local Authority (LA) on the growth in land value that occurs when the owner obtains planning permission to develop it (i.e. build houses or commercial buildings on the land). The Community Infrastructure Levy (CIL) has operated since 6 April 2010. The rate of the CIL (per square metre of developed land) for a particular location will be set by the LA so may vary considerably from region to region.

Rental Income

Profits from the letting of land and buildings in the UK are taxable in the UK, wherever the recipient is resident. Profits are broadly determined in the same way as trading profits.

Relief is available for most related costs. Historically, interest on a loan taken out to purchase the property was also allowable. However, this relief has been phased out and from 2020/21 100% of financing costs incurred by a landlord have been given as a basic rate tax reduction, rather than as a deduction.

There are also rules which restrict tax relief for interest on highly geared investments where the lender and borrower are connected. The other main tax relief available is capital allowances, which are available on plant and machinery.

If you let out residential property you may be able to claim a deduction for the cost of replacing domestic items such as movable furniture, furnishings, household appliances and kitchenware. Prior to April 2016, a 10% 'wear and tear allowance' was available - this has now been replaced by the 'replacement of domestic items relief', which is only available for expenses incurred from 6 April 2016 for income tax purposes.

Unlike the wear and tear allowance, for the new 'replacement' relief to apply the dwelling house can be unfurnished, part furnished or fully furnished. However, an expense must actually be incurred on purchasing a replacement domestic item, which must be solely provided for use by the tenants of that property and, additionally, the old item must no longer be available for use in that property. The initial cost of purchasing domestic items for a property is not a deductible expense. Relief is only available for replacement items.

Where the owner is resident in the UK, rental profits are included in aggregate taxable income for the year. For individuals, the basis period for property income is the tax year itself. So, while it is permissible to make up rental accounts to a date other than 5 April if an individual chooses to do so, it will be necessary to apportion two sets of accounts – on a daily basis - to arrive at the taxable profit or loss for the tax year.

Partnerships and LLPs carrying on a trade or profession, and individuals whose letting itself amounts to a trade (e.g. hotels or guest houses) are instead taxed on the property income accruing in the accounting period ending in the relevant tax year.

Companies are taxed on the rental profits accruing in each accounting period as part of their overall profits subject to corporation tax.

Where the owner is not resident in the UK, rental income will be liable to income tax where the owner is an individual or other non-corporate entity and corporation tax where the owner is a company. Income tax at the standard rate (currently 20%) will be withheld by the tenant (or, more usually, the UK agent managing the property) from the gross rental payments under the 'non-resident landlord scheme', with the tax deducted at source franking the non-resident's eventual tax liability on the income. On application by the landlord, HMRC will authorise rents to be paid without such deductions. In these circumstances, the landlord would instead be required to pay the UK tax arising through the UK self-assessment system, including any higher or additional rate tax due.

Plant and machinery

The general rule is that relief is given at 18% on the reducing-balance method. However, 100% relief can currently be obtained on up to £1m (£200,000 before 1 January 2019, and after 31 December 2021) of qualifying investment (known as the annual investment allowance) in the year of purchase. Enhanced allowances on energy and water-efficient plant were abolished from 31 March 2020, but allowances for brand new low emission (< 50g/km CO_2) cars, gas refuelling stations and zero-emission goods vehicles remained in place until 31 March 2021 and those for electrical vehicle charge points until 31 March 2023.

Some items of plant are classed as 'integral features' and allowances available on these items are restricted to 6% on a reducing balance basis. Typical examples of integral features are air conditioning, hot and cold water systems and lifts. Experience shows that on average between 12% and 24% of the cost of a new office building will qualify as plant and machinery depending on the level of fitting out.

Purchase of second-hand property is a complex area. The difficulty is in deciding the proportion of the total purchase price that relates to fixed plant and machinery. For acquisitions of a building, both the purchaser and the seller must agree a proportion of the purchase price attributable to the fixtures within two years of the transaction. They must notify HMRC of this amount by means of a joint election. If the parties cannot agree on a figure, the matter must be referred to a tribunal if it appears material to the tax liability of either of them.

Where a building which includes fixtures is acquired second-hand by a business, the new owner will only be able to claim capital allowances on the fixtures if the previous owner had pooled the fixtures for capital allowances purposes before it sold the building.

Where second-hand buildings were purchased before April 2012 and no capital allowances were claimed on the fixtures by April 2012, there is no time limit on starting to claim the capital allowances.

Construction Industry Scheme

This scheme applies to any business in the construction industry that can be defined as a contractor (the person making the payment) or subcontractor (the person receiving payment) that is carrying out construction operations. This is defined quite widely and includes internal cleaning of a property during its construction, alterations or repair work, and internal and external painting. It also applies to non-construction businesses which are commissioning construction work on their properties if they spend more than £1m per year over a three year period on construction operations.

Any contractor falling within the scheme must register with HMRC and follow certain requirements to ensure that the subcontractors they deal with are paid correctly. These include:

- verifying sub-contractors with HMRC;
- paying sub-contractors in the manner prescribed by HMRC (making deductions of tax as appropriate);

- sending monthly returns to HMRC, detailing payments to sub-contractors and deductions made from them; and
- keeping proper records.

Stamp Duty Land Tax, Land and Buildings Transactions Tax and Land Transaction Tax

Stamp Duty Land Tax (SDLT) is payable on land and building transactions in England and Northern Ireland and the rates are between 0 and 12% on the consideration paid for residential properties. SDLT is charged at increasing rates for each portion of the price. Since 1 April 2016, an additional 3% charge has applied to purchases of residential properties which will not be used as the purchaser's main residence. From 1 April 2021, a 2% SDLT surcharge will be levied on transactions involving residential property in England and Northern Ireland where one or more purchasers is treated as non-UK resident or is a UK resident close company controlled by non-residents.

Special rates of SDLT also apply where residential property is purchased by a 'non-natural person', which includes companies. This rate is 15% for property costing over £500,000.

In addition, such properties are also subject to an annual tax, called the Annual Tax on Enveloped Dwellings (ATED). Exemptions from ATED will apply where the property is used for specified, qualifying purposes, including certain letting arrangements.

In Scotland, Land and Buildings Transaction Tax (LBTT) replaced SDLT with effect from 1 April 2015. Land Transaction Tax (LTT) applies to properties in Wales. Further details are included in Appendix 1

Value Added Tax

The VAT treatment of dealings in property and land is complex and the regular subject of litigation. Different rules apply depending on whether the property is residential or commercial and whether or not exploitation is by way of sale or lease. The large amounts of money involved in property transactions mean mistakes can be costly, with the added risk of interest and penalties imposed by HMRC if you get it wrong. Consult PKF at an early stage for expert help in ascertaining the VAT profile of your proposed project.

VAT liability - commercial property

The sale of the freehold of a new commercial building ('new' being defined as less than three years old) is subject to VAT at the standard rate (currently 20%). The sale of the freehold of 'old' commercial building or land and the grant of a leasehold interest in either new or old property or land is exempt from VAT. However, a vendor or landlord may make an Option to Tax on the property and charge VAT at the standard rate on the sale proceeds or on rental payments. The major advantage of making an Option to Tax is that the landlord can recover VAT on costs relating to the opted property. The purchaser or tenant can normally recover VAT charged on rent provided he or she is using the property for taxable purposes. Once made, an Option to Tax cannot usually be revoked for a period of 20 years.

Written notification of the Option to Tax must be made to HMRC within 30 days of the date of the Option and, in some cases, prior permission is required. The Option will take effect from the day on which it is made, or a later date specified – although, in some cases, options can be disapplied by HMRC where anti-avoidance provisions apply, or if the land or property will be put to certain uses.

VAT liability - residential property

The first sale of freehold or grant of a lease in excess of 21 years (20 years in Scotland), by the person constructing or, in some cases, converting residential property is 5%.

Zero-rating is a nil rate of VAT, but VAT on related costs can be recovered. Other supplies of residential property (such as the rental of a newly constructed house) are exempt from VAT (therefore VAT on the associated costs is irrecoverable). The Option to Tax (see above) does not apply to supplies of interests in residential property.

A 5% reduced rate of VAT may apply in limited circumstances to construction works undertaken on existing properties, e.g. converting an office block into residential apartments.

Place of supply

The place of supply of transactions relating to UK land is the UK. Overseas businesses owning UK land may, depending on the VAT liability, be entitled or obliged to register for UK VAT.

Business Rates

Businesses are required to pay a tax (known as the uniform business rate) based on the value of the property in respect of land and buildings at a level that is set by central government. The set multiplier is applied to the rateable value of the property to calculate the charge.

A revaluation of rateable properties was undertaken in April 2015 and came into effect from 1 April 2017, which has led to large increases in business rates bills across the country. Revaluation usually occurs every five years and the 2020 valuation is due to take effect in 2023. Some reliefs are available, particularly for small businesses. Certain properties are exempt from business rates, for example farm buildings or places used for the welfare of disabled people. The Scottish Government and the Welsh Assembly set these levels in Scotland and Wales. In addition, County Councils, Unitary District Councils and the Greater London Authority all have a right to levy a business rates supplement to fund additional projects which improve the economic development of their area. The right to charge is subject to a maximum levy of 2p on the multiplier.

Appendix

- Appendix 1: Tax rates and allowances in the UK for 2020 / 21
- Appendix 2: List of treaty and non-treaty withholding tax rates
- Appendix 3: Useful websites

Appendix 1: Tax rates and allowances in the UK for 2021 / 22

Tax Rates, Allowances and Reliefs

Income Tax

Personal allowances

	2020 / 21	2021 / 22
Personal allowance	12,500	12,570
Income limit for personal allowance (1)	100,000	100,000
Dividend allowance	2,000	2,000
Personal savings allowance (2)	1,000	1,000
Married couple's allowance (for those born before 6/4/1935) (3)	9,075	9,125
Marriage allowance (for those born after 6/4/1935) (4)	1,250	1,260
Blind person's allowance	2,500	2,570

Notes:

1. The personal allowance reduces where income is above £100,000 – by £1 for every £2 of income above the £100,000 limit. This reduction applies irrespective of age. For 2021/22, once income reaches £125,140 the personal allowance is reduced to nil.
2. Reduced to £500 for higher rate taxpayers
3. Relief given at 10%. Reduced by £1 for every £2 of income above £30,400 (2020 / 21 £30,200). Minimum allowance £3,530.
4. Spouses/civil partners may transfer up to this amount of their personal allowance between them, provided neither is liable to income tax at more than the basic rate band.
5. These allowances and the English rate bands below are expected to remain static until at least 5 April 2026.

Income tax rates

Individuals				
Non-savings income (excluding Scotland) [4]	Savings income [1]	Dividend income [1][3]	2020 / 21	2021 / 22 to 2025 / 26
			Band of taxable income	Band of taxable income
	0% [2]		0 – 5,000	0-5,000
20%	20%	7.5%	£0 - £37,500	£0 - £37,700
40%	40%	32.5%	£37,501 - £150,000	£37,701 - £150,000
45%	45%	38.1%	Over £150,000	Over £150,000

continued...

Non-savings income (Scotland)	Savings income (1)	Dividend income (1)(3)	2020 / 21	2021 / 22 to 2025 / 26
19%			£0 - £2,085	£0 - £2,097
20%			£2,086 - £12,658	£2,098 - £12,726
21%			£12,659 - £30,930	£12,727 - £31,092
41%			£30,931 - £150,000	£31,093 - £150,000
46%			Over £150,000	Over £150,000
Trustees (1)	**Savings income (1)**	**Dividend income (1)(3)**	**2020 / 21**	**2021 / 22**
			Life interest	Discretionary
Non-savings			20%	45%
Savings			20%	45%
Dividends			7.5%	38.1%
Standard rate band (5)			n/a	1,000

Notes:

1. Apply across the UK
2. Savings starting rate £5,000: where an individual's taxable non-savings income is less than this limit, there is a 0% starting rate for savings up to the limit. Where taxable non-savings income exceeds the limit, the starting rate for savings does not apply.
3. Dividends are taxed as the top slice of income, before capital gains
4. Taxpayers with a main residence in Wales pay Welsh rates of Income Tax set by the Welsh Government. For the tax year 2021 / 22 the Welsh rates are set at the same level as in England and Northern Ireland
5. Income in the standard rate band is taxed at 7.5% or 20% as appropriate

Remittance Basis Charge (RBC)

An individual who is not domiciled in the UK may be eligible to make a claim to be taxed on the remittance basis in the UK for a tax year. Those who have been resident in the UK for more than seven years may need to pay an RBC if a claim is made, as follows:

For the year ended 5 April 2022

Need to pay RBC if became (and remained) resident in the year ended:

- 5/4/2015 - £30,000
- 5/4/2010 - £60,000

Individuals who have been UK resident for at least 15 of the previous 20 tax years, or who are UK resident and were born in the UK with a UK domicile of origin, will be deemed domiciled for Income Tax, CGT and IHT purposes. Such individuals cannot claim the remittance basis.

Vehicle Benefits-In-Kind

Company Cars

Cars First Registered before 6 April 2020

g/km CO2	Electric miles	Percentage charge 2021 / 22
0	N/A	1*
1-50	>130	2
1-50	70-129	5
1-50	40-69	8
1-50	30-39	12
1-50	<30	14
51-54		15
55-59		16
60-64		17
65-69		18
70-74		19
75-79		20
80-84		21
85-89		22
90-94		23
95-99		24
100-104		25
105-109		26
110-114		27
115-119		28
120-124		29
125-129		30
130-134		31
135-139		32
140-144		33
145-149		34
150-154		35
155-159		36
160+		37

* increasing to 2% for 2022 / 23 to 2024 / 25

Cars First Registered from 6 April 2020

g/km CO2	Electric miles	Percentage charge 2021 / 22
0	N/A	1
1-50	>130	1
1-50	70-129	4
1-50	40-69	7
1-50	30-39	11
1-50	<30	13
51-54		14
55-59		15
60-64		16
65-69		17
70-74		18
75-79		19
80-84		20
85-89		21
90-94		22
95-99		23
100-104		24
105-109		25
110-114		26
115-119		27
120-124		28
125-129		29
130-134		30
135-139		31
140-144		32
145-149		33
150-154		34
155-159		35
160-164		36
165-169		37

Rates are expected to increase by another 1% for 2022 / 23, and then remain static until 2024 / 25.

NB A diesel supplement of 4% applies for all diesel cars that are not certified to the Real Driving Emissions 2 (RDE2) standard. The supplement applies to those cars propelled solely by diesel (not diesel hybrids).

Car Fuel

If any private fuel is provided, the company car % (as calculated above) is multiplied by

2020 / 21: £24,500

2021 / 22: £24,600

No benefit in kind will arise where fuel is provided for an electric car where the facilities are made available to all employees at the workplace.

Vans emitting CO2

	2020 / 21	2021 / 22
Restricted to commuting and occasional insignificant private use	NIL	NIL
Unrestricted use:		
Van benefit	£3,490	£3,500
Van fuel benefit	£666	£669

For 2020/21, 80% of the van benefit charge for vans emitting CO2 applied to zero-emission vans. 60% applied in 2019/20. From April 2021, a nil rate of tax will apply to zero-emission vans within the van benefit charge.

HMRC Approved Mileage Allowance Payments

2011/12 onwards

	Up to 10,000 miles	Over 10,000 miles
Cars and vans	45p	25p
Motorcycles	24p	24p
Pedal cycles	20p	20p
Each passenger same trip	5p	5p

Apprenticeship Levy

2020 / 21 and 2021 / 22

Levy rate (on total pay bill) - 0.5%

Annual allowance - £15,000

Levy-paying employers may transfer up to 25% of their annual Apprenticeship Levy funds to other employers.

Income Tax Reliefs and Incentives

Enterprise investment scheme (EIS) and Seed enterprise investment scheme (SEIS)

From 6 April 2021

Cash subscriptions for newly issued ordinary shares of unquoted (including AIM) trading companies satisfying certain conditions. Investors must also satisfy certain conditions.

Income tax relief for individuals only

	EIS	SEIS
Maximum investment – general	£1,000,000*	£100,000
Income tax relief	30%	50%

EIS and SEIS shares which attract income tax relief will be exempt from CGT on disposal (conditions apply). There is a facility to carry-back 100% of the investment for one year (subject to usual limits)

EIS deferral relief for individuals and certain trusts: No minimum or maximum subscription. CGT deferral on gains realised three years before and one year after subscription.

SEIS CGT reinvestment relief: 50% exemption from CGT for gains made in the tax year which are reinvested in an SEIS company, subject to certain time limits

The EIS maximum investment increases to £2,000,000 if the excess over £1,000,000 is invested in knowledge-intensive companies

Enterprise Management Incentives (EMI)

A tax-advantaged share option employee incentive scheme aimed at small entrepreneurial companies that meet certain conditions. It is designed to assist such companies in recruiting and retaining high quality employees.

EMI options can be granted over UK or overseas company shares, provided that at least one company in the relevant group has a UK permanent establishment.

There are a number of conditions to work through and detailed advice should be sought to ensure the correct tax treatment is applied, but a high level summary of tax benefits is as follows:

Employee			Employer
Grant	Exercise	Sale	
No income tax or NICs payable	Typically no income tax or NICs are payable	Typically a capital gain or loss will arise on the difference between the exercise price of the EMI options and the sales proceeds. BADR may be available subject to conditions being satisfied	The company may be entitled to a corporation tax deduction equal to the difference between the price paid for the shares and the relevant market value

Venture Capital Trusts ('VCT's)

Investments into VCTs attract income tax relief at 30% on up to £200,000 per year, and dividends and capital gains in respect of the VCT shares are tax free. The shares must be held for five years or more to retain income tax relief. Detailed conditions apply

Individual savings accounts

	2020 / 21	2021 / 22
ISA	£20,000	£20,000
Junior ISA	£9,000	£9,000

These allowances are expected to remain static until at least 5 April 2026.

Within the limits above, the Lifetime ISA allows for up to £4,000 a year to be saved towards a first home or retirement. The UK Government gives a cash bonus of up to £1,000 a year on top of the amount invested. Conditions apply.

Help to Buy ISAs were previously made available to help first-time buyers save for a house deposit. The UK Government give a 25% bonus on savings when a first home is purchased up to a maximum of £3,000. The Help to Buy ISA closed to new accounts at midnight on 30 November 2019. Individuals with accounts opened up until this point can continue saving up to £200 per month into the account until November 2029.

Gift aid and payroll giving schemes are available with no limit

Pension Contributions

	Maximum contribution from 6 April 2021
Stakeholder limit of tax relief available regardless of income	£3,600
Annual allowance*	£40,000
Lifetime allowance**	£1,073,100

Employer contributions are unlimited but trigger a charge on individual if 'total pension inputs' exceed the annual allowance. 'Total pension inputs' include both individual's contributions and employer's contributions. Statutory formulae are used to calculate deemed pension inputs and fund value for individuals who are members of occupational schemes.

* Reduced by £1 for every £2 of adjusted income over £240,000. A minimum annual allowance of £4,000 applies. An allowance of £4,000 applies if certain pension drawings have been made. It may be possible to carry forward unused allowances from previous years

** If an individual's fund exceeds the lifetime allowance at the time benefits are drawn, the excess will be subject to a tax charge at an effective rate of up to 55%. 25% if taken as income rather than a lump sum.

National Insurance Contributions

Class 1 from 6 April 2021

Employee		Employer*	
Weekly earnings	Rate	Weekly earnings	Rate
£0 - £184	nil	£0 - £170	Nil
£184 - £967	12%	Over £170	13.8%
Over £967	2%		

* Different limits apply to under 21s and apprentices

Other classes of National Insurance

Class 1A/1B 13.8%

Class 2 £3.05 weekly where profits exceed £6,515pa

Class 3 £15.40

Class 4 9% on profits between £9,568 and £50,270, and 2% above £50,270

Employment allowance

Certain employers qualify for a £4,000 reduction in the amount of NICs they pay where they paid less than £100,000 employers' NIC in the previous tax year.

Capital Gains Tax

Individuals

	2020 / 21	2021 / 22
Annual exemption	£12,300	£12,300
Main rate		
Within basic rate band	10%	10%
Above basic rate band	20%	20%
Gains on residential property and carried interest		
Within basic rate band	18%	18%
Above basic rate band	28%	28%

Trustees

	2020 / 21	2021 / 22
Exempt amount	£6,150	£6,150
Main rate	20%	20%
Gains on residential property	28%	28%
Within basic rate band	18%	18%
Above basic rate band		28%

Business Asset Disposal Relief 'BADR' (formerly known as Entrepreneurs' Relief 'ER')

BADR may be available in respect of gains on the qualifying disposal or cessation of at least part of a business, including a disposal of shares in trading companies where inter alia the vendor is an employee of the company and holds at least 5% of the shares and voting rights, and is either beneficially entitled to at least 5% of the profits available for distribution and to at least 5% of the assets on a winding up, or would be entitled to at least 5% of the proceeds in the event of a disposal of the whole share capital of the company.

Different rules apply where the shares were acquired under an Enterprise Management Incentive Scheme. A CGT flat rate of 10% applies. Assets must have been owned for at least two years. With effect for disposals taking place on or after 11 March 2020, the lifetime limit for gains qualifying for BADR/ER relief has been reduced from £10 million to £1 million.

Investors' Relief (IR)

IR may be available in respect of gains made by non-employee/director shareholders on the disposal of qualifying shares. A flat rate of 10% applies. Assets must have been owned for at least three years to qualify for the relief and there is a lifetime limit of £10 million on the gains for which relief can be claimed.

Inheritance tax (IHT)

	2020 / 21	2021 / 22
Nil rate band*	£325,000	£325,000
Additional residence nil rate band*	£175,000	£175,000
Tax rate above nil rate band (on death)	40%**	40%**
Lifetime gifts		

Gifts to individuals and certain trusts for children and disabled people are potentially exempt transfers. If the donor survives seven years, the transfers are completely exempt.

Tax charges on gifts within seven years of death are as follows:

Years before death	**0-3**	**3-4**	**4-5**	**5-6**	**6-7**
% of death rates	**100**	**80**	**60**	**40**	**20**

Chargeable lifetime gifts above the available nil rate band are taxed at 20%.

Other exemptions:

- Transfers to spouses/civil partners where either both are UK domiciled, both are non-UK domiciled, or the recipient spouse is UK domiciled
- Certain gifts out of income
- Small gifts: £250 per done
- Annual gifts: £3,000 per donor
- In consideration of marriage: parent £5,000; grandparent, remoter ancestor or party to marriage £2,500; other £1,000
- Normal expenditure out of income: Unlimited
- Gifts to charities or political parties: Unlimited

* A surviving spouse/civil partner is entitled to any unused nil rate band/additional residence nil rate band of their deceased spouse/civil partner.

There is a tapered reduction in the residence nil rate band for estates with a value in excess of £2 million, of £1 for every £2 over the £2 million limit.

The spousal exemption is limited to £325,000 where the transfer is to a non-UK domiciled spouse who does not elect to be treated as UK domiciled.

An individual will become deemed domiciled in the UK for IHT purposes where they have been resident for 15 of the last 20 years (e.g. from 2006-07).

** 36% where 10% or more of the deceased's net estate is left to charity

Main IHT reliefs

Business property relief - reduction in value transferred

Whole or part of business - 100%

Unquoted shares, including shares listed on the Alternative Investment Market (AIM) - 100%

Quoted shares giving control of the company - 50%

Land or buildings, machinery or plant used wholly or mainly for the purposes of the business carried on by a company or partnership – 50%

Land or buildings, machinery or plant available under a life interest and used in a business carried on by the beneficiary – 50%

Agricultural property relief - reduction in value transferred

Working farmer and property let on tenancies starting after 31 August 1995 - 100%

All other qualifying cases - 50%

Capital Allowances

Allowance	2020 / 21	2021 / 22
Annual investment allowance (AIA) - available to all businesses for general plant and machinery and integral features (not structures and buildings and not cars).	100%	100%
AIA annual limit From 1-Jan-16 £200,000 From 1-Jan-19 £1,000,000 From 1-Jan-21 £200,000		
Writing down allowance (WDA) Assets are pooled together. Short life assets (assets with an expected useful life of less than eight years) can be pooled separately. Such that balancing allowances can be claimed where assets disposed of within the limits, giving relief on full value of short life assets by disposal date	18% on reducing balance	18% on reducing balance
WDA - integral features and Long life assets Assets are pooled together. Integral features include: lifts; escalators; central heating systems; air conditioning systems; electrical lighting; power and water systems. Long life assets have a useful economic life of 25 years.	6% on reducing balance	6% on reducing balance
Structures and buildings allowance	3% straight line	3% straight line

100% initial allowances are available for certain energy saving technology in defined Enterprise Zones, certain low CO2 emission cars and research and development capital expenditure.

Tax relief for qualifying research & development (R&D)

Small and medium size enterprises ('SME's) incurring qualifying R&D expenditure are able to claim relief for 230% of the qualifying R&D expenditure incurred in a period. The R&D tax credits regime allows SMEs with trading losses to surrender all or part of that loss to the UK Government in return for a tax refund. For accounting periods beginning on or after 1 April 2021, the amount of SME payable R&D tax credit that a company can receive in any one year will be capped at £20,000 plus three times the company's total PAYE and national insurance contributions liability.

Relief is available to large companies by way of an R&D expenditure credit ('RDEC'). Under RDEC, a company can claim a 13% tax credit (12% for R&D expenditure incurred before 1 April 2020) on R&D spend. The RDEC is itself taxable and so there is an effective tax saving of up to 10.5% of the qualifying expenditure (9.7% before April 2020).

The work qualifying for relief must be part of a specific project to make an advance in science or technology.

Value Added Tax

VAT Standard rate – 20%

Reduced rate (applying to specific categories of goods and services) – 5%

Zero rate (applying to most food and children's clothes) – 0%

Turnover thresholds	From 1 April 2020	From 1 April 2021
Registration	£85,000	£85,000
De-registration	£83,000	£83,000
Cash accounting	£1,350,000	£1,350,000
Annual accounting	£1,350,000	£1,350,000
Flat rate scheme	£150,000	£150,000

These thresholds are expected to remain unchanged until at least 31 March 2024.

A temporary 5% reduced rate of VAT applies for certain supplies of hospitality, hotel and holiday accommodation, and admissions to certain attractions with effect from 15 July 2020 to 30 September 2021, with a 12.5% rate applying between 1 October 2021 and 31 March 2022. The temporary reduction applies to the following supplies:

- food and non-alcoholic beverages sold for on-premises consumption, for example, in restaurants, cafes and pubs
- hot takeaway food and hot takeaway non-alcoholic beverages
- sleeping accommodation in hotels or similar establishments, holiday accommodation, pitch fees for caravans and tents, and associated facilities
- admissions to the following attractions that are not already eligible for the cultural VAT exemption such as:
  - theatres
  - circuses
  - fairs
  - amusement parks
  - concerts
  - museums
  - zoos
  - cinemas
  - exhibitions
  - similar cultural events and facilities

VAT on Fuel Benefits

VAT fuel scale charges for month periods

Accounting periods beginning on or after: 1 May 2020

CO2 emissions figure	12 month VAT period	3 month VAT period	1 month VAT period
120 or less	£581	£144	£48
125	£870	£218	£72
130	£930	£231	£76
135	£986	£246	£81
140	£1,047	£261	£87
145	£1,103	£275	£91
150	£1,163	£290	£96
155	£1,219	£305	£101
160	£1,279	£319	£106
165	£1,335	£334	£111
170	£1,396	£348	£115
175	£1,452	£362	£120
180	£1,512	£377	£125
185	£1,568	£392	£130
190	£1,628	£406	£135
195	£1,684	£421	£140
200	£1,745	£436	£144
205	£1,801	£450	£149
210	£1,861	£464	£154
215	£1,917	£479	£159
220	£1,977	£493	£164
225 or more	£2,033	£508	£168

Note: VAT is payable on these scale charges at the rate applicable at the time the charge is due.

Insurance Premium Tax

	2020 / 21	2021 / 22
Standard rate	12%	12%
Higher rate	20%	20%

The higher rate applies to sales of motor cars, light vans and motorcycles, electrical or mechanical domestic appliances, and travel insurance.

Corporation Tax

	2020 / 21	2021 / 22
Main rate	19%	19%
Special rate for unit trtusts and open-ended investment companies	20%	20%
Ring fence profits		
Main rate	30%	30%
Small profits rate	19%	19%
Restitution interest payments (1)	45%	45%
Diverted profits (2)	25%	25%
Digital Services Tax (3)	2%	-

Notes:

1. charged on restitution interest paid by HMRC arising from a mistake of law with effect from 21 October 2015
2. paid by companies that have entered into arrangements that divert profits from the UK with effect from 1 April 2015
3. Additional tax on revenues over £25m earned from UK users. Only payable by social media services, search engines or online marketplaces where their group worldwide revenues exceed £500m. Payable as well as the main rate.

Stamp Taxes

Stamp Duty

Stamp Duty is charged at the rate of 0.5% on the transfer of shares valued at greater than £1,000.

Stamp Duty Land Tax (SDLT)

SDLT is charged on a progressive basis on the transfer of UK property (excluding Scotland and Wales), and on most lease premiums according to the value of the consideration and the use.

SDLT on UK property

Rate[1]	Residential bands[2]	Rate	Non-Residential bands
0%	£0 - £125,000	0%	£0 - £150,000
2%	£125,001 - £250,000	2%	£150,001 - £250,000
5% (3)	£250,001 - £925,000	5%	Over £250,000
10% (3)	£925,001 - £1,500,000		
12% (3)	Over £1,500,000		

Notes:

1. No SDLT is payable on the first £300,000 of certain purchases of up to £500,000 by first time buyers buying their main residence. SDLT is payable at 5% on consideration in excess of £300,000. An additional 3% supplement applies to all rates where a second property is purchased which does not replace a main residence, and for which consideration exceeds £40,000. With effect from 1 April 2021 non-residents purchasing UK residential property in England and Northern Ireland will be subject to an additional 2% surcharge
2. Reduced rates were introduced to for residential purchases made from 8 July 2020 and will continue until 30 September 2021. Until 30 June 2021, the rate on the first £500,000 will be 0%, 5% on the next £425,000, and standard rates thereafter. From 1 July to 30 September 2021, a 0% rate will apply to the first £250,000 of expenditure, 5% on the next £675,000, and standard rates thereafter. The additional rates for purchases of additional residential properties and purchases by non residents still apply within the first £500,000 / £250,000 / £125,000. From 1 October 2021, the standard rates will apply. Qualifying purchases in freeport tax sites will be eligible for full SDLT relief. The special rules for first time buyers were replaced by the reduced rates set out above during the period to 30 September 2021.
3. Properties acquired by non-natural persons (i.e. company) from 1 April 2016 for a non-qualifying purpose will be subject to 15% SDLT for properties costing > £500,000. Relief may be claimed in limited circumstances.

SDLT on leases in the UK (except Scotland and Wales)

The SDLT charge on leases is calculated as 1% of the net present value (NPV) of the rent due in respect of the lease, less any exemption.

The NPV of a lease is calculated by taking the total rent payable over the life of the lease and discounting it by 3.5% a year.

Residential leases (based on NPV)	Rate [1]	Mixed Use (based on NPV)	Rate
Up to £125,000	0%	Up to £150,000	0%
Excess over £125,000	1%	£150,001 - £5m	1%
		Excess over £5m	2%

Notes: (1) The nil rate band applying to the NPV of any rents payable for residential property increased to £500,000 from 8 July 2020 until 31 March 2021.

Land and Buildings Transaction Tax (LBTT)

LBTT applies to properties in Scotland. It is charged on the transfer of Scottish property and on most lease premiums and, like SDLT, applies on a progressive basis. The rates of LBTT for residential property range from 0 to 12%, with the 12% applying to consideration over £750,000 as opposed to over £1.5m for SDLT. LBTT is also applied progressively. An additional 4% charge applies to purchases of residential properties which will not be used as the purchaser's main residence. Reduced rates were introduced for residential purchases made from 15 July 2020 with a rate of 0% on the first £250,000 of expenditure, and continued until 31 March 2021.

For non-residential or 'mixed' property, SDLT applies at rates ranging from 0% to 5% on a block basis. Non-residential property transactions in Scotland are subject to LBTT rather than SDLT.

In Scotland the rates are as follows:

Purchase price	LBTT rate
Up to £150,000	0%
Above £150,000 to £250,000	1%
Above £250,000	5%

If the consideration is above the upper amount of the nil rate band, LBTT is charged at the appropriate rate on the amount of the chargeable consideration within that band. For example, an office bought for £465,000 is charged at:

- 0% for the first £150,000;
- 1% for the next £100,000;
- 5% for the remaining £215,000;

So, £11,750 must be paid in LBTT

Land Transaction Tax (LTT)

LTT applies to properties in Wales. It is charged on the transfer of Welsh property and on most lease premiums and, like SDLT, applies on a progressive basis. Rates and thresholds differ from SDLT, and specialist advice should be sought when buying a property in Wales.

Annual Tax on Enveloped Dwellings (ATED)

Annual tax payable by companies or collective investment vehicles (and partnerships where a partner is a company) on high value residential property. Reliefs may be claimed in certain circumstances.

Property value(1)	2020 / 21	2021 / 22
£500,000 to £1,000,000	£3,700	£3,700
£1,000,001 to £2,000,000	£7,500	£7,500
£2,000,001 to £5,000,000	£25,200	£25,300
£5,000,001 to £10,000,000	£58,850	£59,100
£10,000,001 to £20,000,000	£118,050	£118,600
Over £20,000,000	£236,250	£237,400

Notes: (1) As at 1 April 2017, or at acquisition if later

Landfill Tax in the UK (except Scotland and Wales)

Landfill Tax applies in England and Northern Ireland

	From 1 April 2021	From 1 April 2022
Standard rate	£96.70/tonne	£98.60/tonne
Lower rate	£3.10/tonne	£3.15/tonne

Scottish Landfill Tax

Scottish Landfill Tax applies in Scotland at the same rates as in England and Northern Ireland.

Landfill Disposal Tax (LDT)

LDT applies in Wales

	From 1 April 2021
Standard rate	£96.70/tonne
Lower rate	£3.10/tonne
Unauthorised disposals rate	£145.05/tonne

Air Passenger Duty Rates

Band and approximate journey in miles from the UK	In the lowest class of travel (reduced rate)		In other than the lowest class of travel (standard rate) (2)		First class travel (higher rate) (3)	
	From 1 April 2021	From 1 April 2022	From 1 April 2021	From 1 April 2022	From 1 April 2021	From 1 April 2022
Band A (0 – 2,000 miles) (1)	£13	£13	£26	£26	£78	£78
Band B (over 2,000 miles)	£82	£84	£180	£185	£541	£554

Notes:

1. From January 2013 the rate for direct long-haul flights from Northern Ireland was devolved and set to zero by the Northern Ireland Executive.
2. If a class of travel provides a seat pitch in excess of 1.016 metres (40 inches) the standard rate is the minimum rate that applies, even if it is the lowest or only class of travel.
3. The higher rate applies to flights on aircraft of 20 tonnes and above, with fewer than 19 seats.

Band A destinations are:

- all countries in the EU and EEA including Corsica, Gibraltar, Madeira, Sicily, Svalbard, The Azores, The Balearic Islands, The Canary Islands and Western Sahara
- non-EU countries – Morocco, Libya, Algeria, Tunisia
- independent regions – the Channel Islands, Isle of Man
- non-EU countries – Albania, Andorra, Switzerland, North Macedonia, Turkey, Ukraine, Russian Federation (west of the Urals only), Greenland, Faroe Islands, San Marino, Serbia, Republic of Moldova, Monaco, Montenegro, Bosnia and Herzegovina, Belarus, Kosovo

Any other destination falls into band B.

Plastic packaging tax in the UK

Aplastic packaging tax of £200 per tonne for plastic packaging with less than 30% recycled plastic content will apply from 1 April 2022. There will be a de minimis threshold of 10 tonnes of plastic packaging per 12 months, though for the first year this will be calculated differently.

Appendix 2: List of treaty and non-treaty withholding tax rates

The table set out below details the withholding tax rates applicable to the most common payments of dividends, interest and royalties under UK domestic law (if any) and the lower treaty rates that may be applicable provided there is a double tax treaty ('DTT') between the UK and the relevant country. Where a DTT rate is higher than the domestic rate, the domestic rate applies.

The table below is for general guidance only and, where a DTT rate is to be relied upon, the most up-to-date version of the specific DTT must be reviewed along with the potential impact of the Multilateral Instrument ('MLI').

Brexit

Prior to 1 January 2021 under EU Directives and, provided the appropriate conditions were satisfied, EU member states were not required to apply WHT on intra-EU cross-border payments of intra-group interest and royalties, and dividends paid by a subsidiary company to its foreign EU parent. These Directives continued to apply throughout the Transition Period, however, now that this has ended certain payments between UK and EU resident associated companies will be subject to withholding taxes.

The applicable rates will vary depending on the domestic legislation of the territories concerned and the relevant double tax agreements between the UK and each individual EU member state. Whilst the UK has an extensive DTT network, in some cases the DTT won't reduce the WHT rate to nil (as under the Directives) and there may be further compliance obligations in securing clearances to apply the treaty rates. As such, post-Brexit where a payment of interest, royalties or dividends is being made to or from a UK entity to an EU based entity it is essential to review the relevant DTT to determine whether any withholding tax obligations arise.

Dividends

Regardless of the residence of the recipient, there is no UK withholding tax on UK sourced dividends. This is the UK domestic position and therefore applies regardless of the terms of any applicable DTT.

Interest

A 20% UK WHT typically applies to UK sourced annual interest payments regardless of the recipient's residence status, however interest payments made by a UK resident company can be exempt from the WHT requirement provided the recipient is chargeable to UK tax on the interest.

Some financial institutions (including banks) can often make such payments to non-residents free of UK WHT and some of the UK's DTT's contain provisions to exempt interest payments made to governmental and quasi-governmental lenders from UK WHT.

Where the DTT provides relief it is imperative that HMRC has given authorisation for the payment to be made gross or with the reduced rate of WHT prior to the payment being made. Otherwise, a payment of interest must be made after the deduction of WHT.

Royalties

Royalties can be complex as there are many different types to consider. UK WHT is generally due on UK sourced patent, copyright and design royalties however there can be some definitional uncertainties and a wider range of royalties are often eligible for a reduced WHT rate under most DTT's. Similar to interest, royalty payments made by a UK resident company can be exempt from the WHT requirement provided the recipient is chargeable to UK tax on the royalties and some types of royalties (such as film and equipment royalties) are exempt from the WHT requirement entirely.

Unlike interest, a royalty payment can be made gross or with the reduced rate of WHT without HMRC's prior approval provided, at the point of payment, if it is reasonable to believe that the payee is entitled to relief under the treaty. However, if that belief is later found to be incorrect, HMRC can demand the payment is made net, the WHT paid over to HMRC and penalties and/or interest may be applied, even if the belief was reasonable.

Other

It is important to note that there are a number of additional UK withholding tax obligations in respect of certain payments which are not covered here. For example, non-UK resident landlords (individuals and corporates) with UK sourced rental income will find that their letting agent or tenants are required to withhold UK tax at 20% from their rental payments unless the landlord has been granted permission to receive rents gross under the Non-Resident Landlord scheme. There are similar UK withholding tax obligations for unregistered subcontractors working on large construction projects, and for non-resident entertainers and sportspeople performing in the UK.

Non-UK tax residents

	UK WHT (%)	
	Interest	Royalties
Non-treaty territories	20	20
Treaty Terriories		
Albania	6	0
Algeria	7	10
Antigua and Barbuda	20	0
Argentina	12	3/5/10/15 (1)
Armenia	5	5
Australia	0/10 (2)	5
Austria	0	0
Azerbaijan	10	5/10 (4)
Bahrain	0/20 (7)	0
Bangladesh	7.5/10 (2)	10
Barbados	0	0
Belarus	5	5

	UK WHT (%)	
Treaty Terriories - *continued*		
Belgium	0/10 (5)	0
Belize	20	0
Bolivia	15	15
Bosnia-Herzegovina	10	10
Botswana	10	10
British Virgin Islands	20	20
Brunei	20	0
Bulgaria	0/5 (7)	5
Canada	0/10 (7)	0/10 (4, 6)
Cayman Islands	20	20
Channel Islands:		
Guernsey (includes Alderney and Hern)	0/20 (7)	0/20 (7)
Jersey	0/20 (7)	0/20 (7)
Chile	4/5/10 (2)	2/10 (6)

continued...

	UK WHT (%)	
China (excludes Hong Kong)	10	6/10/20 (4, 8)
Colombia	10	10
Croatia	0/5 (7)	5
Cyprus	0	0
Czech Republic	0	0/10 (11)
Denmark	0	0
Egypt	15	15
Estonia	0/10 (2)	0
Ethiopia	5	7.5
Falkland Islands	0	0
Faroes	0	0
Fiji	10	0/15 (4)
Finland	0	0
France	0	0
Gambia	15	12.5
Georgia	0	0
Germany	0	0
Ghana	12.5	12.5
Gibraltar	0/20 (7)	0/20 (7)
Greece	0	0
Grenada	20	0
Guyana	15	10
Hong Kong	0	3
Hungary	0	0
Iceland	0	0/5 (11)
India	10/15(2)	10/15 (6)
Indonesia	10	10/15/20 (7, 8)
Ireland, Republic of	0	0
Isle of Man	0/20 (7)	0/20 (7)

	UK WHT (%)	
Israel	5/10 (2)	0
Italy	0/10 (6)	8
Ivory Coast (Côte d'Ivoire)	15	10
Jamaica	12.5	10
Japan	0/10 (10)	0
Jordan	10	10
Kazakhstan	10	10
Kenya	15	15
Kiribati	20	0
South Korea (Republic of Korea)	10	2/10 (8)
Kosovo	0	0
Kuwait	0	10
Kyrgyzstan (not yet in force)	5	5
Latvia	10	5/10 (8)
Lesotho	10	7.5
Libya	0	0
Liechtenstein	0	0
Lithuania	0/10 (7)	5/10 (8)
Luxembourg	0	5
Macedonia	0/10 (5)	0
Malawi	0/20 (3)	0/20 (3)
Malaysia	10	8
Malta	10	10
Mauritius	20	15
Mexico	5/10/15(7)	10
Moldova	5	5
Mongolia	7/10(2)	5
Montenegro	10	10
Montserrat	20	0

continued...

	UK WHT (%)	
Morocco	10	10
Myanmar	20	0
Namibia	20	0/5 (4)
Netherlands	0	0
New Zealand	10	10
Nigeria	12.5	12.5
Norway	0	0
Oman	0	8
Pakistan	15	12.5
Panama	0/5/20 (7)	5
Papua New Guinea	10	10
Philippines	10/15 (7)	15/20 (9)
Poland	0/5 (2)	5
Portugal	10	5
Qatar	0/20 (7)	5
Romania	10	10/15 (4)
Russian Federation	0	0
St. Kitts and Nevis (St. Christopher and Nevis)	20	0
Saudi Arabia	0	5/8 (8)
Senegal	10	6/10 (8)
Serbia	10	10
Sierra Leone	20	0
Singapore	0/5 (2)	8
Slovak Republic	0	0/10 (4)
Slovenia	0/5 (7)	5
Solomon Islands	20	0
South Africa	0	0
Spain	0	0
Sri Lanka	10	0/10 (9)
Sudan	15	10

	UK WHT (%)	
Swaziland	20	0
Sweden	0	0
Switzerland	0	0
Taiwan	10	10
Tajikistan	10	7
Thailand	20	5/15 (9)
Trinidad and Tobago	10	0/10 (9)
Tunisia	10/12 (2)	15
Turkey (excludes North Cyprus)	15	10
Turkmenistan	10	10
Tuvalu	20	0
Uganda	15	15
Ukraine	5	5
United Arab Emirates	0/20 (7)	0
United States	0/15 (11)	0
Uruguay	10	10
Uzbekistan	5	5
Venezuela	5	5/7 (7)
Vietnam	10	10
Zambia	10	5
Zimbabwe	10	10

Notes:

1. 3% news; 5% copyright; 10% industrial; 15% other royalties.
2. Lower rate for loans from banks and financial institutions.
3. Higher rate if recipient controls > 50% of payer.
4. Lower rate on copyright royalty payments.
5. 0% on loans between businesses.
6. Lower rate on industrial, commercial royalty payments.
7. Specific conditions apply to qualify for lower rate – check relevant treaty.
8. Lower rate applies for equipment royalty payments.
9. Lower rate on films, TV, and radio.
10. Higher rate on certain profit related interest.
11. Specific conditions on higher rate.

Appendix 3: Useful websites

Government

Government services and information **www.gov.uk**

Department for Business, Energy & Industrial Strategy **www.gov.uk/beis**

Department for International Trade **www.gov.uk/dit**

Department for Environment, Food and Rural Affairs **www.gov.uk/defra**

UK Intellectual Property Office **www.ipo.gov.uk**

Health & Safety Executive **www.hse.gov.uk**

Information Commissioner **http://ico.org.uk**

Land Registry **www.landregistry.gov.uk**

Competition & Markets Authority **www.gov.uk/cma**

National Statistics Online **www.ons.gov.uk**

UK Visas and Immigration **www.gov.uk/ukvi**

Taxation

HM Revenue & Customs **www.hmrc.gov.uk**

Chartered Institute of Taxation **www.tax.org.uk**

Other

Bank of England **www.bankofengland.co.uk**

Companies House **www.companieshouse.gov.uk**

Financial Conduct Authority **www.fca.org.uk**

London Stock Exchange **www.londonstockexchange.com**

British Chambers of Commerce **www.britishchambers.org.uk**

British Standards Institute **www.bsigroup.co.uk/en**

Copyright registration service **www.copyrightregistrationservice.com**

Patent and trademark attorneys **www.cipa.org.uk**

The Association of British Insurers **www.abi.org.uk**

Chartered Insurance Brokers directory **www.cii.co.uk**

The Law Society (for England and Wales) **www.lawsociety.org.uk**

The Law Society of Scotland **www.lawscot.org.uk**

The Institute of Chartered Accountants in England and Wales **www.icaew.com**

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right people
right size
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