COUNTRY COMPARATIVE GUIDES 2022

The Legal 500
Country Comparative Guides

United Kingdom
TAX

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This country-specific Q&A provides an overview of tax laws and regulations applicable in United Kingdom.

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UNITED KINGDOM
TAX

1. How often is tax law amended and what are the processes for such amendments?

Very often. Changes are principally made using an annual Finance Act which is passed by the UK Parliament. In some years there may be more than one Finance Act. Some changes to tax law, generally procedural or administrative ones but sometimes substantive ones too, are enacted in secondary legislation in exercise of a power granted under primary legislation such as a Finance Act. Secondary legislation does not go through the same parliamentary process as primary legislation and it may be passed more quickly and at any time, with or without prior public consultation.

Draft clauses to be included in the next Finance Act are often published several months before the Act is introduced to Parliament to allow for comments. It is not uncommon, however, for some changes to be implemented without prior consultation.

Generally, there is public consultation in relation to important changes, previously often linked to the Autumn Statement to the House of Commons of the Chancellor of the Exchequer which was followed by a Budget Statement the following March or April. Since 2018, the major fiscal events each year were expected to be a Budget in the autumn and a Spring Economic Statement. However, this can change; in 2021 there was a spring and autumn budget. In 2022 we have returned to a spring statement, delivered on 23 March 2022, and an expected autumn budget.

2. What are the principal procedural obligations of a taxpayer, that is, the maintenance of records over what period and how regularly must it file a return or accounts?

The principal tax procedural obligation in the UK is to file a tax return.

Companies are required to provide self-assessments of their corporate tax liability on delivering the return. Returns must normally be filed within 12 months of the end of the accounting period for which the return is made, and usually companies are required to keep records for at least 6 years from the end of the accounting period.

Most employees pay their income tax through the employer company's payroll system and are therefore not required to submit an individual tax return. However, where an employee's tax affairs are complicated in some way (for example, by having a source of untaxed income), or where an individual is self-employed, that person is required to complete a tax return, usually annually, and to keep records for at least 5 years from 31 January following the tax year for which the return is made.

3. Who are the key regulatory authorities? How easy is it to deal with them and how long does it take to resolve standard issues?

Her Majesty's Revenue and Customs ("HMRC" or "the Revenue") is the main regulatory authority for tax matters in the UK. HMRC engages with taxpayers usually by publishing guidance to help taxpayers understand and fulfil their obligations and be compliant. There has been increased focus in recent years for HMRC to become more taxpayer-focused. Since 2009, the HMRC Charter has set out the standard of behaviour and values that HMRC aspires to when interacting with taxpayers (for example, to provide a helpful, efficient and effective service) and what it expects of taxpayers. A public consultation on updating the Charter was held in 2020 with the charter being updated to its current form in November 2020.

Traditionally HMRC provided telephone helpline services to taxpayers but a major initiative today is to provide support services online as part of a more general move towards "digitalising" the process of reporting and collecting taxes. HMRC's 2020/21 annual report stated that there had been a positive response to this with 85.2% of taxpayers stating they were satisfied or very satisfied with HMRC's digital services. This dropped slightly to 82% in HMRC's 2021/22 annual report, although this figure covers customer satisfaction across phone, webchat and digital services with no separate score for digital services.

Although these are positive scores, there is certainly room for improvement. Although telephone helplines and online equivalents can deal with relatively simple queries, they are usually not suitable for dealing with complex queries. Accordingly, written correspondence remains highly relevant but it is not unusual to face delays when awaiting a substantive written reply.

The resolution of disputes with HMRC, particularly if leading to litigation, tends to be a relatively lengthy process. In 2017, HMRC published a commentary on its litigation and settlement strategy (LSS), the aim behind which was to provide a mechanism for HMRC to settle disputes in a non-confrontational and collaborative way. However, in practice, HMRC can be litigious and uncompromising, particularly in cases where the revenue exposure is high. A large number of tax disputes still proceed all the way to courts and tribunals. In 2022 this process is lengthened due to a backlog of cases exacerbated by the restrictions imposed during the covid pandemic.

4. Are tax disputes capable of adjudication by a court, tribunal or body independent of the tax authority, and how long should a taxpayer expect such proceedings to take?

The first instance tribunal for most tax disputes (except for judicial review) is the Tax Chamber of the First-tier Tribunal (FTT). The Upper Tribunal (UT) commonly deals with appeals from the FTT only on matters of law. However, where the case is categorised as complex and where the UT and both parties consent, the UT may hear the case at first instance. A case requiring a hearing of less than a week will usually be heard by either tribunal within a year, although in 2022 there are some delays and it is not uncommon for hearings to take 18 months to be heard due to the backlog of cases following the pandemic. As the FTT does not have judicial review powers, judicial review cases are heard in the Administrative Court or the UT.

Appeals from the Upper Tribunal (or High Court) are to the Court of Appeal, then to the Supreme Court. Permission to appeal is required and appeals can only be made on questions of law. Cases usually take around 18 months to complete in the Court of Appeal and two years in the Supreme Court. All tax tribunals and courts mentioned above are independent of HMRC.

5. Are there set dates for payment of tax, provisionally or in arrears, and what happens with amounts of tax in dispute with the regulatory authority?

For companies with taxable profits of up to £1.5m, tax must be paid nine months and one day after the end of the accounting period. Where taxable profits exceed £1.5m but do not exceed £20m ("large companies"), companies must pay their tax in four equal instalments. If a company has a 12-month accounting period, instalments are due:

- 6 months and 13 days after the first day of the accounting period
- 3 months after the first instalment
- 3 months after the second instalment (14 days after the last day of the accounting period)
- 3 months and 14 days after the last day of the accounting period.

Where taxable profits exceed £20m ("very large companies"), companies must pay their tax in four equal instalments. If a company has a 12-month accounting period, instalments are due:

- 2 months and 13 days after the first day of the accounting period
- 3 months after the first instalment
- 3 months after the second instalment
- 3 months after the third instalment

This will be the 14th day of months 3, 6, 9 and 12 of the accounting period.

There are special rules where a company is part of a group of companies. In that situation, a company can be required to pay its tax in instalments even though it does not have taxable profits in the amounts stated above.

For individuals the ultimate date for payment of self-assessed income tax is 31 January following the tax year ending in the previous April. There is also a system of advance payments, known as payments on account, which operates in some cases and requires a payment on 31 January in the tax year and 31 July after the April end of the tax year before a tax return is filed. However, a year's income tax liability must be settled by 31 January.

It is possible on application to defer paying tax where the amount is in dispute. However, since 2014, in the case of tax avoidance schemes which are or should have been registered under the Disclosure of Tax Avoidance Schemes (DOTAS) rules, HMRC has the power in certain circumstances to require payment of disputed tax in advance of ultimate resolution of the dispute. HMRC exercises the power to require prior payment by issuing an “Accelerated Payment Notice” or “Partner Payment Notice” (APN or PPN) depending on whether the scheme in question involved a partnership. The taxpayer has 90 days to object in writing, following which HMRC will confirm, withdraw or amend the notice. There is no right of appeal against the confirmation of an APN or PPN.

Similarly, the Diverted Profits Tax incorporates an advance payment procedure, against which there are only very limited appeal rights.

6. Is taxpayer data recognised as highly confidential and adequately safeguarded against disclosure to third parties, including other parts of the Government? Is it a signatory (or does it propose to become a signatory) to the Common Reporting Standard? And/or does it maintain (or intend to maintain) a public Register of beneficial ownership?

Section 18 of the Commissioners for Revenue and Customs Act 2005 (CRCA) imposes a duty on HMRC officials to ensure that taxpayer information is kept confidential. It is a criminal offence to contravene section 18 by disclosing information relating to a person whose identity is specified in the disclosure or can be deduced from it. The section 18 duty is not absolute and it does not apply to a disclosure which “is made for the purposes of a function of the Revenue and Customs and does not contravene any restriction imposed by the Commissioners.”

The judgment on this exception in *R (Ingenious Media Holdings plc) v The Commissioners for HMRC* [2016] UKSC 54 is of particular interest – the Supreme Court emphasised that HMRC’s duty of confidentiality is a fundamental duty owed to the taxpayer and held that the exception should be construed more narrowly than HMRC had contended.

HMRC’s duty of confidentiality is also one of the obligations in HMRC’s Charter of standards which HMRC aspires to when dealing with taxpayers.

The UK has committed to exchanging information under the CRS based on the OECD Convention on Mutual Administrative Assistance in Tax Matters, and the CRS Multilateral Competent Authority Agreement. Reporting runs annually from 1 January to 31 December and exchanges of information occur before the end of September of the following year, which is the deadline contained in the CRS Multilateral Competent Authority Agreement. Financial institutions are legally required to provide the required information to HMRC. Information of beneficial ownership of companies is now publicly available on the Companies House website.

7. What are the tests for residence of the main business structures (including transparent entities)?

There are two tests for determining whether a company is resident for tax purposes in the UK: (1) the incorporation test (the process is also referred to broadly as company registration), or (2) the central management and control test. Tests (1) and (2) are subject to a third test (3) under which a company that is resident in the UK on one or more of these tests, but which is treated as resident in another country and non-resident in the UK for treaty purposes, will not be treated as UK tax resident.

Regarding transparent entities, such as partnerships, one looks at the partner level. An individual’s residence status is determined by the application of a statutory residence test. UK-resident partners are liable to UK tax on their share of the worldwide profits of the partnership. However, where a partnership is managed and controlled abroad, UK resident partners may be entitled to be taxed on the remittance basis for their share of the profits that arise overseas, if they are not domiciled in the UK and they claim the remittance basis of taxation. Non-UK-resident partners are only liable to tax on profits that arise in the UK and their share of partnership investment income to the extent that it arises in the UK.

8. Have you found the policing of cross border transactions within an international group to be a target of the tax authorities’ attention and in what ways?

International tax planning and avoidance has a high public profile in the UK and has been a target for some time. HMRC’s Transfer Pricing and Diverted Profits Tax statistics indicate that, since 2008, HMRC have increased the number of staff dealing with international tax risks. In 2017, for example, there were 82 full time equivalent staff in HMRC’s specialist transfer pricing group. As at

April 2018 that number had increased to 365, and in 2019 to 2020 there were 456 full-time equivalent staff working on international issues involving multinationals. In 2020 to 2021, the number dipped to 431, though during this period HMRC resources were diverted to supporting covid-assistance measures and therefore the dip does not necessarily represent a lasting change in priorities. Also, to name just a few examples, the UK has had CFC rules since the 1980s, anti-arbitrage rules since 2005, a Diverted Profits Tax since 2015, rules on Offshore Receipts in respect of Intangible Property since 2019 and in 2020 a new Digital Services Tax was introduced. There were also thin cap rules which today are subsumed within the transfer pricing rules (discussed below). In addition, the UK has been an active and vocal supporter of the OECD's BEPS project since its inception and has actively implemented the BEPS recommendations.

9. Is there a CFC or Thin Cap regime? Is there a transfer pricing regime and is it possible to obtain an advance pricing agreement?

Yes, there is a CFC regime and a transfer pricing (TP) regime, and it is possible to obtain an advance pricing agreement (APA).

The UK CFC regime is based on rules designed to prevent diversion of UK profits to low tax territories and is in line with the OECD's recommendations in the BEPS Action 3 report. Where UK profits are diverted to a CFC, those profits are apportioned and charged on a UK corporate interest-holder that holds at least a 25% interest in the CFC. There are a number of exemptions to reflect the fact that the majority of CFCs are established for genuine commercial reasons.

The Finance Act 2004 abolished the separate thin capitalisation requirements that had existed previously and subsumed them within the general TP rules which today are found in the Taxation (International and Other Provisions) Act 2010 (TIOPA 2010).

The UK TP regime is contained in Parts 4 and 5 of TIOPA 2010. The UK TP regime must be considered in light of the Diverted Profits Tax (DPT) rules, which were introduced by the Finance Act 2015. There is also an APA programme through which unilateral, bilateral and multilateral APAs can be obtained. The process by which such an agreement can be obtained is detailed in HMRC's Statement of Practice 2/2010. HMRC will determine the taxpayer's DPT position before agreeing to an APA.

10. Is there a general anti-avoidance rule (GAAR) and, if so, in your experience, how would you describe its application by the tax authority? Eg is the enforcement of the GAAR commonly litigated, is it raised by tax authorities in negotiations only etc?

A GAAR in relation to the main direct taxes, such as income tax, capital gains tax and corporation tax, was introduced in the UK in 2013 and is targeted at abusive tax avoidance schemes. To determine whether a scheme should be thwarted, the question is whether there are tax advantages arising from tax arrangements that are abusive. Tax arrangements exist where, having regard to all the circumstances, it would be reasonable to conclude that the obtaining of a tax advantage was the main purpose, or one of the main purposes, of the arrangements. Tax arrangements are abusive where entering into the tax arrangements, or carrying them out, cannot reasonably be regarded as a reasonable course of action in relation to the relevant tax provisions, having regard to all the circumstances. This is termed the double reasonableness test.

Although the GAAR has applied to the whole of the UK since 2013, Scotland introduced a GAAR from 2015 in relation to land and buildings transaction tax and landfill tax. From 2018 Wales introduced a GAAR in relation to land transaction tax and landfill disposals tax. These devolved GAARs are similar but not identical to the UK-wide GAAR and they operate only in relation to the taxes which have been devolved to the national administrations. Therefore, the devolved GAARs do not operate UK-wide. Accordingly, the UK has more than one GAAR but it is the UK-wide GAAR introduced in 2013 which applies to the widest breadth of taxes across all territories of the UK. It currently applies to income tax, capital gains tax, corporation tax, petroleum revenue tax, diverted profits tax, inheritance tax, stamp duty land tax, the annual tax on enveloped dwellings, the apprenticeship levy and national insurance.

The Finance Act 2016 introduced several measures to bolster the GAAR, including the introduction of penalties of up to 60% of the counteracted tax. The Finance Act 2020 introduced further changes, including allowing HMRC to issue a protective GAAR notice against taxpayers during investigations. The Finance Act 2021 introduced a new schedule into FA 2013 to ensure that the GAAR can be applied to partners or partnerships who enter into abusive arrangements.

It is HMRC's intention that the GAAR be applied initially by taxpayers themselves, through their own self-assessment or in their accounts and adjusting any tax advantage on a just and reasonable basis. HMRC also has powers of counteraction and matters may therefore proceed to litigation to be decided by the courts.

HMRC has been successful in invoking the GAAR to counteract tax advantages from abusive arrangements. At the time of writing in summer 2022 the GAAR Advisory Panel (part of the GAAR operating process) has issued 21 opinions. In 2022 the GAAR Advisory Panel issued its first opinion in favour of the taxpayer; all previous opinions had been in favour of HMRC. The GAAR has not yet been litigated before a tribunal or court.

HMRC has issued very extensive guidance materials indicating how the GAAR would operate in a wide range of contexts.

11. Is there a digital services tax? If so, is there an intention to withdraw or amend it once a multilateral solution is in place?

The UK currently has a digital services tax, introduced effective 1 April 2020, on the revenue of large digital businesses with over £500 million revenue from social media, search engine or online marketplace revenue where over £25m revenue derives from the UK. The tax is 2% on the revenue from UK users.

The UK Government has announced a compromise agreement with the United States under which the UK digital services tax is to be repealed when the OECD's Pillar One proposals come into effect (expected in 2024).

12. Have any of the OECD BEPs recommendations been implemented or are any planned to be implemented and if so, which ones?

The UK has introduced legislation to implement most of the OECD BEPS recommendations set out in the 2015 final reports, including legislation and guidance on hybrids (Action 2) and interest deductibility (Action 4). UK transfer pricing rules contain an express reference to the OECD Transfer Pricing Guidelines for construction purposes. Finance Act 2016 updated the link to the 2017 version of the OECD Transfer Pricing Guidelines to incorporate the revisions agreed as part of the work done in BEPS Actions 8-10. The UK has introduced Country/by-Country reporting and will, from April 2023, require large businesses to implement the additional recommendations of the BEPS Action 13 Final Report of the master file and local file. The UK has not adopted the recommendations regarding the design of CFC rules (Action 3) on the view that that its domestic legislation already prevent taxpayers from inappropriately shifting income into foreign subsidiaries.

The Multilateral Convention (Action 15) to implement tax treaty related measures entered into force on 1 October 2018 and began to have effect in UK tax treaties from 1 January 2019. Nearly all of the UK's tax treaties are marked as "covered tax agreements". On tax treaty abuse (Action 6) the UK has adopted the principal purpose test and has replaced the POEM tie-breaker with a clause requiring agreement between the two states under the mutual agreement procedure. The UK has not adopted the changes to the definition of permanent establishment recommended in the Action 7 report concerning the avoidance of PE status through commissionaire arrangements and the splitting-up of contracts. In 2019, however, the UK adopted the new anti-fragmentation rule concerning the various specific activity exemptions in Article 5(4) o the OECD Model Tax Convention. The UK has also committed to apply the mandatory arbitration (Action 14) provisions in Part VI of the MLI.

In July 2022 the UK introduced draft legislation for consultation ahead of potential inclusion in Finance Bill 2022–23 on the implementation of Pillar Two in the UK. The draft legislation proposes to introduce a new top-up tax on UK parent members when a subsidiary is located outside of the UK and the group's profits arising in that jurisdiction are taxed at a rate below the agreed minimum rate of 15 per cent.

13. In your view, how has BEPS impacted on the government's tax policies?

The UK has been an active and vocal supporter of the BEPS project since its inception and has actively implemented the BEPS recommendations. Accordingly, BEPS has had an appreciable impact on policy in the UK, albeit that, as explained above, the UK government's view has been that some of the UK's rules were already consistent with BEPS outcomes.

14. Does the tax system broadly follow the recognised OECD Model? Does it have taxation of; a) business profits, b) employment income and pensions, c) VAT (or other indirect tax), d) savings income and royalties, e) income from land, f) capital gains, g) stamp and/or capital duties. If so, what are the current rates

and are they flat or graduated?

The UK does broadly follow the recognised OECD model of taxation. The current rates are as follows:

a. Corporation tax is at a main flat rate of 19% of profits. This rate had been planned to reduce to 17% from April 2020, but this was ruled out once the current government came to power. Legislation to increase the corporation tax rate from 19% to 25% with effect from 1 April 2023 was introduced in FA 2021. The current 19% rate will continue to apply to companies with profits not exceeding £50,000 with a tapered rate applying to profits between £50,000 and £250,000.

Companies involved in the oil and gas sector in the UK or UK continental shelf pay corporation tax at up to 40%. In addition, in response to soaring energy prices for consumers and the extraordinary profits of businesses in the sector, the government has announced that an additional Energy Profits Levy of 25% will apply, taking the combined rate of tax on profits to 65%. However, if oil and gas prices return to historically more normal levels, then the government intends to phase out the Energy Profits Levy.

Diverted Profits Tax is charged generally at 25% on profits diverted from the UK, but the rate is 55% where the diverted profits arise from oil rights or extraction activities, and 33% where the diverted profits are profits subject to the 8% bank surcharge. From the financial year beginning in April 2023, the rate of DPT will be increased from 25% to 31%. The 55% and 33% rates remain unchanged.

Digital Services Tax is charged at 2% on revenues of search engines, social media platforms and online marketplaces which derive value from UK users.

b. Personal income (including employment income) and pensions are taxed on a graduated basis – each band of income is taxed at a different rate:

- Personal allowance up to £12,570 – 0%
- Basic rate between £12,571 to £50,270 – 20%
- Higher rate between £50,271 to £150,000 – 40%
- Additional rate over £150,000 – 45%

Scotland has some devolved tax powers and the power to partially set income tax rates. Scotland's income tax rates differ from the rest of the UK. In particular, Scotland has five tax bands rather than three with a 19%, 20% and 21% tax band where the rest of the UK has the flat 20% basic rate band. Scottish Higher and Additional rate taxpayers pay an additional 1% income tax compared to the rest of the UK (41% and 46% respectively). Wales also has devolved powers but for the 2022/23 tax year the rates in Wales are the same as in the rest of the UK (excluding Scotland).

When an individual taxpayer has income of over £100,000 they lose their personal allowance at a rate of £1 for every £2 of income over £100,000. Accordingly, the personal allowance is lost in its entirety when an individual's income is £125,140 or above.

c. VAT is set at a flat rate of 20% of the consideration for goods or services, although some goods are subject to a reduced of 5% (such as children's car seats) or a zero rate (such as children's clothes).

d. The amount of tax paid on savings income will depend on a person's total taxable income. Firstly, if one has not claimed the full personal allowance from other income, one can use the remainder of the allowance to earn interest tax-free. Secondly, if one's other income is less than £17,570, one may also claim up to £5,000 of interest tax-free. Thirdly, one may be eligible for up to £1,000 of interest tax-free depending on which income tax band one is in.

e. Income from land will generally be added to an individual's overall taxable income in a given year and is therefore taxed on the same basis as income from other sources (see (b) above).

f. The annual tax-free allowance for capital gains is £12,300 generally and £6,150 for trusts. Higher and additional rate taxpayers pay 28% on gains from residential property and 20% on gains from other chargeable assets. Basic rate taxpayers generally pay at a lower rate, but this depends on the size of the capital gain, their taxable income and whether the gain is from residential property or other assets.

g. Stamp Duty Land Tax ("SDLT") is a tax on the purchase of land situated in England or Northern Ireland. The charge is graduated in a number of "slices". Normally, the first £125,000 of the purchase price of a residential property is tax-free, with higher slices of the purchase price taxed at rates of 2%, 5%, 10% and 12%.

When it comes to non-residential properties, the first £150,000 paid is tax-free, with higher slices of the purchase price taxed at 2% and 5%.

Where a purchaser (and anyone they are purchasing with) is buying their first home and intends to occupy it at as their main residence and the purchase price is £500,000 or less, then the first £300,000 is tax-free and the remainder is taxed at 5%.

Higher rates of SDLT apply to purchases of additional residential properties (such as second homes and buy-to-let properties) and to non-UK resident buyers.

Wales and Scotland each have their own land transaction tax for properties situated in their territory. The rules are similar to SDLT.

Stamp Duty is a tax on the transfer of shares where a stock transfer form or other instrument of transfer is used. The rate is 0.5% of the consideration. Stamp Duty Reserve Tax is a tax on the electronic transfer of shares, where no stock transfer form or instrument of transfer is used. The rate is 0.5% of the consideration.

15. Is the charge to business tax levied on, broadly, the revenue profits of a business as computed according to the principles of commercial accountancy?

Yes. Corporation tax and income tax of the self-employed and partnerships in the UK are a tax on profits. The starting point in the computation of taxable profits is the figure provided by commercial accounting. This figure is then adjusted as required or authorised by law. Taxable profits of a company include the money the company makes from doing business ('trading profits'), investments and selling assets for more than they cost ('chargeable gains'). Taxable profits of the self-employed include trading profits and other income, with chargeable gains taxed separately from income profits. Partnerships are often transparent and therefore often one looks at the partner level to determine the charge to business tax.

16. Are different vehicles for carrying on business, such as companies, partnerships, trusts, etc, recognised as taxable entities? What entities are transparent for tax purposes and why are they used?

In the UK there may be a difference between the recognition of an entity for tax purposes and the incidence of tax liability. A company is a legal entity and pays tax at the corporate level. A general partnership (except for one created under Scottish law) is not a legal entity distinct from its partners but profits are computed at partnership level and consequent tax is levied at partner level on the individual partner's share of the profit. A limited liability partnership is a legal entity for company law purposes but, provided it is trading, is treated like a general partnership for tax purposes, i.e. it is treated as transparent. The flexibility of having tax transparency at the level of the vehicle whilst being able to access the benefits of incorporation has made the limited liability partnership a popular vehicle for businesses.

Trusts can attract income tax, capital gains tax or inheritance tax. The tax payable and the person responsible for ensuring the tax is paid largely depend upon the type of trust.

17. Is liability to business taxation based upon a concepts of fiscal residence or registration? Is so what are the tests?

Yes. The UK follows the principle of territoriality: it taxes the worldwide profits of its residents and the UK profits of non-residents. As indicated in Q7 above, there are two tests for determining whether a company is resident for tax purposes in the UK: (1) the incorporation test (the process is also referred to broadly as company registration), or (2) the central management and control test. Tests (1) and (2) are subject to a third test (3) under which a company that is resident in the UK on one or more of these tests, but which is treated as resident in another country and non-resident in the UK for treaty purposes, will not be treated as UK tax resident.

18. Are there any special taxation regimes, such as enterprise zones or favourable tax regimes for financial services or co-ordination centres, etc?

Yes. Established in 2012, enterprise zones are designated areas across England that provide tax breaks and government support. Examples of the benefits that may be available to businesses located in an enterprise zone are 100% enhanced capital allowances, government support to ensure superfast broadband throughout the zone and up to 100% business rate discount worth up to £275,000 per business over a 5-year period. The aims of the regime are to attract foreign investment into the country and to deliver long-term, sustainable growth across England. A time limit is imposed on locating one's business in an Enterprise Zone. For example, those planning to locate to one of the Zones which began in April 2017 will need to have located there by March 2022 in order to qualify for a government-backed business rates discount.

In 2021 the UK introduced a series of "Freeports" which were selected following an open bidding process. Businesses within a Freeport are entitled to special tax incentives to encourage investment and growth such as enhanced capital allowances on plant and machinery, relief from stamp duty and employer national insurance contributions for additional employees.

Regulated banking entities in the UK are currently subject to measures which were introduced in response to the financial crisis: the bank levy, bank surcharge and loss restriction rules. These are in addition to corporation tax. Furthermore, the Code of Practice on Taxation for Banks was introduced in 2009 as a voluntary undertaking by participants to maintain good standards of governance and behaviour in their approach to taxation. The effect of these rules is that a large part of the financial services sector suffers increased taxation.

There are other parts of the UK tax code which may be regarded as special taxation regimes. For example, the Enterprise Investment Scheme, Seed Enterprise Investment Scheme and rules relating to Social Investment Tax Relief and Venture Capital Trusts are all designed to help small or medium sized companies and social enterprises grow by attracting investment which they may otherwise struggle to obtain. The rules offer tax reliefs to individuals who buy and hold new shares, bonds or assets for a specific period of time. There are also special rules relating to the Patent Box and Research & Development Tax Relief, as discussed below.

19. Are there any particular tax regimes applicable to intellectual property, such as patent box?

The Patent Box regime enables a UK company to claim a lower rate of corporation tax – at 10% rather than the current main rate of 19% which is due to increase to 25% from 1 April 2023 – in relation to "relevant IP profits" earned after 1 April 2013. To class profits as "relevant IP profits", they must come from five broad activities: (1) profits from the sale of patented products; (2) licence fees and royalties from rights the company grants to others; (3) income from the sale of the patent; (4) infringement income; and (5) damages, insurance or other compensation. The patent box regime was designed to attract companies with intellectual property overseas to choose the UK as a jurisdiction in which to develop the asset. Following OECD concerns that the patent box regime was open to abuse, the UK government modified the regime according to the new nexus approach recommended by the OECD (BEPS Action 5), so that the claimant company (or another group company) must have undertaken qualifying development work on the IP right in order to benefit from the lower tax rate.

In addition to the Patent Box, the UK also gives tax relief in the form of Research & Development Tax Relief for projects that advance overall capability or knowledge in a technological or scientific area (note: this is not just increasing the company's knowledge). There are two schemes, the first is for SMEs – up to 500 employees and either up to €100m turnover or up to €86m balance sheet – which gives tax relief at 230% of the R&D costs. A tax credit can be claimed if the company is loss-making, worth up to 14.5% of the surrenderable loss. The second scheme is for larger companies or SMEs and large companies who have been subcontracted to do R&D work by a large company. Those who qualify under this second scheme can apply for a tax credit of 13% of the company's research and development expenditure.

20. Is fiscal consolidation employed or a recognition of groups of corporates for tax purposes and are there any jurisdictional limitations on what can constitute a group for tax purposes? Is a group contribution system employed or how can losses be relieved across group companies otherwise?

The UK does not provide for fiscal consolidation of company groups. Each company within a corporate group must pay corporation tax on its profits. However, group relief, which allows certain types of loss of one group member to be surrendered to another, is available. Trading losses, non-trading loan relationship deficits and excess capital allowances may be surrendered and do not need to be used first by the loss-making company. However, all other current-year losses (such as property business losses, qualifying charitable donations) can only be surrendered as group relief to the extent that they exceed the surrendering company's other profits in the accounting period.

Until relatively recently, carried-forward losses could not be surrendered by way of group relief. Following changes introduced in 2017, certain types of carried-forward losses arising on or after 1 April 2017, for example trading losses and non-trading loan relationship deficits, may be surrendered to other group members provided that various conditions are satisfied including that the surrendering company cannot use the losses itself.

It is possible for certain non-UK resident companies to be members of a group for group relief purposes. However, the surrender of cross-border losses is permitted only in limited circumstances.

21. Are there any withholding taxes?

There is no withholding tax (WHT) on dividends paid by UK companies, save for a 20% WHT applied to certain dividends paid in respect of income profits and capital gains of a UK real estate investment trust. Yearly interest, royalties and certain annual payments are subject to a 20% WHT unless the rate is reduced under a double tax treaty or an exemption applies.

Income tax and national insurance owed by employees are usually deducted by employers from salaries and accounted for directly to HMRC. A similar withholding system operates under the Construction Industry Scheme where contractors use self-employed sub-contractors.

22. Are there any recognised environmental taxes payable by businesses?

Yes. The UK imposes a Climate Change Levy (CCL) on industrial, commercial and agricultural businesses and public services on electricity, gas and solid fuels. Businesses can get a reduction on the rate of CCL if the business has entered into a climate change agreement with the Environment Agency. There are two further environmental taxes of note:

a. A tax on top of normal landfill fees if the business gets rid of waste using landfill sites.
b. b. A tax on sand, gravel and rock that has been dug from the ground, dredged from the sea in UK waters or imported.

In addition, Finance Act 2021 introduced a plastic packaging tax from 1 April 2022 which applies to plastic packaging manufactured in or imported into the UK where the plastic used in its manufacture is less than 30% recycled. The rate of the tax is £200 per metric tonne of plastic packaging.

23. Is dividend income received from resident and/or non-resident companies exempt from tax? If not how is it taxed?

In 2009 the UK introduced a general exemption system of dividend taxation following adverse rulings from the ECJ. UK and non-UK sourced dividends and other distributions received by a UK company or a UK permanent establishment are subject to corporation tax unless the distribution falls within a number of exemptions. The exemptions are drafted broadly such that their overall effect is to exempt all dividends from corporation tax unless they fall within certain anti-avoidance provisions called Targeted Anti-Avoidance Rules (TAARs).

TAARs include rules that, for example, prevent the artificial transfer of value out of a company resulting from either an intra-group asset transfer otherwise than at market value or the payment of a dividend out of artificial profits.

24. If you were advising an international group seeking to re-locate activities from the UK as a result of Brexit, what are the advantages and disadvantages offered by your jurisdiction?

Much would probably depend on the nature and scope of the group’s activities. Notwithstanding the uncertainty caused by Brexit many advantages of the UK jurisdiction remain in place. The UK continues to possess a well-developed, sophisticated financial infrastructure. Its high level of connectivity with the rest of the world has not changed, including a comprehensive tax treaty network. The UK’s courts are experienced at dealing with international disputes and are often flexible in procedure and cost-effective. They are likely to remain a forum of choice for the resolution of international disputes. HMRC always scores well in comparison exercises with other national tax authorities and it is recognised as honest and sophisticated. On Christmas Eve 2020, the UK announced that a trade deal (formally the Trade and Cooperation Agreement or TCA) had been reached with the EU. Most notably, the TCA provides for a no tariff or quotas on trade in goods if rules of origin are met, but only contains some general rules on trade in financial services Some key disadvantages attributable to Brexit include: (1) the loss of membership to the single market and customs union, (and the consequential loss of market access in financial services through “passporting”); (2) the inability to rely on the EU Arbitration Convention and the Directive on Tax Dispute Resolution Mechanisms to resolve disputes where double taxation occurs between companies of different Member States; (3) the inability to rely on the Parent-Subsidiary Directive, the Mergers Directive, and the Interest and Royalties Directive. Consequently, UK companies receiving dividends, interest and royalties from EU companies will have to rely on double tax treaties to eliminate (if possible) withholding taxes on such distributions. Depending on the terms of the tax treaty, companies might incur additional costs when distributing profits from certain EU Member States and might have to consider restructuring to distribute dividends more efficiently.

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