PKF

Accountants &
business advisers

DOING BUSINESS IN THE UK

2011

ABOUT PKF

PKF (UK) LLP is one of the UK's leading firms of accountants and business advisers and specialises in advising the management of developing private and public businesses. We pride ourselves on creating and sustaining supportive relationships where objective and timely advice enables our clients to thrive and develop.

Our clients benefit from an integrated approach based on understanding the key issues facing small and medium-sized businesses. This enables us to meet their needs at each stage of development and allows them to focus on building the value of their businesses.

The principal services we provide include assurance and advisory; consultancy; corporate finance; corporate recovery and insolvency; forensic and taxation. We also offer financial services through our FSA authorised company, PKF Financial Planning Limited.

We have particular expertise in the following sectors:

- Hotel consultancy
- Medical
- Mining & resource
- Not-for-profit
- Pensions
- Professional practices
- Public sector
- Real estate & construction.

We have more than 1,500 partners and staff operating from offices around the country. Wherever you do business, we can offer you local expertise backed up by the resources of a national firm.

PKF (UK) LLP is a member firm of the PKF International Limited network of legally independent firms. Our membership means that we can, through collaboration with other member firms, offer sound advice on a range of international issues. Worldwide, the member firms have around 22,000 people working out of 440 locations in 125 countries, and an overall turnover of approximately US$2.6 billion.

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FOREWORD

If you are considering doing business in the UK, whether it is setting up a factory and distribution network or just selling goods over the internet, then this is the best place to start your research.

This concise guide leads you through everything from the complexities of personal and corporate taxation to the government assistance available to new businesses. It does not aim to be comprehensive in tackling such a varied and complex subject. Rather, it is intended to help focus your research on the key issues that will affect your plans.

Your next step should be talking to us. We have long experience of giving businesses a helping hand. As one of the leading firms 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 based on a broad range of business sector expertise. We specialise in advising growing and entrepreneurial/owner-managed businesses, AIM and Main Market companies and also have extensive experience in the public and not-for-profit sectors. We pride ourselves on offering regional knowledge combined with the resources and expertise of a national firm. Our aim is to work closely with our clients to understand their goals and so help to achieve them.

We recognise that when conducting business around the world, our clients expect the same high level of service that they enjoy from PKF in the UK. PKF (UK) LLP is the UK member firm of the PKF International Limited network of legally independent firms. Our membership means that we are ideally placed to service your needs, working with other member firms of the PKF International network, wherever they are, as necessary, to offer sound advice on a range of issues.

Despite the movements in the world economy, the UK remains a stable and attractive place to do business, and offers a highly effective staging post from which to expand into Europe and beyond. With our assistance, even those not familiar with the way business is conducted and regulated in the UK can gain access to substantial and highly developed markets.

We look forward to working with you.

Martin Goodchild
Managing Partner, PKF (UK) LLP

introduction

TOP 10 TIPS FOR DOING BUSINESS IN THE UK

1 Choose the most appropriate vehicle for the present needs of your business allowing for expected growth and taking into account all commercial and financial implications including taxation. Ensure that exit – in the case of either success or failure – can be achieved cost-effectively.

2 If you are coming from overseas, don't bring assets and people into the UK unless they are essential and you have fully considered all the consequences of doing so well in advance.

3 Don't add companies to the corporate group unless they actually make a positive contribution to the group.

4 Take good professional advice, it is cheaper in the long run.

5 All significant commercial decisions should be tested by reference to the net-of-tax effect in the country of residence of the parent company or ultimate owner.

6 When considering the tax benefits of the location of assets and operations, do not forget grants and other state aid that may be available even though competition for them is fierce and they tend to have shorter lives than taxes on profits.

7 Understand the difference between residence in and domicile within the UK – it can make a significant difference to your tax liabilities and those of your employees.

8 Understand the differences between the UK and its offshore islands: Guernsey, Jersey and the Isle of Man.

9 With the rapid growth of e-functions and automated goods handling, the need for local representation may be more limited than in the past. This may offer considerable cost and tax savings.

10 Everything takes longer than you hope: be realistic when setting timetables.

PEOPLE, POLITICS AND ECONOMY

The United Kingdom of Great Britain and Northern Ireland (more usually referred to as the United Kingdom or 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 242,500km^2. Its population in 2009 was 61.8 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.

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, since 1952 Queen Elizabeth II (for more information see **www.royal.gov.uk**), although this is a largely ceremonial role.

Parliament is at the very heart of the UK's political system (see **www.parliament.uk**). It is the supreme legislative body and 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 (MPs), elected in general elections held at least once every five years and using the first-past-the-post voting system. A coalition government was formed following the Parliamentary elections on 6 May 2010. The Government pledged in its coalition agreement to introduce fixed 5 year term parliaments. The House of Lords comprises a mixture of hereditary and appointed members.

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. David Cameron was appointed Prime Minister in May 2010 as the head of a coalition Conservative/Liberal Democrat government. The Prime Minister selects the other ministers who make up the Government.

Although government in the UK has traditionally been very centralised, there has been a recent move towards devolution. As a result, Scotland now has its own parliament, Wales has the Welsh Assembly Government and Northern Ireland has the Northern Ireland Assembly. Members of these bodies are elected by a form of proportional representation.

While the Scottish Parliament has the power to legislate, the Welsh Assembly only has the power to spend the budget allocated to it.

The UK is one of the four largest economies in Europe, alongside France, Germany and Italy. There has been a trend over the last 20 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.

The UK joined the European Union (EU) – then known as the European Economic Community – in 1973. The EU is now established as 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.

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.

Financial services

Businesses offering financial services are subject to a regulatory system established by the Financial Services and Markets Act 2000 (FSMA). This Act set up a 'single regulator' for the financial services industry, the Financial Services Authority (FSA). The types of business that are within the scope of the FSA are quite diverse and are being increased. They include:

- investment businesses
- credit unions
- banks
- building societies
- friendly societies
- general insurance
- long-term insurance
- mortgage lending
- insurance intermediaries such as brokers.

Certain activities are 'regulated'. Under FSMA, firms that carry out such activities must be regulated by the FSA or be eligible for an exemption. Operating unregulated is a criminal offence. Other firms will not be allowed to accept their business and, unless they are authorised or exempt, any contract they enter into may be unenforceable.

The FSA ensures that firms satisfy the necessary criteria (in relation to status, location, close links, adequacy of resources and suitability) before it gives them permission to carry on a regulated activity. The FSA must also be satisfied that persons applying to carry on controlled functions are fit and proper (that is, they meet honesty, competence and financial soundness criteria).

Regulation of investment firms

The FSA currently regulates investment firms ranging from global fund management operations, investment banks, large UK stockbrokers and major networks of independent financial advisers to the smallest corporate finance operations and one-person financial advisers. It also regulates many professional firms (e.g. lawyers and accountants) which carry on mainstream investment business such as advice on investment products.

Supervision of deposit takers

The FSA also currently supervises the prudential (essentially the financial) soundness of banks and building societies. Supervision is primarily to protect depositors (mainly individuals and companies) but indirectly affects the interests of shareholders in banks since they benefit from increased confidence in the banking system.

For those banks or building societies that also conduct investment business (e.g. advising the public on pensions, life insurance, etc.) the FSA also regulates this investment type activity.

Supervision of insurance firms

When supervising insurance firms the FSA:

- undertakes prudential supervision of all insurers
- undertakes conduct of business regulation for those life insurers and friendly societies undertaking investment business
- supervises certain aspects of the Lloyds's insurance market.

Supervision of markets and exchanges

As part of its function the FSA is responsible for overseeing the UK investment markets.

This includes:

- supervision of exchanges, clearing and settlement houses and other market infrastructure providers
- conducting market surveillance and transaction monitoring.

A division within the FSA (called the UK Listing Authority or UKLA) reviews and approves all listing particulars, prospectuses and other related documentation which companies put together to have their shares admitted to the London Stock Exchange. The UKLA also approves certain other documents prepared by listed companies, such as acquisition and disposal circulars. The UK Government intends to overhaul the regulation of financial services in the UK and new rules are likely to take effect in 2012. The current proposed changes will see the FSA being renamed as the Financial Conduct Authority (FCA). Although some of its existing remit will transfer to a new Prudential Regulation Authority under the control of the Bank of England, the new FCA will retain responsibility for consumer protection, the integrity of the UK financial system (its soundness, stability and resilience) and promoting efficiency and choice in the market.

Money laundering

The Proceeds of Crime Act 2002 (POCA) came into force in February 2003 and was supplemented by the Money Laundering Regulations 2007, which gave effect in the UK to the EU's Third Money Laundering Directive. Whereas previously money laundering related to the proceeds of drug trafficking and terrorism, it now extends 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.

The regulated sector required to disclose knowledge or suspicion of money laundering to the law enforcement agencies has also been widened. In addition to banking, financial services, life insurance, bureaux de change and other money service businesses, it now includes 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.

Although the reporting requirements under POCA are restricted to the regulated sector, the main provisions apply generally. The main offences under POCA are those relating to:

i. concealing, disguising, converting, transferring or removing (from the UK) criminal property
ii. entering into or becoming concerned in an arrangement which facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person the acquisition, use and possession of criminal property.
iii. the aquisition, use and possession of criminal property. It is now 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 on-going monitoring where applicable.
- Keep records of the proof of identity for at least five years after the end of each business relationship.
- Introduce effective money laundering training programmes for staff, and internal controls and procedures to prevent money laundering.
- Introduce 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 (MLRO).

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 anti-corruption regulations that affect individuals and all businesses which are either incorporated or carry on business in the UK. The Act introduces 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.

Employers are encouraged to put clear guidelines in place for employees stating that bribery is unacceptable and how allegations of bribery will be dealt with. If an organisation can demonstrate that it has put adequate procedures in place to prevent bribery, it can defend itself against allegations that an offence has occurred. Such procedures might include:

- financial and commercial controls such as adequate bookkeeping, auditing and approval of expenditure
- an internal, well publicised, anti-corruption code of conduct
- the appointment of an individual responsible for bribery and corruption issues
- risk assessment procedures relating to internal corruption
- terms within employment contracts giving the employer powers to investigate claims of bribery and setting out potential disciplinary sanctions
- whistle-blowing procedures to enable employees to report suspicions of bribery
- internal training on the organisation's policies and procedures and their application.

The two areas which 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 of indictment, individuals can be subject to a maximum penalty of ten years' imprisonment and an unlimited fine.

Data protection

The storage of personal data on computer or in an organised manual filing system is subject to the Data Protection Act 1998. A business involved in processing such personal data must register with the Information Commissioner.

When processing data it is necessary that individuals give their consent and that the processing be for a necessary purpose, for example in connection with performance

of a contract or to protect the vital interests of the individual. The business must have safeguards to prevent unlawful or unauthorised processing of data and its loss or destruction.

Competition

Competition law is effected through both UK and European law. It is designed to maintain a competitive economy by controlling the ability of companies to operate through a monopoly in their respective areas. The Government's determination to crack down on anti-competitive practices has been confirmed in recent years and further legislation in this area can be expected.

CURRENCY AND COMMON FINANCIAL INSTRUMENTS

The UK has a highly sophisticated banking and financial services system and there are numerous financial instruments available for those wishing to raise funds or manage financial risks.

A current account is used by a business to manage its finances and this facility can be opened with any bank, subject to the requirements of POCA and the Money Laundering Regulations 2007 (see money laundering section above).

Banks and other financial institutions offer opportunities for investment in the form of bank deposits or investment accounts. These range in the length of commitment required from deposit accounts accessible 'on demand', to fixed-term accounts of several years. The majority of individual retail transactions take place either in cash or by credit or debit card, with cheque payments on the decline.

Business finance is mainly sourced from the financial institutions and most frequently takes the form either of an overdraft or a term loan, fixed for an agreed period and on specified terms. Security is often required by the lending institution with a charge being taken over one or more of the company's assets. Depending upon the company's risk profile and credit rating, personal guarantees may be also required.

An overdraft facility may be negotiated on current accounts, although security may be required as with loans. Overdrafts are usually repayable on demand.

Bonds can be both a vehicle for investment and a source of long-term finance, with either fixed or floating interest rates. Government bonds are UK securities traded on the London Stock Exchange and are solely investment opportunities. Companies issue bonds, pay interest at regular intervals and repay capital on redemption. Such bonds may also carry a right for conversion into the ordinary shares of the company.

Businesses starting out often do not wish to incur large initial capital expenditure and therefore hire-purchase (HP) and leasing are widely used methods of acquiring assets. With HP transactions, the finance company purchases the goods but the lessee (the buyer business) is able to use them in return for regular payments. Legal title to the goods remains with the HP company until all payments have been made, when it transfers to the lessee. Leasing is very similar, except that the lessee does not necessarily become the legal owner.

The management of cashflow in a trading business can be assisted by debt factoring. The provision of finance is the most widely used service although factor companies also provide credit insurance and administration of the sales ledger. The general principle is that the supplier company sells the right to receive the invoice amount to the factor in return for a percentage of the face value of the debt, receivable immediately. The full debt is later collected by either the factor or the supplier. Costs and the percentage paid will vary depending upon the nature of the trade debtors.

Other financial instruments, traded on stock exchanges and often highly complex in their operation, are widely available in the UK. Futures contracts, for instance, are agreements between two parties to undertake a transaction at an agreed price on a specified date in the future and are most commonly used to buy or sell commodities and foreign currency against sterling. Swaps are exchanges of cash payment obligations. Currency swaps are agreements to use a certain currency for payment under a contract in exchange for another currency and enable the companies involved to buy one of the currencies at a more favourable rate. As the UK has not introduced the euro, swaps remain a commonly used financial instrument. Similarly, there are interest rate swaps, which enable one company to exchange a fixed rate obligation for the variable rate obligation of another.

There are currently no exchange controls in force in the UK.

business structure

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. For help in identifying which could be most efficient for your business visit **www.pkf.co.uk/footprint.**

COMPANIES

The most common entity for doing business in the UK is that of a limited liability company. 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 but this is a structure rarely used in practice.

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 either £50,000 (or €65,600) 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 or other markets, thus allowing the company to raise finance from the general public. 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 and the Registrar of Companies provides a 'same day' incorporation service. Also, many incorporation agents can now incorporate companies electronically.

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

- Accounts must be prepared in accordance with a standardised series of accounting principles and rules and must, in the majority of cases, be audited by a registered auditor. Certain smaller companies (see chapter 4) are exempt from this audit requirement. 'Dormant' companies – companies where no significant accounting transactions have arisen during the financial period – can also claim exemption but are required to file an abbreviated balance sheet and notes with the Registrar.

- Accounts must be filed with the Registrar of Companies, together with the directors' report, within nine months of the financial year end for a private company and six months for a plc. In prior years, the time limits were longer. For returns due for filing on or after 1 February 2009, private companies face a penalty of between £150 and £1,500 for late filing of accounts, whereas plcs pay between £750 and £7,500.
- From 1 April 2011 onwards, all companies and organisations subject to corporation tax will have to file their corporation tax return online for accounting periods ending after 31 March 2010. From the same date, companies and organisations will have to pay any corporation tax and related payments due electronically (for example by direct debit). The tax return, computations and – crucially – the accounts must be submitted in a new electronic format called iXBRL (inline eXtensible Business Reporting Language). Accounts can also be filed with Companies House in iXBRL format.
- A general meeting of shareholders must be held each year, although private companies can opt out of this obligation, 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.
- An annual return must be filed which gives details of a company's officers and shareholders as at a certain date and details of any transfers of shares since the last annual return date.

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 requires every overseas company which sets up a permanent establishment in the UK to deliver certain documents to Companies House.

A permanent 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 permanent establishment with Companies House within one month of establishing operations in the UK.

To do this, it 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 permanent establishment is also subject to regulation imposed by the Companies Act 2006 and has to provide certain information regarding the overseas company and the permanent establishment to the Registrar. There is no statutory requirement for a permanent 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 HM Revenue & Customs (HMRC).

PARTNERSHIPS

Many businesses in the UK are not conducted through the medium of a company and consequently do not normally have the benefit 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). From a tax perspective, the members are taxed in a similar way to an unlimited partnership, i.e. an LLP is regarded as transparent. 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.

TRUSTS

A trust is a concept recognised in UK law. A trust 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. This has taxation implications and establishing trusts may result in a substantial tax saving. Although a trust cannot trade in its own right, it can 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 to be also a trustee and a beneficiary of the trust.

Trusts are commonly used to address family issues, reduce 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:

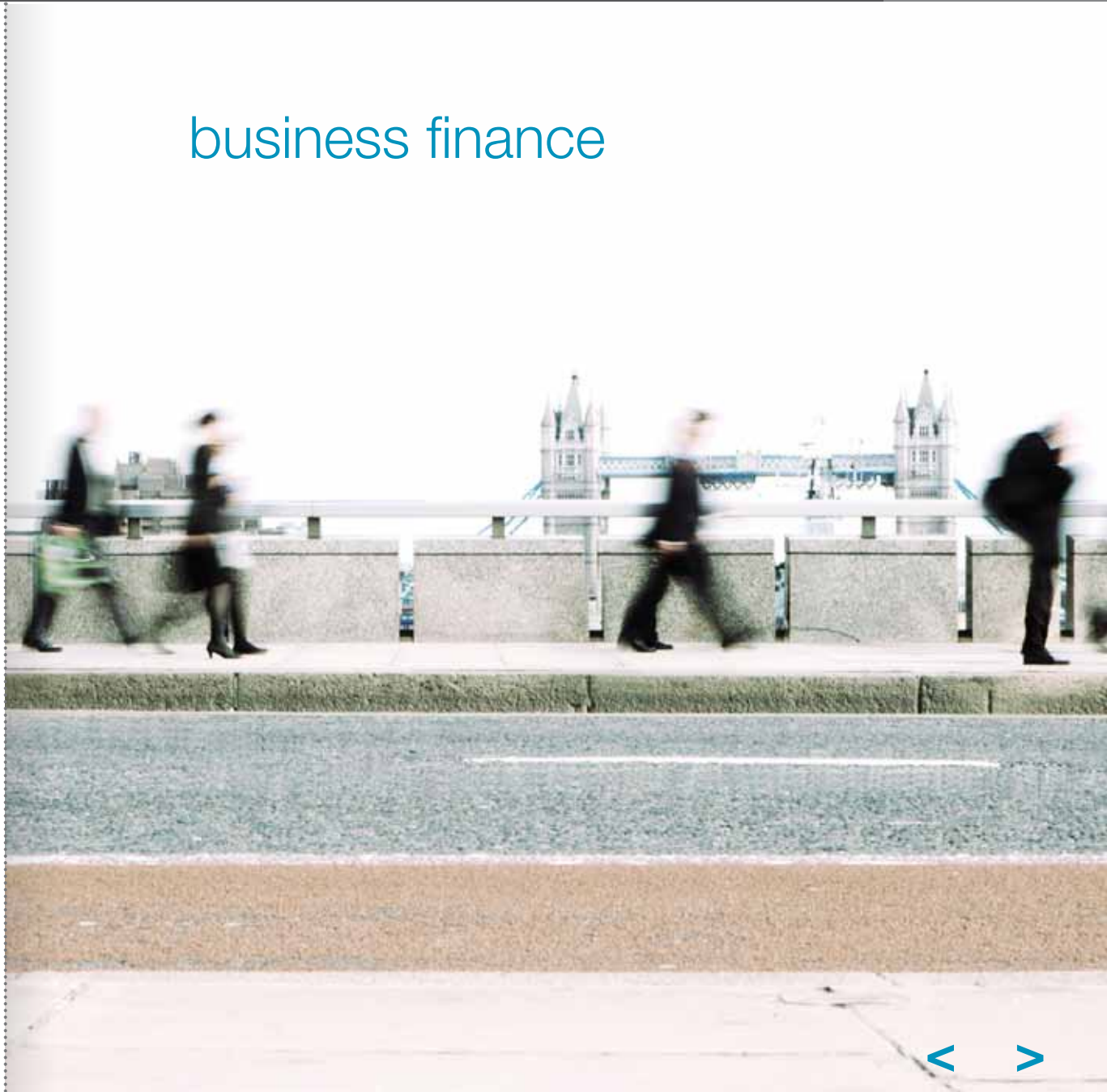
Interest in possession trusts – give an individual the right to receive the income from the assets during his or her lifetime.

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

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.

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.

business finance



Comprehensive planning is an essential ingredient for the continued success of any business. A factor that, without professional guidance, often causes considerable difficulty is raising adequate external finance. This issue is often most keenly felt by smaller businesses which may find securing appropriate (and affordable) funding both confusing and time consuming. Although sources of finance may appear to be scarce and inaccessible, with the right professional guidance the options available for existing and future funding requirements can be ascertained. The sources of funding will depend on the size of the business concerned and the level of funding required.

EQUITY FINANCE

Equity finance is required to cover longer term funding requirements together with those which cannot readily be met with 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.

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 £1 million 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, will be essential to the investor and the investment will need to be structured accordingly.

Private equity

For higher levels of investment, private equity houses or venture capitalists and, increasingly, family offices (funds managed on behalf of wealthy individuals or families) provide a source of equity funding. 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

(a 20% to 25% compound return is not uncommon for development capital and returns will be even higher for early stage funding) 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. As equity finance in the UK has developed, the minimum level of investment by private equity investors has increased to the extent that few now invest less than £1 million, with many having a starting point significantly in excess of this. This has led to the opening of the so called 'equity gap' – the gap between the funds that can be raised through friends and family, business angels, etc. and the starting point for most private equity investors.

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.

The combination of both the above trends has left many businesses outside the scope of private equity investment criteria. This is being addressed in a number of ways, the most significant being the regionally based, government-sponsored, venture capital funds (RVCFs) which can invest up to £330,000 initially with a follow on investment of the same amount. A number of these funds have now completed their investment phase. In addition to the RVCFs, the Government has sponsored Enterprise Capital Funds which can invest up to £2 million on a matched funding basis. The increase in funding from that offered from the RVCFs reflects the increasing trends of VC funds to invest in larger deals.

The Business Growth Fund has recently been established with £2.5bn of funds available to invest, focused on providing growth finance to companies. The fund is targeting investments in the £2m to £10m range.

The development of loose affiliations of business angels allows a number of angels to syndicate their investment in a business, thus increasing the overall amount of money available for investment and spreading their risk by investing in a portfolio of investments.

The above-mentioned sources are relatively new developments and it remains to be seen how much of an impact they will have on the availability of equity for growing businesses.

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 will also increase public profile and credibility. It also offers the advantage that a company may use its own quoted paper to fund acquisitions.

The London Stock Exchange offers two different markets: the Official List and the Alternative Investment Market (AIM). The former offers a higher profile and access to greater funds, but has more demanding criteria including a three-year track record of trading and earnings although the recently introduced '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 in techMARK™ and techMARK mediscience™. The AIM market is frequently more attractive for smaller, growth orientated businesses where the amount of funding required is in the range of £10 million to £50 million. The costs of listing on AIM are slightly less than the Official List but the big 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 on going compliance and corporate governance costs. Another market to consider for smaller fund raisings is the self-regulated PLUS market.

The costs of flotation and on going 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.

Vendor funding

In recent years, vendor funding has become more common in the financing of acquisitions, partly as a result of the limited availability of private equity at the smaller funding levels. Deferred consideration is a means of allowing the buyer to defer part of the purchase until the company has generated sufficient funds to repay it. Deferred consideration may take the form of equity or loan notes but the latter is generally unsecured or will rank behind funding from third parties.

Whilst vendor finance does provide an alternative to private equity in smaller deals, it does have the disadvantage that, should the business require further equity at some point in the future, it will need to source this from third parties.

Should the need arise from an adverse fluctuation in trading, the company may struggle to secure external equity and, even if successful, the terms of the investment are likely to be onerous and the returns sought high.

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. In considering how much debt a business takes on, it must consider the servicing costs and repayment profile and ensure this can be comfortably met from the projected cashflows. Debt demands a lower return than equity although the return will be closely linked to the security, the size of the company and strength of future cashflows.

Overdraft

Borrowing from a bank by way of overdraft remains the simplest form of external funding. However, as an overdraft can be called in at short notice, its use should generally be restricted to short-term cash flow funding, with longer term needs met by more structured loans.

Term loans

Fixed-term loans may provide a better solution to fund longer term borrowing requirements such as an acquisition, since repayment schedules and interest rates can be agreed and budgeted for from the outset. Provided the business can comply with the banking covenants (for example, defined earnings to debt serving cost ratios) the business has the certainty that the loan may be repaid within the agreed timetable.

Such loans are usually secured by charges over land and buildings, debtors or plant and machinery. For smaller companies, the lender may also require personal guarantees from the directors or controlling shareholders. Fixed or variable interest rates may be available, with more complex arrangements available for larger loans, including ‘caps’, ‘collars’ and ‘floors’. These restrict fluctuations in the interest rate chargeable and hence offer a degree of certainty in the financial planning for the business but do come at a cost.

Mezzanine loans

Mezzanine loans are higher cost loans that effectively sit between equity and term loans. Generally, they are used where the business has the capacity to service further debt but has no further security to offer. The return on this type of loan will range from 5% to 15% above base rates to compensate for the risk to lenders, part of which is sometimes taken through a warrant to subscribe for equity or a redemption premium. They tend to be used on larger transactions which can incorporate more complex debt structures. Increasingly, they are being offered as an alternative to raising equity to both private and public companies to support growth, whether organic or by acquisition.

Other loans

Loans may also be available from other sources including local authorities. The Enterprise Finance Guarantee Scheme assists businesses to obtain loans by providing a government guarantee of up to 75% against default on loans of between £1,000 and £1 million. Loans to assist in the purchase of specific assets may come in different forms, varying from straightforward hire purchase through to finance or operating leases. As each method will have differing cost and taxation implications, advice should be sought on the most appropriate method for each situation.

Asset-based lending

For many businesses, these methods can provide a means of securing funding on the strength of the company's assets, typically fixed assets (particularly those with a ready resale value such as property), and trade debtors, although lesser amounts may also be available in certain circumstances to borrow against stock.

As any debt is secured over specific assets, this typically provides the lender with better security than is available against traditional overdraft lending. For this reason, it has become the preferred method of funding in many transactions over recent years. It also offers the advantage that, as the facility is typically set as a percentage of the value of qualifying assets, it can increase and decrease in line with the working capital requirements of the company and is, therefore, better able to address seasonal working capital requirements.

In the vast majority of cases of finance secured against trade debts, the company retains the credit risk against the receipt of debtors with the lender merely lending money secured against those assets.

The level of involvement of the lender in collecting the debts can vary from case to case and typically depends on the size of the business.

For example, with smaller businesses the lender may, in effect, carry out the sales ledger function on behalf of the customer whereas for larger businesses it may just periodically monitor the position.

The disadvantage of asset-based lending is that, taking into account administration and monitoring fees, it may be more expensive than traditional overdraft or term lending.

GRANTS

Companies thinking of setting up factories, offices or distribution units in the UK should be aware that, through the UK Government and the EU, there are 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 dependent upon location (they are typically available in areas that are undergoing regeneration), size (many authorities will only support start-ups) and business sector (which in turn may depend on location of the business). Such grants are typically only available in small amounts and applications often need to be made through the local authority in the region in which the business will operate.

The principal forms of assistance fall into several categories set out below. Although this is correct at the time of writing, grant funding is an area that has been subject to considerable change in recent times and, therefore, any business seeking funding should check whether the forms of assistance listed below are still available.

European Regional Development Fund (ERDF)

The fund is used to support economic regeneration projects that are primarily led by national and local Government and not for profit organisations but, in certain circumstances, the fund can be used to help to develop small and medium-sized enterprises. Funding priorities vary by region and the best way to access such funding may be through projects supported by Local Enterprise Partnerships – see:

http://www.bis.gov.uk/policies/economic-development/leps/lep-contact-details

You can find details of regional funding priorities at:

http://www.communities.gov.uk/regeneration/regenerationfunding/europeanregionaldevelopment/applying

Rural Development Programme for England (RDPE)

This grant funding is used to support rural businesses in England including farming, forestry, tourism and community based businesses. The scheme is administered through a wide range of government agencies including:

- The Department of Environment, Food and Rural Affairs' local RDPE Delivery Teams
- Forestry Commission (via the English Woodland Grants Scheme)
- Natural England (via the Environmental Stewardship and Energy Crops Schemes)
- Local action groups.

Community Development Finance Initiative

There are over 60 organisations set up under the Community Development Finance Initiative. These organisations provide funding and support to small and medium sized businesses (up to 249 employees), social enterprises and charities based within the UK's most disadvantaged communities. The funding available depends on the region in which the business operates and may include both grants from ERDF and RDPE as well as loans from various sources. Further information is available at **www.cdfa.org.uk**

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 limited liability partnerships (LLPs) are similar to those for companies.

There is no specific legal requirement for sole proprietors to keep accounting records. However, 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. Partnerships must keep records of all receipts and payments and all sales and purchases of goods.

Generally, tax legislation requires that accounting records be kept for at least six years. 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 that show a 'true and fair view'. If a company has one or more subsidiaries, it must also prepare group accounts, unless the group is small or the company is itself a subsidiary of another company which meets specific financial reporting conditions or if the results of the subsidiaries taken together are not material to the results of the group.

Two discrete accounting frameworks are applicable in the UK for the preparation of financial statements. The Companies Act 2006 refers to these as:

- Companies Act accounts; and
- International Accounting Standards (IAS) accounts.

Any group whose debt or equity securities are traded on a regulated market (including the London Stock Exchange and the PLUS listed markets) or on the Alternative Investment Market (AIM) is required to apply the IAS accounts framework in the preparation of its consolidated accounts. The parent company, or any stand-alone company traded on these markets, may choose to apply either framework in the preparation of its individual company accounts.

All other companies (except charities) may choose to apply either framework in the preparation of their consolidated and individual company accounts.

In addition to the financial statements, the annual report must include a directors' report, whilst companies listed on the London Stock Exchange must also present a directors' remuneration report, corporate governance statement and a narrative management report.

Companies Act accounts

The directors of a company applying this framework must prepare a balance sheet, a profit and loss account, and, in most cases, a cashflow statement for each financial year. The Companies Act 2006 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. Accounts must be prepared in either English or Welsh. The requirements for LLPs are similar to those applying to companies.

Reporting and accounting requirements for annual reports containing Companies Act accounts are contained in:

- Companies Act 2006 and regulations made under it.
- Accounting standards – Statements of Standard Accounting Practice (SSAP), Financial Reporting Standards (FRS) and Urgent Issues Task Force (UITF) abstracts.

UK Generally Accepted Accounting Practice (UK GAAP) is not defined by law but is considered to encompass all the official material above as well as accounting practices which are regarded as appropriate by the accounting profession. UK GAAP must normally be adopted in order to give a true and fair view.

IAS accounts

The directors of a company applying this framework must present financial statements as required by International Financial Reporting Standards (IFRS) as adopted by the European Union. The Companies Act 2006 prescribes additional information to be provided by way of notes, for example, details of directors' remuneration and the form and content of narrative commentary such as the directors' report.

Reporting and accounting requirements for annual reports containing IAS accounts are contained in:

- Companies Act 2006 and regulations made under it, but not those sections regarding the form and content of the financial statements themselves.
- International Financial Reporting Standards as adopted by the European Union – IAS, IFRS, and interpretations issued by the International Financial Reporting Interpretations Committee (IFRIC) and its predecessor, the Standard Interpretations Committee (SIC).

Listed and AIM companies

In addition:

- listed companies must comply with the Listing Rules and Disclosure and Transparency Rules issued by the UK Listing Authority; and
- companies traded on AIM must comply with the AIM Rules issued by the London Stock Exchange.

Abbreviated accounts

In most cases, small companies may file abbreviated accounts at Companies House resulting in considerably less information being held on the public record.

Medium-sized companies may also file abbreviated accounts, though only limited exemptions from disclosure are available. However, full statutory accounts must still be produced for shareholders and HMRC. Potential customers, suppliers, investors and lenders may also ask for the full accounts.

A company is considered to be 'small' if it meets at least two of the three following conditions:

- annual turnover of £6.5 million or less
- balance sheet total (gross assets) of £3.26 million or less
- average number of employees no greater than 50.

A company will be 'medium-sized', if it meets at least two of the three following conditions:

- annual turnover of £25.9 million or less
- balance sheet total (gross assets) of £12.9 million or less
- average number of employees no greater than 250.

Where a company expands beyond these definitions it will still be regarded as small or medium-sized for the following financial year. If it then reverts to being small or medium-sized the following year, the exemption will continue uninterrupted. The qualifying conditions for small or medium-sized companies are complicated and PKF (UK) LLP should be consulted before considering preparing abbreviated accounts. There are special rules for groups of small and medium-sized companies whose total group size falls within the small and medium categories.

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, however, accounts do not have to be audited if the company or LLP:

- qualifies as small for the purposes of filing abbreviated accounts – see above, and
- has a turnover of not more than £6.5 million, and
- has a balance sheet total of not more than £3.26 million.

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
- to improve the company's credit rating
- to provide an independent check on the company's accounting function
- to alert the directors to possible problems regarding the company's on-going financial viability
- to get the company used to having audits if it expects to grow and would need to be audited in the future.

What is the role of an auditor?

The auditor will examine the accounts and accounting records of the company and prepare a report for the company's members. The report, included in the published report and accounts, will contain an opinion on whether the annual accounts give a true and fair view of the state of affairs of the company and of its profit or loss for the period, have been properly prepared in accordance with UK GAAP or IFRS as adopted by the European Union, as appropriate, and have been prepared in accordance with the requirements of the Companies Act. The auditor will also consider whether or not the information given in the directors' report and other information in the annual report, if any, is consistent with the annual accounts.

Who can act as auditor?

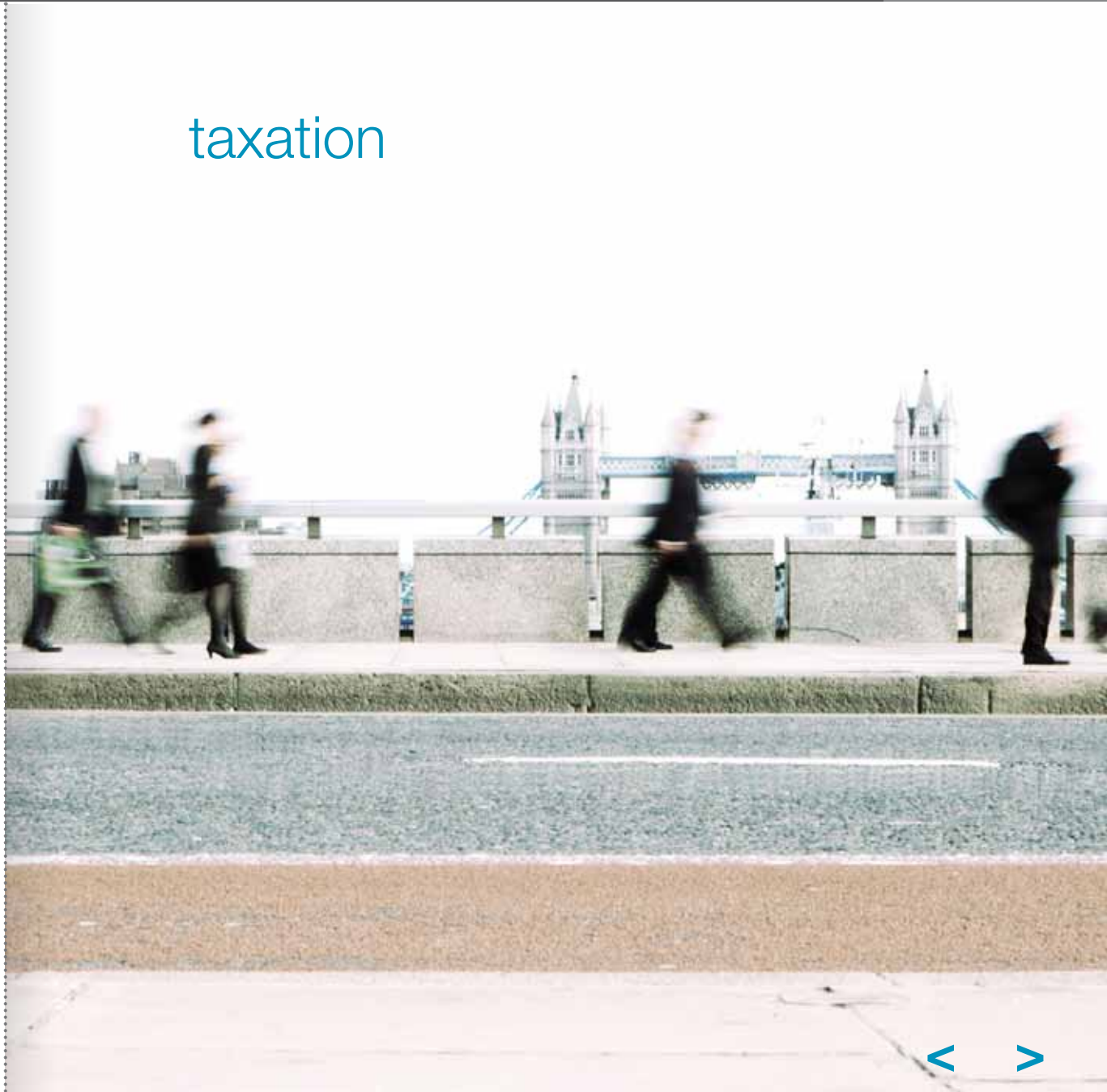
The eligibility and qualifications for acting as auditor are set out in company law. Eligibility is also governed by ethical considerations. An auditor must be independent of the company. Therefore, a person cannot be appointed as an auditor if he or she is:

- an officer or employee of the company or an associated company
- a partner or employee of such a person
- a partnership of which such a person is a partner.

Can an auditor provide other services?

Yes, subject to observing ethical standards to ensure that the auditor's independence is in no way impaired. There are stricter ethical rules for auditors of listed companies.

taxation



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. value added tax (VAT), stamp duty, stamp duty land tax (SDLT) and customs duty. The rates of tax are currently applied uniformly throughout England, Scotland, Wales and Northern Ireland. However, the Scottish Parliament has the power to vary income tax rates in the future and there are 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).

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.

Income tax

Income tax is charged on the total income of individuals and unincorporated businesses in each tax year (running from 6 April to 5 April). In general, UK resident individuals are assessed on their worldwide income, whereas non-resident individuals are assessed on income arising from a UK source (subject to the terms of any applicable double taxation treaties).

The top rate of income tax for the tax year ending 5 April 2012 is 50% which applies to taxable income in excess of £150,000 per year. The basic rate of tax for that year is 20%, with a higher rate of 40% charged on the excess of total income, net of allowances, over £35,000.

An individual's tax liability is calculated by aggregating all income, deducting relevant allowances and reliefs, and then applying the appropriate rates. This threshold is adjusted in most financial years but was £7,475 for the tax year to 5 April 2012 and is due to increase to £8,105 for the year to 5 April 2013.

Further information on income tax rates and allowances is summarised in **Appendix I** to this guide. A typical income tax calculation is set out in **Appendix II.**

Corporation tax

Corporation tax is levied on the taxable worldwide profits of UK resident companies and on the profits of non-resident companies attributable to permanent establishments located in the country. A company will be tax resident if it is incorporated in this country or if its business is centrally managed and controlled in this country. Where a company is resident in both the UK and another country, if there is a double tax agreement between the UK and that country, it will need to be reviewed to determine whether there is a tie-breaker clause which dictates in which territory the company is to be treated as resident.

A company's taxable profits are based on its annual accounts, where these are prepared in accordance with UK GAAP or IFRS, subject to certain tax adjustments.

Corporation tax is normally payable nine months and one day after the end of the period for which a company prepares its accounts, although larger companies are required to pay their tax liability by instalments during the course of the year.

A UK company must normally submit a tax return within 12 months of its accounting year end.

The UK corporation tax year (FY) runs from 1 April to 31 March and the top rate of corporation tax for the year to 31 March 2012 is 26% (to be reduced to 25% for the year to 31 March 2013). A small company tax rate of 20% applies for the year to 31 March 2012. The top rate of tax is currently charged on the whole of a company's taxable profit if it reaches £1.5 million. These profit limits are divided between 'associated companies' where the UK resident company controls, or is under the same control as, other companies (in the UK or elsewhere). The definition of control is complex and professional advice should be sought if it is considered that this may be an issue.

Current rates of corporation tax are set out in **Appendix I** to this guide, with an example of a standard corporation tax computation in **Appendix II.**

Capital gains tax

Both companies and individuals are subject to tax on capital gains. Corporate gains are subject to corporation tax, gains made by individuals and trusts are liable to CGT. CGT only applies to disposals of 'chargeable' assets. The most frequently encountered are interests in land and buildings, shares, goodwill, intellectual property, and plant and machinery. The principal non-chargeable assets are sterling cash balances, motor cars, debtor receivables and an individual's main home.

From 6 April 2008 to 22 June 2010, capital gains of individuals were taxed at a flat rate of 18% (subject to an annual allowance and the availability of entrepreneurs' relief (ER) in certain circumstances). For disposals occurring on or after 23 June 2010, the tax rate is 18% and/or 28%, depending on the size of the individual's total taxable income and gains for the year. ER reduces the tax rate applicable to qualifying gains to 10%. From 6 April 2011, the relief is available up to an individual's lifetime limit of £10 million of eligible gains on business assets: above this limit, further gains are taxed at 28%. For companies, individuals and trusts, the taxable gain is the difference between the disposal proceeds and the acquisition cost. For companies, however, indexation allowance increases the deductible base cost to account for inflation. Various reliefs are available to both individuals and companies wishing to use some or all of the proceeds to invest in new qualifying assets and companies.

Inheritance tax

IHT is chargeable on the value of the estates of deceased persons. For those 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, companies under the control of five or fewer people and some transfers made by such companies.

The operation of IHT is complex and you should seek advice from PKF (UK) LLP, especially with regard to protecting offshore assets from the UK IHT net if you intend to come to live here for some time.

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.

A scheme was introduced in September 2010 under which new businesses set up outside London, the South East and the Eastern region may be entitled to a substantial reduction in their NIC bills. These businesses will not be required to pay the first £5,000 of Class 1 employer's NIC due in the first 12 months of employment for each of the first 10 employees hired in the first year of business, a potential total of £50,000 relief. The scheme is intended to operate for three years and commenced on 6 September 2010.

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

For the tax year to 5 April 2012, where an individual's gross earnings exceed £602 per month, NIC must be deducted from the individual's salary at a rate of 12% until monthly earnings reach £3,540, from which point a rate of 2% applies. In addition, employers must pay NIC at 13.8% on the total salary in excess of £589 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.

Different contribution rates may apply if the employee opts out of the UK's State Second Pension (S2P) 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.

Value added tax and customs duties

VAT is a sales tax charged on the supply of goods and services provided in the course of doing business in the UK. Consequently, the real burden of the tax normally falls on the final consumer, with the intervening businesses acting as collecting agents for the Government. In general, when the turnover of a business exceeds the registration threshold (£73,000 for the year beginning 1 April 2011), it will have to register, charge VAT on the supplies it makes and pay it to HMRC. However, it is possible for companies in a UK group to elect that transactions between them are free from VAT. The Government has however announced its intention to remove the VAT registration threshold from businesses that are not established in the UK in future. From October 2012, it is expected that all non-established businesses making taxable supplies of goods or services in the UK will need to register for VAT – i.e. they will be subject to a nil threshold.

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.

There are three rates of VAT in the UK. A zero-rate applies to various foodstuffs, public transport and exports and some other items; 5% applies to some qualifying uses of fuel and power, certain residential property conversions and a few other items; 20% is the standard rate (since 4 January 2011). Education, finance, health and insurance are exempt from VAT.

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 rated or zero-rated goods or services. Overhead costs that cannot be directly attributed to particular goods or services are apportioned so part of the VAT can be recovered.

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.

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.

Stamp duty land tax

SDLT replaced stamp duty for transactions relating to land in the UK from 1 December 2003. Stamp duty remains at 0.5%, chargeable on the value of transactions in shares and securities. Both SDLT and stamp duty are normally paid by the purchaser.

The rates of SDLT vary according to the consideration given for the asset. Consideration of less than £125,000 (for residential property) and £150,000 (for commercial property) is exempt from SDLT. First time residential property buyers are also eligible for a stamp duty exemption on properties purchased for up to £250,000 between 25 March 2010 and 24 March 2012.

For higher-value transactions, rates start at 1%, rising to a maximum 5% on transfers of residential property with a value in excess of £1 million. The top rate of SDLT for transfers of commercial property is 4%. Each rate applies to the total consideration making it

an absolute rate rather than progressive. Further details are given in **Appendix I.**

Special rules apply to transactions in connection with leases to establish the current equivalent to the lifetime value of the rent receivable under a lease. Where this current value exceeds £150,000 (or £125,000 for residential leases), the excess is liable to a 1% charge.

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?
- 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 and seeks to provide a commercial alternative to the previous 'section 106' agreements between developers and LAs. 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 including interest on a loan taken out to purchase the property. There are rules which restrict tax relief for interest on highly geared investments where the lender and borrower are connected. The other main tax relief, apart from interest payable, is capital allowances, which are available on plant and machinery.

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, whether the owner is an individual, company or other entity. 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. However, for a non-UK resident company which does not have a UK permanent establishment (and is therefore not within the charge to corporation tax on its property income) the 20% income tax withheld at source under the non-resident landlord scheme is regarded as satisfying its entire income tax liability on the property income arising in the UK.

Plant and machinery

The general rule is that relief is given at 20% on the reducing-balance method (to be reduced to 18% from April 2012). However, 100% relief can currently be obtained on up to £100,000 of qualifying investment (known as the Annual Investment Allowance) in the year of purchase and on approved energy-efficient plant and machinery with no maximum limit. From April 2008 to March 2010, the AIA was £50,000. It is to be reduced to £25,000 with effect from April 2012.

Some items of plant are classed as 'integral features' and allowances available on these items are restricted to 10% (reducing to 8% from April 2012) 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. Broadly, there are two ways in which this can be achieved:

- By agreement between the vendor and purchaser. The amount agreed can be given effect for tax purposes by means of an election submitted to HMRC. This enables any figure to be agreed between £1 and the original cost of the plant and machinery.
- By 'just apportionment' of the consideration. This involves a valuation of the plant and machinery element.

Under both these methods, the values applied by the buyer and seller should be the same for capital allowances purposes. However, this is not always the case as the buyer has unlimited time in which to include the second-hand fixtures in their capital allowances computation. By this time,

information on the value used by the seller may no longer be available.

Under proposed new rules, to apply from April 2012, the buyer and seller of a second-hand building containing fixtures must agree the amount of the sales proceeds allocated to the fixtures at the time of sale and document this. The buyer will then have to include this amount within the capital allowances calculations within a set time limit after the date of sale, which is likely to be either one or two years.

Where second-hand buildings have been purchased before April 2012 and no capital allowances have been claimed on the fixtures by April 2012, the proposed new rules may set a time limit from April 2012 within which capital allowances must start to be claimed.

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 £1 million 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
- keeping proper records.

Value added tax

The VAT treatment of dealings in property and land is complex and subject to constant change. 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 penalties imposed by HMRC if you get it wrong. Consult PKF (UK) LLP 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 property ('new' being defined as less than three years old) is subject to VAT at the standard rate. The sale of the freehold of 'old' commercial property 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 elect to opt to tax the property and charge VAT at the standard rate on the sale proceeds or on rental payments. The major advantage of making an election 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.

Such an option has no effect unless written notification of the election is given to HMRC within 30 days of it having been made and, in some cases, prior permission is required. The election 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.

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 zero-rated. Zero-rating is a nil rate of VAT, but VAT on related costs can be recovered. Other supplies of residential property are exempt from VAT (therefore VAT on the associated costs is irrecoverable). The option to tax (see above) is not available for supplies of interests in residential property.

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.

TAX IMPLICATIONS OF THE FORM OF BUSINESS IN THE UK

This section provides an introduction to this topic and more details can be viewed online at **www.pkf.co.uk/footprint.**

Many businesses intending to trade in the UK do so either through a UK permanent establishment (PE) 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 PE 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. A UK subsidiary company will be subject to corporation tax, as a separate legal entity, on its worldwide profits. A UK PE will be subject to corporation tax on that part of the total profits of the overseas company that relate to it. An overseas company without a UK PE will be chargeable to income tax (at the standard rate of 20% only), rather than corporation tax, on certain types of UK source income, such as rental income and interest.

1) Operating through a UK company

A company will be UK tax resident if it is incorporated in the UK or if the central management and control of its business is 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 at the place of effective management.

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

UK tax legislation treats UK resident public limited companies (plcs) and private limited companies (Ltds) in exactly the same way. Both are subject to UK tax on their worldwide income. 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.

The most significant adjustment is the substitution of the depreciation charged in the company's accounts with the capital allowances prescribed for qualifying capital expenditure. The rates of capital allowance vary depending on the type of expenditure and the use to which the asset is put.

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.

Transfer pricing

The UK transfer pricing legislation applies to both intra-UK as well as cross-border transactions.

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 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 transaction prices leading to a significant loss of UK tax.

2) Operating through a branch or agent in the UK

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 a PE in the UK.

A PE is 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
- a building site or similar.

A company is not regarded as having a PE 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 PE, 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 26% (this is due to decrease to 25% for FY 2012, beginning on 1 April 2012, 24% for FY 2013, and 23% for FY 2014). However, if the overseas company is resident in another EU state or in a country that has concluded a double tax agreement with the UK that includes a non-discrimination article, it will benefit from the lower rates of tax applicable to small profits – see page 22 above. 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.

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 establishment (PE) 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 (subject to the registration limits - but see page 23 regarding the planned removal of registration limits for overseas businesses making taxable supplies in the UK), irrespective of whether or not it has a presence in the UK. This also applies where the company has 'call-off' stocks based at its UK suppliers that are then sent direct to its customers. 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.

If the seller is based within another EU member state and is selling to VAT registered businesses in the UK, it is not required to register for VAT in the UK, provided it can obtain the customer's VAT registration number and shows it on the VAT invoice.

For the supplier, the supply is not subject to VAT, but the customer will have to account to HMRC for the VAT on acquisition. It is often possible to register for VAT for intra-EU trade in just one EU state.

Supplies between EU member states are not classed as imports or exports and, accordingly, no import duties are levied except in specific circumstances. Additionally, it is not necessary to make an import declaration on an acquisition of goods in the UK from another EU member state. 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.

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 in most cases will have to account for the VAT under the reverse charge procedure. For example, this applies when a business buys certain services such as advertising or the advice of a lawyer or accountant.

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.

The VAT implications again 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 be registerable 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.

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.

As stated above, if selling into the UK through a UK-based distributor, the call-off stocks create a place of establishment for VAT purposes and render the company liable to be VAT registered by virtue of the location of the call-off stocks.

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 PE. 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.
- 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.

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. When a transaction takes place, the supply is delivered in a conventional way, e.g. by mail. Because this transaction is very similar to mail-order shopping, it does not entail any new or additional VAT complications.

A seller based in another EU member state who supplies goods to non-VAT registered customers in the UK may charge the VAT rate applicable in their home member state. Where sales to the UK exceed the annual 'distance selling' threshold of £70,000, the seller must 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 applies to goods ordered through the internet.

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.

This can lead to inconsistencies, e.g. a supply can be zero-rated when in the form of goods (e.g. books) but standard rated when delivered as a service.

New legislation was introduced on 1 July 2003. The rules provide that, 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. There is a special scheme whereby a non-EU business supplying digitised products to customers in more than one EU country only has to register in one member state of the EU.

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.

i) 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 permanent establishment. 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 18% and/or 28% apply to any gains arising (depending on the total taxable income and gains of the individual in the tax year in which the disposal is made). ER may apply in certain circumstances, which reduces the rate of tax on qualifying gains to 10%. Gains qualify for ER up to the individual's lifetime limit. When the relief was introduced in 2008, the lifetime limit was set at £1 million but was later increased to £2 million from 6 April 2010, to £5 million from 23 June 2010 and then to £10 million from 6 April 2011.

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.

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 advice is obtained.

ii) 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 a cessation of trading and, therefore, it is important to ensure the most tax-efficient timing of events.There are no special tax rules for corporate insolvency, winding-up or striking off. 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. 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.

iii) 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 non–compliance with this requirement.

foreign personnel in the UK

BUSINESS IMMIGRATION TO THE UK

Citizens of the European Economic Area (EEA) – the 27 EU countries plus Iceland, Liechtenstein, Norway and Switzerland have the right to live and work in the UK, including setting up a business. Citizens of British Commonwealth countries have a similar entitlement if one of their grandparents was born in the UK.

Individuals from the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia or Slovenia previously had to register under a special registration scheme when taking up paid employment but this scheme has now closed and residents of these countries now have the same rights to work in the UK as residents of other EEA countries.

The rules regarding the migration of Bulgarian and Romanian workers to the UK are stricter. There are two stages to applying for work authorisation for employment in the UK (but not self-employment). The employer must apply for a work permit, unless it falls within one of a specified list of categories. Once the employer has applied for the work permit and it has been approved, the UK Border Agency will send the worker a letter of approval which can then be used to apply for an accession worker card. As an alternative, highly skilled workers may qualify to work in the UK under Tier 1 of the points-based system described below.

Individuals from other countries moving to the UK for business purposes need to obtain a visa to allow them to live and work here. The UK authorities now operate a tiered points-based system for skilled migrant workers and the employer must be licensed to be able to offer a legal employment contract to a foreign worker. Details of the scheme can be found at **www.ukba.homeoffice.gov.uk.**

Visas for sole representatives of an overseas company

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 £1 million in the UK. Of this amount, at least £750,000 must be invested in unit trusts or private companies. In addition, the investor has to spend at least 50% of their time in the UK and not be employed in the UK.

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. Eligibility for this scheme is based on a points system. To apply, the entrepreneur must score:

- 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).

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.

STAKEHOLDER PENSIONS

There are a wide range of pension schemes currently available in the UK. However, since October 2001, it has been obligatory for employers to provide employees with access to a stakeholder pension, unless:

- they employ fewer than five people, or
- offer all employees aged 18 or over a personal pension scheme through which they contribute an amount equal to at least 3% of the employees' basic pay, or
- offer an occupational pension scheme that all staff can join within a year of starting to work for them.

Stakeholder pension schemes are low-cost pensions, require tax approval from HMRC and have to be registered with the Occupational Pensions Regulatory Authority (OPRA).

The rules on employer pension schemes are to change significantly from 2012. The proposed new rules aim to make the pension system fair and financially sustainable. In summary, every employed person in the UK between the ages of 22 and the statutory retirement age earning more than the exempt personal allowance will be automatically enrolled in a pension scheme. It will also be possible for certain other people to opt in to this type of 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:
www.direct.gov.uk.

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.

PERSONAL TAXATION
(also refer to Chapter 5).

Determination of tax residence

An individual's liability to tax in the UK is dependent on his or her residence, ordinary residence and domicile status. The terms 'resident', 'ordinarily resident' and 'domicile' are not currently defined in UK legislation and so it is necessary to rely on case law and HMRC practice. HMRC's booklet HMRC6 sets out its practice in this area.

Here is a brief summary of the three terms:

Residence

An individual is currently treated as being resident in the UK for any fiscal year if:

- he or she is present in the UK for 183 or more days; or
- he or she visits the UK regularly and after three years his or her visits average 91 days or more (the statutory basis for counting the number of days in the UK is determined by reference to whether the individual was in the UK at the end of the day (i.e. midnight)); or
- he or she comes to the UK with the intention of making regular visits; or
- his or her home has been abroad and he or she intends to come to live in the UK either permanently, or to remain here for three years or more.

Although the number of days physically present in the UK is an important factor, it is not always conclusive and HMRC will look towards a wider range of factors in determining whether someone has ceased to be resident in the UK, such as the level of social and other ties to the UK that he or she has retained.

The rules on residence are to change significantly from April 2012, with a statutory residence test being introduced. Under the initial proposals, an individual's circumstances in 2011/12 could affect his or her tax status in 2012/13 and subsequent years. Therefore, it is vital for all who may be affected to consider the proposed rules now to assess the possible impact on their finances. See **Appendix IV** for more information on HMRC's proposed changes.

Ordinary residence

This is roughly equivalent to habitual residence and an individual may be treated as being ordinarily resident in the UK if he or she comes here voluntarily, for a 'settled purpose' (which may be simply that the individual is required to work in the UK by his or her employer):

- where it is clear that he or she intends to remain in the UK for three years or more, ordinary residence may commence from the date of arrival, or
- from the beginning of the tax year in which he or she makes a decision to remain in the UK for three years or more, or
- at the start of the fourth tax year if his or her visits average 91 days or more.

It is possible to be resident in the UK but to be not ordinarily resident here. This means that although an individual may be resident in the UK under UK rules during a tax year, his or her residence does not have one or more of the factors that would make him or her ordinarily resident.

It is also possible to be not resident in the UK but remain ordinarily resident here. If an individual normally lives in the UK, he or she might become not resident because he or she is not in the country at all during a complete tax year. If he or she would usually be resident in the UK and this is where the individual's normal home, family ties and other social connections remained, he or she might still be ordinarily resident here.

The UK Courts have decided that the determination of ordinary residence status requires objective examination of immediately past events, rather than an examination of the individual's intentions or expectation for the future. Both HMRC's views, and case law in the area of residence and ordinary residence continue to develop, and it would be advisable to take specific advice from your PKF (UK) LLP contact if you think you may be in this situation.

It is probable that HMRC will remove the need to look at ordinary residence and its resulting tax consequences from April 2012. See **Appendix IV** for more details.

Domicile

Unlike residence, it is not possible to have more than one domicile at any one time and it is not the same as nationality. Essentially, it is the place where an individual has his or her 'roots' and has the strongest cultural, economic and family links.

Domicile can have a significant effect on UK tax liabilities as it may enable resident, but foreign-domiciled individuals to legally avoid UK tax on income and capital gains arising overseas if they are not remitted to the UK, although an annual charge is payable by some individuals who wish to take advantage of the remittance basis (see page 60 below for more information on this). In addition, subject to specific rules regarding how long they stay in the UK, foreign-domiciled individuals are not chargeable to inheritance tax on non-UK situated assets and certain property settled on offshore trusts whilst they are not deemed to be domiciled within the UK. Again, specific advice may be required with regard to your domicile status, especially if you wish to claim the remittance basis of taxation whilst you are resident in the UK.

There are three types of domicile: domicile of origin, domicile of dependence and domicile of choice.

- Domicile of origin – this is normally the domicile at birth of an individual's father, regardless of the country in which the individual is born. It is the most adhesive of the three types of domicile and there is a presumption in favour of domicile of origin, unless there is evidence that a change has taken place.
- Domicile of dependence – the domicile of a child will follow that of the person on whom he or she is legally dependent and thus, if the domicile of an individual's father were to change during his or her minority, the child's domicile would follow the change. In addition, a married woman who married her husband before 1 January 1974 will take her husband's domicile as a domicile of dependency. This may be displaced by a domicile of choice, if the woman is later divorced or widowed.

- Domicile of choice – to acquire a domicile of choice it is necessary for an individual to give up his or her domicile of origin or dependency and settle permanently elsewhere. Strong evidence must be provided to show that there is an intention to remain in the new country permanently and that the individual's actions support this. Although an important factor, living in a country for a long time will not in itself be sufficient to show that a domicile of origin has been abandoned and replaced with a domicile of choice. If a new domicile of choice is established, but is later abandoned without a new domicile of choice being established, the domicile of origin will be automatically revived.

Individuals who are not domiciled in the UK but have been resident in the UK for at least seven of the previous nine years are currently subject to an annual charge of £30,000 if they wish to take advantage of the remittance basis. This annual charge is expected to rise to £50,000 from April 2012 for individuals who have been UK resident for at least twelve of the preceding fourteen years.

By paying this charge, these individuals will not be subject to any UK tax charge on overseas income or gains, providing that none of these are remitted to the UK. The annual remittance basis charge can be paid from overseas income or gains without any UK tax arising on the charge. The individual must then 'nominate' certain sources of overseas income and/or gains on which the remittance basis charge is deemed to have arisen. Great care must be taken with remittances; the income or gains that are nominated are treated as subject to UK tax in that year on the arising basis, and are then regarded as taxed income or gains. They will not be taxed again if or when they are brought into the UK. However the rules (which are extremely complex) are designed to ensure that nominated income or gains cannot be brought to the UK before all other amounts of foreign income or gains (arising since 6 April 2008) have been remitted.

If there are large amounts of foreign income and gains involved, mistakes can be very expensive if you get it wrong. If possible, consult PKF (UK) LLP prior to your arrival in the UK for expert help with your remittances and the structuring of your overseas accounts. We can also help those who have been resident here for some time to steer through the complex remittance basis rules, minimising unnecessary tax charges.

Overseas income or gains can be used to pay the UK tax due on remitted amounts (as opposed to the remittance basis charge), but a further UK tax charge will arise on sums remitted to the UK to settle the tax.

If an individual is non-UK domiciled and has less than £2,000 a year of foreign income and gains arising to them, which are not remitted, they are not subject to UK tax on these and are exempt from paying the remittance basis charge.

Years of arrival and departure

Although it is not technically possible to be treated as both resident and non-resident within the same UK tax year, in the past, HMRC has usually allowed a concessionary treatment for the tax years of arrival and departure. This is due to be placed on a statutory basis in April 2012 (see **Appendix IV** for further details).

An individual arriving in the UK for a period of at least two years will normally be treated as UK resident from the day of arrival, but not resident for the period from the previous 6 April until the day prior to the day of arrival. Non-UK source income arising prior to the commencement of UK residence is not chargeable to UK tax, regardless of whether the individual is treated as domiciled in the UK and whether the income is remitted to the UK.

In order to maximise the advantage of this concession, it may be advisable to ensure that any interest bearing bank accounts or deposits are liquidated prior to arrival so that they can be brought to the UK free of any UK tax. This does, however, depend on the tax treatment in the person's former territory of residence of any such income realised before he or she arrives in the UK.

Non-UK domiciled individuals should consider whether to set up separate overseas bank accounts and/or arrange dual contracts of employment to maximise the advantages that can be gained as a result of their status. It is vital to take professional advice in this respect prior to arrival in the UK, so that the many pitfalls can be avoided. Please talk to the tax department at PKF (UK) LLP for help.

This split-year concession with regard to income tax is also normally applied to individuals leaving the UK. They are treated as non-UK resident from the day following the day of their departure. It may be advantageous to ensure that interest is credited to overseas bank accounts and deposits after UK residence has ceased. If this can be achieved, such income will not normally be chargeable to UK tax.

Income tax

Subject to the provisions of a specific double taxation agreement, all UK source income, other than that from certain tax exempt investments, is chargeable to UK income tax, regardless of the recipient's residence, ordinary residence or domicile status. For this purpose, employment income is treated as sourced where the duties are carried out and not from where payment is made. Non-resident individuals are not chargeable to income tax on any foreign source income, even if remitted to the UK.

Income from foreign sources (including the Channel Islands, the Isle of Man and Eire) is charged on an arising basis for individuals who are resident, ordinarily resident and domiciled in the UK. However, resident or ordinarily resident individuals who are foreign domiciled are not chargeable on non-UK source income unless it is remitted here. As noted above, there are strict provisions determining what constitutes a remittance to the UK, and professional advice should be sought as the legislation is complex and can operate in a punitive manner. Income tax is charged at progressive rates, as set out in **Appendix I**

Employee benefits

Any benefits provided by an employer in connection with employment are usually taxed in the same way as any other remuneration, although the taxable value varies, according to the type of benefit provided. Common benefits in the UK include employer provided motor cars and private fuel, accommodation and medical benefits.

There are scale benefit charges for motor cars, based on the list price and carbon dioxide emissions of the vehicle. There is no reduction for business mileage. Similarly, there are scale charges for private fuel provided.

National insurance contributions

NIC is payable by employers and employees in respect of employees' earnings and by the self-employed. For 2011/12, employees pay non-refundable NIC at the rate of 12% on salaries between £602 and £3,540 per month and an additional 2% on any excess. Employers' contributions are currently charged at the rate of 13.8% on all monthly earnings over £589.

Council tax

Each self-contained residence attracts an annual charge to council tax. The charge is set by the local authority in which the dwelling is situated and is based on the market value of the property in the basis year.

Capital gains tax

CGT is chargeable on the worldwide gains of individuals who are resident or ordinarily resident in the UK. Taxpayers who are UK resident but foreign domiciled are only taxed on non-UK source gains if the proceeds are remitted to the UK, although there are strict provisions detailing what constitutes a remittance of foreign gains to the UK.

Capital gains are taxed at 18% and/or 28%, depending on the total taxable income and gains of the individual during the tax year in which the disposal arose. An annual allowance (£10,600 for 2011/12) is deducted from chargeable gains such that gains up to this value in the tax year are not taxed.

Entrepreneurs' relief (ER) is available to some individuals on disposals of business assets, such as shares in a trading company or the whole of a separately identifiable business, subject to conditions being met during the preceding 12 months. If available, the relief reduces the tax rate on the gain to 10%. The lifetime limit on the amount of gains on which an individual can claim ER for was increased from £1 million to £2 million on 6 April 2010, to £5 million with effect from 23 June 2010 and then to £10 million from 6 April 2011.

Inheritance tax

IHT is chargeable on transfers of value on death and on certain lifetime transfers. For UK domiciled individuals who make transfers, worldwide assets are brought into account, whereas for foreign domiciled transferors only UK situated assets are chargeable. Unlike income tax and CGT, UK domicile for IHT purposes is deemed to have been automatically acquired if, at the date of the transfer, the individual has been resident in the UK in at least 17 out of the previous 20 tax years.

There are two rates of IHT for transfers on death: a nil rate – that for 2011/12 covers the first £325,000 of value – and 40% on the balance.

The nil rate band is expected to remain at £325,000 until at least 2014/15. Since 9 October 2007, when a surviving spouse or civil partner dies and his or her spouse (having pre-deceased him or her) had not used the nil rate band on his or her death, the nil rate band of the survivor is increased proportionately by the unused percentage of the deceased spouse or civil partner's nil rate band. There are also a number of other exemptions and reliefs; in particular, transfers to spouses or civil partners are exempt (although relief is restricted to £55,000 where the transferring spouse or civil partner is UK domiciled and the donee spouse or civil partner is not) and transfers involving certain business assets and shareholdings. There are also a small number of double estate taxation treaties which can affect the charge in the UK. Consult the tax department at PKF (UK) LLP to ensure that assets located abroad remain outside the scope of UK IHT in appropriate cases.

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 here) will also be considered.

As mentioned previously, the rules on residence are to change significantly from April 2012 but, under the initial proposals, an individual's circumstances in 2011/12 could affect his or her tax status in 2012/13 and subsequent years. Therefore, it is vital for all who may be affected to consider the proposed rules now to assess the possible impact on their finances. Please see **Appendix IV** for more information.

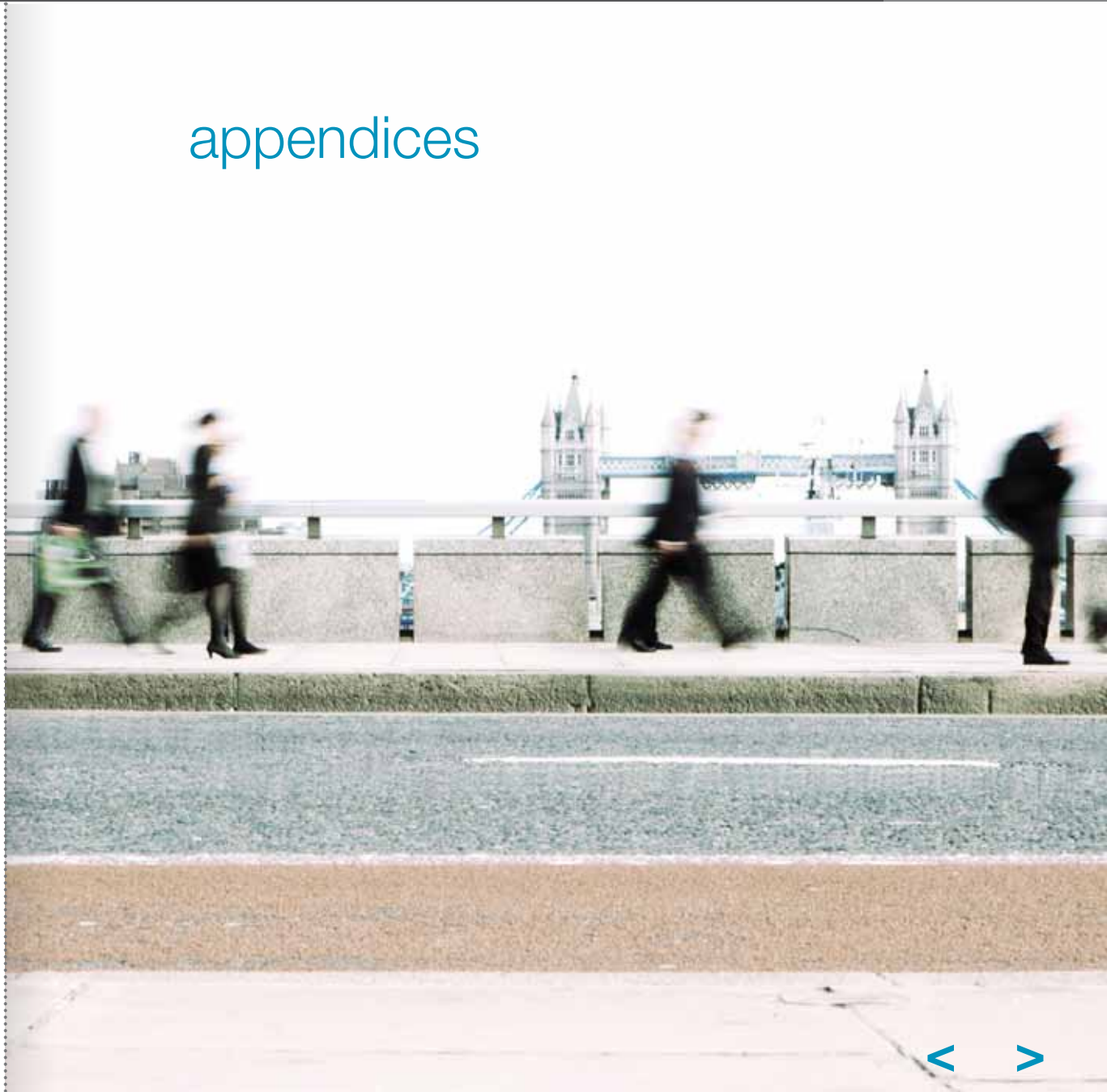
Anti-avoidance measures exist to catch certain individuals who move abroad temporarily seeking to avoid capital gains or income tax. The affected individuals are those who have been resident in the UK for four out of the last seven years before departure.

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, new 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.

appendices



I) TAX RATES, ALLOWANCES AND RELIEFS

INCOME TAX

Main personal reliefs	2010/11	2011/12
Personal allowance		
Basic[1]	£6,475	£7,475[4]
Income limit for personal allowance	£100,000	£100,000
Age 65-74[1 2]	£9,490	£9,940
Age 75[1 2]	£9,640	£10,090
Married couple's allowance - aged 75 and over[2 3]	£6,965	£7,295
Age allowance income limit	£22,900	£24,000
Blind person	£1,890	£1,980

Notes: *[1] From 2010/11 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 2011/12, once income reaches £114,950 the personal allowance is reduced to nil.*

[2] These allowances reduce where income is above the age related income limit – by £1 for every £2 of income above the limit. Previously, it was never less than the basic personal allowance or minimum amount of married couple's allowance. However, from 2010/11, the personal allowance for people aged 65 and over will be reduced below the basic personal allowance where the income is above £100,000.

[3] Tax relief for married couple's allowance is given at 10% to those aged 75 and over only.

[4] Personal allowance will increase to £8,105 in 2012/13.

TAX RATES

	2010/11		2011/12	
Rate	Taxable income	Tax on band	Taxable income	Tax on band
10%*	£0-2,440	£244	£0-2,560	£256
20%	£0-37,400	£7,480	£0-35,000	£7,000
40%	£37,401-£150,000	£45,040	£35,001-£150,000	£46,000
50%	Over £150,000	Excess	Over £150,000	Excess

Notes: ** 10% starting rate for savings income only. If non-savings income is above this limit then the 10% starting rate for savings will not apply.*

The higher rate threshold will decrease to £34,370 from 6 April 2012.

The rates applicable to dividends are the 10% ordinary rate, the 32.5% dividend upper rate, and the dividend additional rate of 42.5%.

INCOME TAX RELIEFS AND INCENTIVES

Annual limits	2010/11	2011/12
Enterprise Investment Scheme	£500,000[2]	£500,000[1 3]
Venture Capital Trust[3]	£200,000	£200,000
Individual Savings Accounts[4]		
Total overall investment	£10,200	£10,680
Stocks & shares mini ISA	£10,200	£10,680
Cash-only mini ISA	£5,100	£5,340
Gift Aid and Payroll Giving scheme	no limit	no limit

Notes: [1] *It is proposed that Finance Act 2012 will increase this limit to £1m for 2012/13.*
[2] *Tax relief restricted to 20% for investor.*
[3] *Tax relief restricted to 30% for investor.*
[4] *From April 2008, holders of cash only ISAs can switch the funds into equity investments.*

VEHICLE BENEFITS-IN-KIND

Company vans	2010/11
Restricted to commuting and occasional insignificant private use	Nil
Unrestricted use	£3,000*
Provision of private fuel	£550

Note: **Reduced to nil for electric vans between 2010/11 and 2014/15.*

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

PENSION CONTRIBUTIONS

Contributions			
Maximum contribution	**2010/11[5]**	**2011/12[5]**	**2012/13**
Individual – 100% of annual relevant earnings up to a maximum of	£255,000	£50,000[7 8]	£50,000[8]
Employer – unlimited, but triggers a charge on individual if 'total pension inputs'1 2 exceed	£255,000	£50,000[7 8]	£50,000[8]
Individual's lifetime allowance [2 3 4]	£1,800,000	£1,800,000	£1,500,000[6]

Notes:

1. Total pension inputs include both individual's contributions and employer's contributions.
2. Statutory formulae are used to calculate deemed pension inputs and fund value for individuals who are members of occupational schemes.
3. 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%.
4. There were transitional provisions that allowed individuals with larger funds to protect their existing entitlements at 6 April 2006, provided that they elected to do so by 5 April 2009.
5. The previous Government intended to restrict tax relief to the basic rate from 6 April 2011. Anti-forestalling rules were introduced from 22 April 2009 to prevent such individuals making annual contributions in excess of £20,000 from benefiting from artificially increasing their annual pension saving before April 2011. Higher rate relief will be given on the higher of their 'normal pattern of contributions' or £20,000 (or up to £30,000 where strict conditions for past lump sum payments are met).
6. A 'fixed protection' option will be available to those not already protected4 but an election must be made before 6 April 2012.
7. This limit applies from 14 October 2010 for pension input periods that straddle both 14 October 2010 and 5 April 2011.
8. When pension contributions in the three prior tax years have been less than £50,000 in a year, it is possible to carry forward this unused relief to allow contributions of more than £50,000 to be made without incurring a tax charge.

NATIONAL INSURANCE CONTRIBUTIONS

Class 1 – Not contracted-out					
2010/11			2011/12		
Monthly pay	Employee	Employer	Monthly pay	Employee	Employer
Up to £476	Nil	Nil	Up to £589	Nil	Nil
£476.01- £3,656	11%	12.8%	£589.01 to £602	Nil	13.8%
			£602.01 - £3,541	12%	13.8%
Over £3,656	1%	12.8%	Over £3,541	2%	13.8%

2010/11 Class 1 – Contracted-out			
Monthly pay	Employee*	Employer COSR**	Employer COMP#
Up to £421	Nil	Nil	Nil
£421.01-£476	-1.6%	-3.7%	-1.4%
£476.01-£3,337	9.4%	9.1%	11.4%
£3,337-£3,656	11%	12.8%	12.8%
Over £3,656	1%	12.8%	12.8%

2011/12 Class 1 – Contracted-out				
Monthly pay	Employee*	Monthly pay	Employer COSR**	Employer COMP#
Up to £442	Nil	Up to £442	Nil	Nil
£442.01 - £602	-1.6%	£442.01 - £589	-3.7%	-1.4%
£602.01 - £3,337	10.4%	£589.01 - £3,337	10.1%	12.4%
£3,337.01 - £3,541	12%	Over £3,337	13.8%	13.8%
Over £3,541	2%			

Notes:

* The employer is entitled to any balance of the employee's NIC rebate that cannot be offset against the employee's NICs.
** COSR – contracted-out salary related.
# COMP – contracted-out money purchase.

Class 2	
2010/11	Self-employed £2.40 per week, where earnings are £5,075 per annum and over.
2011/12	Self-employed £2.50 per week, where earnings are £5,315 per annum and over.

Class 3	
2010/11	Voluntary £12.05 per week.
2011/12	Voluntary £12.60 per week.

Class 4			
Profits per annum			
2010/11		2011/12	
£5,715-£43,875	8%	£7,225-£42,475	9%
Over £43,875	1%	Over £42,475	2%

CAPITAL GAINS TAX

Annual exemption	2010/11	2011/12
Individuals	£10,100	£10,600
Trusts[1 2]	£5,050	£5,300

Notes: [1] Trusts for the disabled have the full individual exemption.
[2] The annual exemption is divided by the number of trusts up to a maximum of 10.

Rates	6 April to 22 June 2010	23 June 2010 to 5 April 2011	2011/2012
Standard rate	18%	18%	18%
Higher rate	n/a	28%	28%
Entrepreneurs' relief rate	10%	10%	10%
Entrepreneurs' relief lifetime limit of gains	£2,000,000	£5,000,000	£10,000,000

INHERITANCE TAX

Rates on death		
Rate of tax	**2010/11**	**2011/12**
Nil	£325,000	£325,000
40%	Excess	Excess

Note: For married couples and civil partners, Finance Act 2008 introduced a carry forward of the proportion of the nil-rate band unused on the first death, to the death of the second spouse or civil partner on or after 9 October 2007. It is proposed that the nil rate band will remain at the current level until at least 2014/15.

Lifetime transfers					
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. All other non-exempt lifetime transfers are chargeable to tax at half the rate chargeable on death. Where tax is charged on death on any gift made within seven years of death, taper relief may apply as follows:					
Years before death	0-3	3-4	4-5	5-6	6-7
Percentage taxable on death	100%	80%	60%	40%	20%

Main lifetime exemptions	
Annual exemption	£3,000
Small gifts (per donee)	£250
Normal expenditure out of income	Unlimited

Main IHT reliefs	
Business and agricultural property reliefs – reduction in value transferred	**From 6/4/96**
Whole or part of a business	100%
Quoted shares giving control	50%
Unquoted shares*	100%
Agricultural relief – working farmer and property let on tenancies starting after 31 August 1995	100%
Agricultural relief – other let property	50%

*Note: * Shares quoted on AIM and PLUS are treated as unquoted.*

CORPORATION TAX

	From April 2008	From April 2011
Small companies' rate (SCR)	21%	20%
SCR limit	£300,000	£300,000
SCR marginal rate limit	£1,500,000	£1,500,000
Fraction in SCR marginal rate band	7/400	3/200
Marginal rate	29.75%	27.5%
Full rate	28%	26%

Note: The main rate of corporation tax will be reduced to 25% in 2012-13, 24% in 2013-14 and 23% in 2014-15.

CAPITAL ALLOWANCES

Allowance	From April 2010	From April 2012	Notes
Annual investment allowance – available to all businesses for general plant and machinery and integral features (not cars).	100% on first £100,000 of costs.	100% on first £25,000 of costs.	Annual limit is pro-rated for periods straddling April 2012.
General plant and machinery	20%[1]	18%[1]	Hybrid rates for existing pools where period straddles April.
Short life assets - for assets with an expected useful life of less than 4 years - extended to 8 years for assets bought after 1 April 2011.	20%[1]	18%[1]	Balancing allowances can be claimed where assets disposed of within time limits – giving relief on full value by disposal date.
Long life assets [2]	10%[1]	8%[1]	Long life assets and integral features are combined in one pool. Hybrid rates for existing pools where period straddles April.
Integral features [2] – includes: lifts; escalators; central heating systems; air conditioning systems; electrical lighting; power and water systems.	10%[1]	8%[1]	
Industrial / agricultural buildings allowances	1% to 5 April 2011 Second hand fraction ¼	Nil since 6 April 2011	Abolished from April 2011. Apportioned for accounting periods straddling April 2011.
Energy and water-efficient plant and machinery [3]	100%	100%	Claim in preference to AIA to preserve the AIA.
Cars with low CO_2 emissions [3]	100%	100%	Cars emitting no more than 110g/km
Other business cars	CO_2 emissions <160g/km 20% CO_2 emissions >160g/km 10%	No change announced to date.	Old rules continue for 5 years for cars purchased before April 2009.
Goods vehicle making zero CO_2 emissions when driven	100%	100%	Continues until 31 March 2015.

[1] Where annual expenditure exceeds the annual investment allowance limit.

[2] Long-life assets and IFs are combined in one pool.

[3] These take precedence over AIA and do not use up the annual limit.

VALUE ADDED TAX

Standard Rate	1/12/2008 – 31/12/2009	1/1/2010 – 3/1/2011	From 4/1/2011
	15%	17.5%	20%
Thresholds		From 1/4/2010	From 1/4/2011
Registration level – annual turnover		£70,000	£73,000
Deregistration level – annual turnover		£68,000	£71,000

VAT ON FUEL BENEFITS

VAT fuel scale charges for 3 month periods*		
	From 1/5/2011	
CO_2 band g/km	VAT fuel scale charge, 3 month period	VAT on 3 month charge
120 or less	£157.00	£26.17
125	£236.00	£39.33
130	£252.00	£42.00
135	£268.00	£44.67
140	£283.00	£47.17
145	£299.00	£49.83
150	£315.00	£52.50
155	£331.00	£55.17
160	£346.00	£57.67
165	£362.00	£60.33
170	£378.00	£63.00
175	£394.00	£65.67
180	£409.00	£68.17
185	£425.00	£70.83
190	£441.00	£73.50
195	£457.00	£76.17
200	£472.00	£78.67
205	£488.00	£81.33
210	£504.00	£84.00
215	£520.00	£86.67
220	£536.00	£89.33
225 or more	£551.00	£91.83

STAMP DUTY LAND TAX

Rates for freehold land and buildings

Wholly residential	Other	Rate
£125,000* or less	£150,000 or less	Nil
£125,001* to £250,000	£150,001 – £250,000	1%
£250,001 to £500,000	£250,001 – £500,000	3%
£500,001† to £1m	Over £500,000	4%
£1m (purchases after 6 April 2011)	n/a	5%

*Notes: * First time buyers will not pay SDLT on residential property transactions up to £250,000 between 25 March 2010 and 25 March 2012.*

Zero-carbon homes – from 1 October 2007 to 30 September 2012

New homes
- purchase price up to £500,000 – are exempt from SDLT
- purchase price more than £500,000 – SDLT liability reduced by £15,000.

Leases

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)	Commercial leases (based on NPV)	Rate
up to £125,000	up to £150,000	Nil
excess over £125,000	excess over £150,000	1%

Disadvantaged areas relief

Disadvantaged areas relief currently only applies to the residential element of 'mixed use' (business and residential) property transactions – for example a shop with a flat above bought together. Use is apportioned on a 'fair and reasonable' basis and if the amount apportioned to the residential element does not exceed £150,000, a separate £150,000 threshold applies to the non-residential element.

LANDFILL TAX

	From 1 April 2011	From 1 April 2012
Active waste per tonne	£56	£64
Inert waste per tonne	£2.50	£2.50

AIR PASSENGER DUTY RATES

Band and approximate distance in miles from the UK travelled:	In the lowest class of travel (reduced rate) from:	In other than the lowest class of travel (standard rate) from:
	1 November 2010	1 November 2010
Band A (0-2,000)	£12	£24
Band B (2,001-4,000)	£60	£120
Band C (4,001-6,000)	£75	£150
Band D (over 6,000)	£85	£170

Note: If only one class of travel is available and that class provides for seating in excess of 40 inches then the standard (rather than the reduced) rate of APD applies.

INSURANCE PREMIUM TAX

Rate	1 July 1999 to 3 Jan 2011	From 4 Jan 2011
Standard rate	5%	6%
Higher rate	17.5%	20%

II) EXAMPLES OF CORPORATION TAX AND INCOME TAX CALCULATIONS

CORPORATION TAX CALCULATION

Company results for the year ended 31 March 2012 as follows:

	£
Trading profits	50,000
Rental income	50,000
Dividends from subsidiary	5,000
Capital gains	70,000
Depreciation included in trading profits	25,000
Capital allowances relating to trade	10,000
Trading tax losses brought forward from previous year	35,000

Computation of taxable profit for the year ended 31 March 2012:

	£
Trading profits	50,000
Disallow depreciation included in above	25,000
Less: capital allowances on fixed assets	(10,000)
Taxable trading income	65,000
Less: brought forward losses	(35,000)
Net trading income for tax purposes	30,000
Rental income	50,000
Capital gains	70,000
Total taxable profits[2]	150,000
Corporation tax payable (@20%)[1]	30,000

[1] Corporation tax rates are set by reference to fiscal years ended on 31 March. If there are changes in tax rates and thresholds between tax years, profits are split between tax years and tax chargeable calculated for each fiscal year accordingly.

[2] Dividend income received by UK companies is generally exempt from corporation tax.

INCOME TAX CALCULATION

An individual has the following income in the tax year to 5 April 2012:

	£
Earned income	44,000
Bank interest	100
Net dividends from UK companies (Dividends carry a tax credit equivalent to 1/9 of the net dividend i.e. 10% of the gross)	810

The resulting taxable income is as follows:

	£
Earned income	44,000
Bank interest	100
Gross UK dividend income	900
Total income	**45,000**
Less personal allowance	**(7,475)**
Taxable income	**37,525**

Income tax payable

Tax year to 5 April 2012	£		£
(0 – 35,000)	35,000	x 20%	7,000
Balance	1,625	x 40%	650
Dividend	900	x 42.5%	382.50
Less: dividend tax credit			(90)
Total income tax payable			**7,942.50**

III) LIST OF TREATY AND NON-TREATY WITHHOLDING TAX RATES

The rates in the table opposite reflect the lower of the treaty rate and the rate under domestic tax law as at 1 September 2011. There is no withholding tax on dividends. The table is for general guidance only and in specific cases reference should be made to the relevant double taxation agreement.

PAYMENTS BY UK COMPANIES OF:

Non - Treaty Countries	
Interest (%)	**Royalties (%)**
20	20

Treaty Countries					
Country	**Interest (%)**	**Royalties (%)**	**Country**	**Interest (%)**	**Royalties (%)**
Antigua and Barbuda	– (b)	0	Bulgaria	w0	0
Argentina	12	/5/10/15 (c)	Canada	10	0/10 (q)
Australia	0/10 (f)	5	Chile	5/15	5/10
Austria	0	0/10 (d)	China, People's Republic of	0/10	7/10 (p)
Azerbaijan	10	5/10 (e)	Croatia	10	10
Bangladesh	7.5/10 (f)	10	Cyprus	10	0/15 (o)
Barbados	15	0/15 (o)	Czech Republic	0	0
Belarus (g)	0	0	Denmark	0	0
Belgium	15	0	Egypt	15	15
Belize	– (b)	0	Estonia	10	5/10 (i)
Bolivia	15	15	Falkland Islands	0	0
Bosnia-Herzegovina	10	10	Faroes	0	0
Botswana	10	10	Fiji	10	0/15 (q)
Brunei	– (b)	0	Finland	0	0

PAYMENTS BY UK COMPANIES OF:

Treaty Countries					
Country	**Interest (%)**	**Royalties (%)**	**Country**	**Interest (%)**	**Royalties (%)**
France	0	0	Kuwait	0	10
Gambia	15	12.5	Latvia	0/10 (f	5/10 (i)
Georgia	0	0	Lesotho	0/10 (f)	10
Germany	0	0	Libya	0	0
Ghana	12.5	12.5	Lithuania	5/10 (m)	0/10 (i)
Greece	0	0	Luxembourg	5	5
Grenada	– (b)	0	Macedonia	0/10	0
Guernsey	– (b)	– (b)	Malawi	0/20 (j)	0/20 (j)
Guyana	15	10	Malaysia	0/10 (f)	8
Hong Kong	0	3	Malta	0/10 (f)	10
Hungary	0	0	Mauritius	0/20 (n)	15
Iceland	0	0	Mexico	0/5/10/15 (a)	10
India	10/15 (f)	10/15 (i)	Moldova	0/5 (f)	5
Indonesia	0/10 (f)	10/15 (i)	Mongolia	0/7/10 (f)	5
Ireland	0	0	Montenegro	10	10
Isle of Man	– (b)	– (b)	Montserrat	– (b)	0
Israel	15	0/15 (o)	Morocco	0/10 (f)	10
Italy	0/10 (f)	8	Myanmar (formerly Burma)	– (b)	0
Ivory Coast	0/15 (f)	10	Namibia	20 (b)	0/5 (q)
Jamaica	12.5	10	Netherlands	0	0
Japan	0/10 (f)	0	New Zealand	0/10 (f)	10
Jersey	– (b)	– (b)	Nigeria	0/12.5 (f)	12.5
Jordan	0/10 (f)	10	Norway	0	0
Kazakhstan	0/10 (f)	10	Oman	0	0
Kenya	15	15	Pakistan	0/15 (f)	12.5
Kiribati	– (b)	0	Papua New Guinea	0/10 (f)	10
Korea, Republic of	0/10 (f)	2/10 (i)	Philippines	0/10/15 (k) (f)	15/25 (o)

PAYMENTS BY UK COMPANIES OF:

Treaty Countries					
Country	**Interest (%)**	**Royalties (%)**	**Country**	**Interest (%)**	**Royalties (%)**
Poland	0/5 (f)	5	Sweden	0	0
Portugal	10	5	Switzerland	0	0
Qatar	0/–	5	Taiwan	10	10
Romania	10	10/15 (e)	Tajikistan (g)	0	0
Russia	0	0	Thailand	0/25 (f)	5/15 (e)
St Kitts and Nevis	– (b)	0	Trinidad and Tobago	10	0/10 (q)
Saudi Arabia	0	5/8 (i)	Tunisia	10/12 (f)	15
Serbia (h)	10	10	Turkey	15	10
Sierra Leone	– (b)	0	Turkmenistan (g)	0	0
Singapore	0/10	0/10 (e)	Tuvalu	– (b)	0
Slovak Republic	0	0	Uganda	0/15 (f)	15
Slovenia	0/5	5	Ukraine	0	0
Solomon Islands	– (b)	0	United States	0	0
South Africa	0	0	Uzbekistan	5	5
Spain	12	10	Venezuela	0/5 (f)	5/7 (l)
Sri Lanka	0/10 (f)	0/10 (e)	Vietnam	0/10 (f)	10
Sudan	15	10	Zambia	10	10
Swaziland	– (b)	0	Zimbabwe	0/10 (f)	10

Notes

(a) The zero rate applies to interest paid by a public body; 5% rate applies to interest paid to banks and insurance companies and to interest on bonds and securities regularly and substantially traded on a recognised securities market; the 10% rate applies to interest paid by a bank by a purchaser of machinery and equipment in connection with a sale on credit.

(b) The domestic rate applies – there is no reduction under the treaty.

(c) The 3% applies to royalties paid for news; the 5% rate applies to copyright royalties (other than films, etc); the 10% rate applies to industrial royalties; the 15% rate applies to any other royalties.

(d) The higher rate applies if the Austrian company controls more than 50% of the voting stock in the UK company.

(e) The lower rate applies to copyright royalties.

(f) The lower rate applies in certain circumstances.

(g) The treaty concluded between the UK and the former USSR.

(h) The treaty concluded between the UK and the former Yugoslavia.

(i) The lower rate applies to industrial, commercial or scientific equipment.

(j) The higher rate applies if the Malawi company controls more than 50% of the voting power in the UK company.

(k) The lower rate applies to interest on listed bonds.

(l) The lower rate applies to royalties for patents and know-how.

(m) The lower rate applies to interest paid by a public body.

(n) The zero rate applies to interest paid to banks; the domestic rate applies in other cases (no reduction under treaty).

(o) The higher rates apply to films etc.

(p) The lower rate applies to copyright royalties (excluding films), computer software, patents and know-how.

(q) The lower rate applies to copyright royalties (excluding films).

IV) RESIDENCE PROPOSALS FOR 2012/13 ONWARDS

UK law on tax residence is to change from 6 April 2012 but, under the initial proposals, an individual's circumstances in 2011/12 could affect his or her tax status in 2012/13 and subsequent years. Therefore, it is vital for all who may be affected to consider the proposed rules now to assess the possible impact on their finances.

It has long been acknowledged that the current rules used to determine an individual's tax status are complex because they rely on three concepts: residence, ordinary residence and domicile. Whether or not an individual falls within one or more of these categories is often subject to legal challenge and a Court's judgement.

An individual's status for each of these concepts can be critical in determining if UK tax should be charged on his or her worldwide income, gains and estate.

Therefore, the previous Government committed to developing residence tests that did not depend on case law but are clearly written into UK tax statute.

The current Government has adopted this commitment and produced draft residence and ordinary residence tests for formal consultation before they are legislated in Finance Act 2012. Alongside this, some changes to the 2008 rules on the remittance basis of taxation are also under consultation.

To simplify the process of assessing an individual's residence status, the Government has proposed three mutually exclusive layers of tests of increasing complexity; if the initial simple tests are passed, there is no need to consider the more complex ones.

Layer 1 – non-residence

The first layer of tests can establish that an individual is not resident in the UK in any tax year in which he or she:

1. is in the UK at midnight for fewer than 45 days and was not UK resident in any of the prior three tax years under the rules applying in those prior years (no transitional arrangements are proposed), or
2. is in the UK at midnight for fewer than 10 days in the year and the individual has been UK resident in one or more of the prior three tax years under the rules applying in those prior years, or
3. left to work full-time (at least 35 hours a week) outside the UK for a whole tax year and any visits back to the UK in that tax year were fewer than 90 days and working days (excluding training or other incidental duties) where more than three hours work is carried out in the UK did not exceed 20 in that tax year. If an individual meets none of these three tests, then the second layer of tests must be considered.

Layer 2 – residence

The second layer of tests establishes that an individual is resident in the UK for a tax year where he or she:

1. is present in the UK for 183 days or more, or
2. has his or her 'only home' in the UK (or has several homes all of which are in the UK), or
3. carries out full-time work (at least 35 hours a week) for a continuous period of over nine months with at least 75% of the work performed in the UK. A 'home' means a place of residence (owned or rented) available to the individual, but a home will be ignored if it is let to tenants or advertised for sale. Therefore, individuals will need to take care over their living arrangements to avoid becoming UK resident. For example, if an individual comes to the UK and lets the family home in his or her home country, renting a UK property will make it the 'only home'.

If an individual meets none of these tests (1 to 6) then the third layer of tests must be considered.

Layer 3 – arriving or leaving?

The third layer of the proposed tests is split so that slightly different rules can be applied to individuals leaving the UK and those arriving in the UK. This approach will allow the Government to make the tests for those leaving the UK to be tougher than for those arriving in the UK. This layer of tests is more complex (reflecting past case law) and relies on a combination of the number of days spent in the UK with a number of basic 'connection' factors:

A. Is the individual's family resident in the UK?

Family means a spouse or civil partner or common-law equivalent (provided the individual is not separated from them), or children under the age of 18 in some circumstances. However, children at boarding school in the UK will be excluded from this test if they spend no other time in the UK.

B. Does the individual have substantive UK employment or self-employment?

'Substantive' means 40 or more days during the tax year during which the individual works for at least three hours in the day (excluding duties incidental to an overseas employment, e.g. training) – the individual need not be in the UK at midnight on such days.

C. Does the individual have accessible accommodation in the UK?

This means having somewhere the individual and/or his or her family can and do use as a place of residence. Rented accommodation can meet this test if it is held on a lease of six months or more or recurring shorter leases.

D. Did the individual spend 90 days (midnights) or more in the UK in either of the previous two tax years?

The pattern of an individual's visits to the UK in earlier years may be a decisive factor. For example, visits made in 2010/11 and 2011/12 may make an individual resident in the UK in 2012/13 even if he or she was not resident in the UK under the current rules in those years.

E. Did the individual spend more days (midnights) in the UK in the tax year concerned than in any other single country?

Arriving in the UK

If none of the previous layers (tests 1-6) applies, then past events become relevant: individuals must consider the previous three tax years. Thus, during 2012/13 they must look back at the tax years 2009/10, 2010/11 and 2011/12 and consider their residence status in each of those years under the current rules. If an individual was not resident in the UK in all of those three tax years but visits the UK in 2012/13 for between 45 and 182 days, he or she must consider the tests for 'arrivers'.

The following combination of days in the UK and connection factors (see below) is used to decide an arriver's residence status for that tax year (there are no split years under these rules).

Leavers

If an individual is not an 'arriver' and none of the previous layers (tests 1-6) applies, he or she will be treated as a 'leaver'. Accordingly, this test affects any individual who spends ten or more days in the UK and was resident in the UK in one or more of the prior three tax years.

The following combination of days in the UK and connection factors is used to decide an individual's residence status for a tax year (there are no split years under these rules).

Days spent in UK	Factors and outcome for arrivers
Fewer than 45 days	Always non-resident (under layer 1 test)
If more days in the UK	consider factors A to D
45 – 89 days	f 4 factors apply = resident Less than 4 apply = non-resident
90 – 119 days	If 3 or more factors apply = resident Less than 3 apply = non-resident
120 – 182 days	If 2 or more factors apply = resident Less than 2 apply = non-resident
183 days or more	Always resident (under layer 2 test)

Days spent in UK	Factors and outcome for leavers
Fewer than 10 days	Always non-resident (factors ignored)
If more days in the UK	consider factors A to E
10 – 44 days	If 4 factors apply = resident Less than 4 apply = non-resident
45 – 89 days	If 3 or more factors apply = resident Less than 3 apply = non-resident
90 – 119 days	If 2 or more factors apply = resident Less than 2 apply = non-resident
120 – 182 days	If 1 or more factors apply = resident No factors apply = non-resident
183 days or more	Always resident (under layer 2 test)

Split years

As individuals rarely arrive or leave the UK on 6 April, the consultation anticipates that statutory split year rules (part resident and part non-resident) will be needed for the layer 1 and 2 tests. Therefore, split year treatment will apply where, on arriving in the UK, an individual:

- becomes resident by virtue of their only home being in the UK, or
- becomes resident by starting full-time employment in the UK, or
- returns to the UK following a period working full-time abroad.

Similarly, split year treatment will apply where an individual leaves the UK and:

- loses UK residence by working fulltime abroad (this will also apply to the individual's spouse or civil partner if the couple's sole or main home is outside the UK), or
- establishes that his or her only home is outside the UK, becomes tax resident abroad and does not come back to the UK in that tax year.

Where layer 3 tests are required to determine an individual's residence status, the Government does not propose to allow split year treatment for the year in which an individual's circumstances (connection factors) have an impact or change.

Implications for individuals

The proposed new tests are mechanistic, although whether or not individuals can navigate them without expert help is questionable. On the plus side, hard and fast rules will allow the tax consequences of particular actions and events to be established in advance and give greater certainty for planning an individual's arrangements.

The layer 3 test factors for arrivers and leavers can be harsh. For example, an individual who was resident in the UK for part of the 2009/10 tax year (say April 2009), could be resident in the UK for 2012/13 if he or she spends only 10 days here in March 2013 and four connection factors apply.

The family connection factor may also need to be refined. For example, it is not currently specified that the individual and his or her family must be in the UK at the same time for a connection factor to exist.

In addition, in almost all cases, a family in the UK will be based in a property that the individual can use, so any individual with a family automatically has two connection factors whereas a single person would only accrue one.

The absence of any transitional rules means that individuals must plan for these new rules now: for example, it may be necessary to reduce or cancel planned visits to the UK or prepare to sell or let out UK property in 2011/12 to ensure that non-residence status can be maintained in 2012/13. Anyone who may be affected by these changes should seek expert advice as soon as possible to ensure that they do not inadvertently fall foul of the proposed new rules.

ORDINARY RESIDENCE

As well as setting out a proposed definition of 'residence' for UK tax purposes, the consultation document also considers the concept of 'ordinary residence'. Under the current rules, both UK and foreign domiciliaries may be resident but not ordinarily resident in the UK in any given tax year depending on the pattern of their past tax residence in the UK and (according to HMRC) their intentions about living here.

Current problems

In some circumstances, this can lead to disagreement about the date on which individuals decide to remain in the UK for a significant period. It is vital to establish an individual's ordinary residence status for UK tax purposes because:

- Individuals who are UK resident but not ordinarily resident:
  - can claim the remittance basis of taxation for foreign investment income
  - are entitled to the remittance basis on income from foreign employment duties (so-called 'overseas work day relief').
- Individuals who are ordinarily resident:
  - can be subject to UK capital gains and other taxes even if they are not UK resident.

The Government is considering several options to simplify the rules from 6 April 2012.

New tests

The main proposals are to put the test for ordinary residence on a much more practical footing with hard and fast rules as follows:

1. Irrespective of their position under the following two tests, individuals will be ordinarily resident if they are resident in the UK on the basis that their 'only home' is in the UK (or they have several homes all of which are in the UK).

2. Individuals who are resident in the UK for a tax year will be ordinarily resident in the UK unless they were not resident in the UK for all of the prior five tax years.

3. Individuals who are ordinarily resident in the UK will remain so until they have been not resident in the UK for five complete tax years after departure.

If an individual qualifies as not ordinarily resident under 1 and 2, he or she can retain that status for the year of arrival in the UK and up to the two following years. However, a change in their personal circumstances, for example, letting the family home overseas (making a UK property his or her only available home), will mean that the individual becomes ordinarily resident in the UK for the tax year in which the change takes place. Limiting not ordinarily resident status In addition to simplifying the tests, the Government is considering limiting the benefit of not ordinarily resident status to 'overseas work day relief'. This would mean that UK domiciliaries would always be liable to tax on their overseas investment income if they are resident in the UK.

A further option is abolishing the concept of ordinary residence for UK domiciliaries and only retaining it for non-UK domiciliaries. This would be much simpler, UK domiciliaries would only need to consider their residence status – but it would increase the tax that is payable on overseas income and earnings.

Implications for individuals

Simplifying the current rules is undoubtedly welcome, but the new rules will also make it easier to become ordinarily resident in the UK and harder to lose that status – probably increasing the tax take from such individuals. If the Government does abolish the concept of ordinary residence for UK domiciliaries, a number of individuals (possibly more than the Government predicts) will pay more UK tax.

V) USEFUL CONTACTS

ACCOUNTANCY BODIES

Association of Accounting Technicians (AAT)
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Web: www.aat.org.uk

Association of Chartered Certified Accountants (ACCA)
29 Lincoln's Inn Fields
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Tel: +44 (0)20 7059 5000
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Web: www.accaglobal.com

Chartered Institute of ManagementAccountants (CIMA)
26 Chapter Street
London SW1P 4NP
Tel: +44 (0)20 8849 2251
Email: cima.contact@cimaglobal.com
Web: www.cimaglobal.com

Institute of Chartered Accountants in England & Wales (ICAEW)
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Email: contactus@icaew.com
Web: www.icaew.co.uk

Institute of Chartered Accountants of Scotland CA House
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Wales – Flexible Support for Business Enterprise House
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Web: www.business-support-wales.gov.uk

GOVERNMENT BODIES

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Home Office
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Email: public.enquiries@homeoffice.gsi.gov.uk
Web: www.homeoffice.gov.uk

UK Border Agency
PO Box 3468
Sheffield S3 8WA
Tel: +44 (0)114 202 2867
Email: sponsor.management@ind.homeoffice.gsi.gov.uk
Web: www.ukba.homeoffice.gov.uk

For a full A–Z list of central government departments, executive agencies and non-governmental public bodies see www.direct.gov.uk

REGULATORY & SUPERVISORY BODIES

British Standards Institute (BSI)
Group Headquarters
389 Chiswick High Road
London W4 4AL
Tel: +44 (0)20 8996 9001
Email: cservice@bsigroup.com
Web: www.bsigroup.co.uk/en/

Department for Business, Innovation and Skills
Ministerial Correspondence Unit
1 Victoria Street
London SW1H 0ET
Tel: +44 (0)20 7215 5000
Email: enquiries@berr.gsi.gov.uk
Web: www.bis.gov.uk

Financial Services Authority (FSA)
25 The North Colonnade
Canary Wharf
London E14 5HS
Tel: +44 (0)20 7066 1000
Email: see website
Web: www.fsa.gov.uk

Health and Safety Executive (HSE)
Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS
Web: www.hse.gov.uk

Institute of Directors (IoD)
116 Pall Mall
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Email: enquires@iod.com
Web: www.iod.co.uk

Office of Fair Trading
Fleetbank House
2–6 Salisbury Square
London EC4Y 8JX
Tel: +44 (0)20 7211 8000
Email: enquiries@oft.gsi.gov.uk
Web: www.oft.gov.uk

Intellectual Property Office
Concept House
Cardiff Road
Newport NP10 8QQ
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Email: enquiries@ipo.gov.uk
Web: www.ipo.gov.uk

Registrar of Companies (Companies House)
Companies House
International Advisory Services
Crown Way
Maindy
Cardiff CF14 3UZ
Tel: +44 (0)303 1234 500
Email: enquiries@companies-house.gov.uk
Web: www.companieshouse.gov.uk

STOCK MARKETS

Alternative Investment Market (AIM)
10 Paternoster Square
London EC4M 7LS
Tel: +44 (0)20 7797 1000
Email: see website
Web: www.londonstockexchange.com/aim

London Stock Exchange
10 Paternoster Square
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Web: www.londonstockexchange.com

PLUS - SX
33 Queen Street
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Email: see website
Web: www.plus–sx.com

TAXATION

Chartered Institute of Taxation (CIOT)
First floor
11-19 Artillery Row
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Tel: +44 (0)20 7340 0550
Email: post@tax.org.uk
Web: www.tax.org.uk

HM Revenue & Customs
Depends on location of business/individual
Tel: see website
Email: see website
Web: www.hmrc.gov.uk

TRADE ASSOCIATIONS & ADVISORY SERVICES

British Exporters Association (BEA)
Broadway House
Tothill Street
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British Retail Consortium
21 Dartmouth Street
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Email: info@brc.org.uk
Web: www.brc.org.uk

Confederation of British Industry (CBI)
Centre Point
103 New Oxford Street
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Email: see website
Web: www.cbi.org.uk

Export Credits Guarantee Department (ECGD)
2 Exchange Tower
Harbour Exchange Square
London E14 9GS
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Email: help@ecgd.gsi.gov.uk
Web: www.ecgd.gov.uk

Federation of Small Businesses (FSB)
Sir Frank Whittle Way
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Email: membership@fsb.org.uk
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Institute of Export (IOE)
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Web: www.export.org.uk

Organisation for Economic Co-operation and Development (OECD)
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