Report On Companies doing business in the UK

Guide to taxation

March 2022

Mercer & Hole

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Disclaimer

This report is a general guide to corporate tax issues based on complex legislation. We would recommend that further specific advice be taken on individual circumstances. No action should be taken based solely on this document.

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1. Abbreviations

Abbreviations used in this report

Annual Tax on Enveloped Dwellings	ATED
Capital Gains Tax	CGT
Controlled Foreign Company	CFC
Country by Country	CbC
Department of Trade and Industry	DTI
Diverted Profits Tax	DPT
Enterprise Management Incentive	EMI
European Economic Area	EEA
HM Revenue & Customs	HMRC
National Insurance Contributions	NIC
Pay As You Earn	PAYE
Quarterly Instalment Payments	QIPs
Real Time Information	RTI
Real Estate Investment Trust	REIT
Research & Development	R&D
Small & Medium sized Enterprises	SME's
Special Buildings Allowance	SBA
Short Term Business Visitor	STBV
Value Added Tax	VAT

2. Introduction

This guide is designed to provide a high level overview of some of the tax regulations that you need to be aware of if you are doing business in the UK. The UK tax legislation is a complex and ever evolving body of regulation. At Mercer & Hole we have a team able to advise on all aspects of UK taxation from choosing an appropriate vehicle through which to trade, to registering a UK payroll. We are able to advise on corporation tax, business tax, personal tax and employment taxes as well as providing tax compliance services in each of these areas.

For a firm of our size, the depth and breadth of our tax knowledge and experience is unparalleled. More than half of our partners and consultants are qualified tax advisers and we firmly believe that this emphasis on tax within the firm means that we offer a unique approach in the advice we provide to clients.

Our VAT advisers have many years of experience and can proactively advise on how to address any VAT issues that arise, from standard VAT compliance on operational matters to creative solutions for complex VAT issues that inevitably arise from time to time.

As a firm we also have an outsourcing team who are able to provide cost effective, timely, reliable and flexible services to suit your needs. With professional accounting expertise partnered with Quickbooks, Xero and Sage we can support your finance functions.

Our team is always happy to have an initial discussion on how we can help your business operate within the UK. Please feel free to make contact with any of the team listed below:

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3. Background on the UK tax regime

Tax periods

Generally in the UK, returns are due on a tax year basis. The tax year runs from 6 April to 5 April. The tax year 2021/22 runs from 6 April 2020 to 5 April 2022.

The exception to this is for corporation tax where companies are taxed at the prevailing rate on the basis of their accounting period. If this stradles 1 April and there is change in the prevailing rate of corporation tax, the profits of the accounting period are allocated pro rata to determine the tax due.

The charge to tax – individuals

Individuals resident in the UK are liable to UK income tax and CGT on their worldwide income and gains, with specific exemptions for those individuals resident but not domiciled in the UK.

Non-residents are subject to tax on UK sourced income and earnings. They are also subject to CGT on the disposal of UK residential property and, from April 2019, UK commecial property. The charge on commercial property applies from 1 April 2019 for companies and 6 April 2019 for individuals and other entities. In addition, from April 2019 non-residents who sell shares in companies that derive 75% or more of their value from UK land will potentially be subject to CGT at disposal. The gain must be reported, and tax due paid, within 60 days of completion (30 days for completions before 27 October 2021).

UK tax residence is now statutorily defined.

The principle of domicile is complex but from 6 April 2017 individuals can be deemed UK domicile if they have been UK tax resident for 15 of the previous 20 years or become UK tax resident and were born in the UK.

UK tax rates for 2021/22 are detailed in Appendix I.

The charge to tax - companies

Companies fall within the UK tax regime if they are incorporated in the UK, or are incorporated outside the UK but are managed and controlled within the UK. Where a company is potentially resident in more than one jurisdiction under the rules relevant to each, the relevant tax treaty should apply to determine tax residency.

Tax is charged on the company's total income and gains, including trading profits, rents, investment income, interest and chargeable gains, with a deduction for allowable expenses. Generally the start point for the tax calculations is the accounts profit which is then adjusted for tax purposes. Some of the most common adjustments are:-

- Expenditure that is not incurred wholly and exclusively for business purposes;
- Amortisation of capital expenditure deducted in the accounts by way of depreciation must generally be added back to the net profit or loss figure in the accounts and statutory 'capital allowances' are deducted instead;
- Certain expenses are allowed against total profits, rather than trading profits, on a 'paid basis' (e.g. patent royalties);
- General provisions, and provisions for contingent or future losses, contained in the accounts must be added back as only specific provisions are permitted as deductions for tax purposes.

Additionally, companies that are incorporated, managed and controlled outside the UK but have a permanent establishment within the UK will be liable to UK tax on the profits attributable to such an establishment. Where the UK company itself has a branch in an overseas jurisdiction it is liable to UK tax on those profits with, normally, a credit for local tax paid. However, it is possible to elect for exemption from UK tax on profits (and obtain no relief for losses) of overseas branches and pay tax only in the overseas jurisdiction.

Non-UK resident companies without a UK establishment are subject to UK income tax at 20% on rental profit received from UK properties. They are also subject to CGT on disposals of UK residential, and, from 1 April 2019, commercial properties. Additionally, from 6 April 2020 non-resident corporate landlords are being transitioned from the income tax to the corporation tax regime.

Corporate Tax rates

UK corporation tax rates are set for a twelve month period commencing 1 April each year. From 1 April 2017 the rate has been 19%, giving the UK one of the lowest tax rates in Europe, although from 1 April 2023 this rate is set to increase to 25%.

Capital gains (regarded as chargeable gains for corporation tax purposes) are normally taxed on companies at the same rate as profits.

Tax payment dates

Normally corporation tax is payable nine months and one day after the end of an accounting period. There are some adjustments to this where accounting periods are in excess of twelve months; for tax purposes the period is split into a twelve month period and a balancing period, and tax is payable separately for each period. On this basis, for a company with an accounting period end date of 31 December, its corporation tax would be payable on the 1 October following, so the tax for the period ended 31 December 2021 would be payable 1 October 2022.

However, for certain companies deemed to be 'large' for these purposes, corporation tax is payable in quarterly instalments ("QIPs") in advance, based on estimated taxable profits. Companies fall within the quarterly instalments regime where:-

- The taxable profits are above the full corporation tax limit (see below) for two consecutive years; in which case instalments are due for the second year; or
- They have anticipated taxable profits of £10 million or more.

The full corporation tax limit is £1.5 million; divided by the number of world-wide active (i.e. not dormant) companies in the group.

The payment dates for such instalments are the 14th day of the 7th, 10th, 13th and 16th months after the start of a twelve month accounting period. As an example, for a company with an accounting period end of 31 December 2021 the instalment dates would be 14 July 2021, 14 October 2021, 14 January 2022 and 14 April 2022. It is expected that profit forecasts will be reviewed each quarter and a payment made to reflect the proportional tax on the then anticipated overall profit so any shortfalls or overpayments are adjusted for on an on-going basis. Interest is charged on any tax paid late and HMRC reserve the right to levy penalties if they believe a company has knowingly and deliberately underpaid the instalments.

The QIPs rules changed for accounting periods beginning on or after 1 April 2019 for companies with taxable profits in excess of £20 million (again the limit is reduced pro-rata where the company is part of a group). Under the new rules the QIPs will need to be paid earlier. The due dates under the new rules will be:-

- Two months and 13 days after the start of the accounting period;
- Three months after the first instalment;

- Three months after the second instalment;
- Three months after the third instalment.

Thus for the accounting year ending 31 December 2021 the due dates are 13 March, 13 June, 13 September and 13 December 2021.

The net effect will be to bring forward the due dates for many larger companies and groups.

The above summary demonstrates the need to know precisely how many companies are within a group structure.

Tax compliance obligations

The UK operates a self-assessment system that puts the onus for calculating and reporting taxable profits on the taxpayer, with penalties for non-compliance.

The current regime provides for on-line reporting of all taxes.

Corporation tax

A company has to register with HMRC and is then required to submit annually its accounts, a computation of taxable profits and a formal return. The deadline for submission to HMRC is twelve months from the end of the accounting period.

Value Added Tax (VAT)

Companies with anticipated general turnover in excess of £85,000 are required to register for VAT and will be given a VAT registration number. Once registered, the company has to account for VAT on its sales and other supplies. Generally the rate of VAT is 20% but this can be reduced e.g. on certain exports, to 0%. It is also usually possible to reclaim VAT on some costs incurred. A return, normally quarterly, is required by HMRC together with payment of any excess of VAT charged over VAT reclaimable. Any excess of VAT incurred is repayable. Some goods and services may be exempt from VAT which may affect the calculation of VAT in the period.

VAT is also chargeable on the importation of goods and on some services from countries outside the EU. The VAT is payable at the time and place of entry to the UK, though in some instances it is possible to enter into deferment schemes.

It may be sensible for businesses to register for VAT as intending traders so they can reclaim VAT on costs incurred. This can be attractive as it permits VAT recovery on current and certain pre-registration business costs. VAT on goods purchased four years prior to, and on services purchased six months prior to, registration is potentially recoverable. Where a holding company is involved, special consideration should be given to the recoverability of VAT. Please see section three for further details on VAT.

Employment issues

Companies that will have employees are required to register with HMRC and will receive an employer reference. Staff are paid under deduction income tax and NIC under the PAYE system. The income tax is calculated by reference to coding notices issued by HMRC; NIC is calculated by reference to specified rates and bands. In addition to amounts deducted from employees, the company, as their employer, is required to account for employer's NIC at 13.8%; this is an additional cost of employment. Since 6 April 2016 there is an exemption from this charge in relation to employees aged under 25.

PAYE returns and payments are due monthly together with certain other specified information under the RTI reporting system now in force. RTI places additional obligations on employers with penalties on late returns and payments.

Where a company provides taxable benefits e.g. accommodation, car, company credit card, for employees, it is required to provide a return of such benefits and expenses on a tax year basis. The returns are due by 6 July following the 5 April year end. There are some reliefs available in relation to employees on temporary secondment to a UK company.

Employer's NIC at 13.8% is also due on taxable benefits. In this instance the NIC payment is due on 19 July.

Additional returns are due on share movements, options, etc., provided to officers or employees (directly or via a family member) again due by 6 July following the 5 April year end.

Losses (corporation tax)

Trading losses

For accounting periods starting on or after 1 April 2017 there was a significant change in the way that corporate tax losses can be utilised. Where an accounting period straddles 1 April 2017 the period is treated as two separate accounting periods and profits and losses are apportioned between the two periods. This is done on a time basis unless that would produce a result that is unjust or unreasonable in which case a just and reasonable basis is used.

Pre 1 April 2017 losses

Trading losses arising before 1 April 2017 may be set off in the following ways:-

(a) Against any profits of the same company for the same accounting period;
(b) Against the trading profits of the same trade in subsequent accounting periods, without time limit;
(c) Against any profits of the same company in the year preceding the accounting period in which the loss is incurred; and
(d) Against any profits of other companies in the same group in the same accounting period.

Trading losses may be set off under (c) against profits of whatever kind falling within the period (duly apportioned, if necessary), first against the profits of the most recent relevant accounting period and, if relevant, against the profits of earlier periods. In order to claim this relief, the company must have been carrying on the trade in respect of which the loss is claimed during the accounting period in question.

From 1 April 2017 the offset of losses brought forward is restricted to 50% of the annual profits of the relevant trade in the relevant period. There is, however, a £5 million annual allowance; the restriction only applies to profits over the first £5 million. The 50% restriction will, therefore, not usually have an impact on SMEs. However, the £5 million allowance applies on a group basis and must be allocated between group members. Groups are given the freedom to determine how the allowance is allocated.

Post 31 March 2017 losses

Trading losses arising on or after 1 April 2017 may be set off in the following ways:-

(a) Against any profits of the same company for the same accounting period;
(b) Against any profits of the same company in subsequent accounting periods, without time limit;
(c) Against any profits of the same company in the year preceding the accounting period in which the loss is incurred;

(d) Against any profits of other companies in the same group in the same accounting period; and
(e) Against any profits of other companies in the same group in subsequent periods, without time limit.

The new rules are, therefore, more generous and flexible. Again though, the annual profits that can be relieved by carried forward losses are limited to 50% of such annual profits, but subject to the £5 million allowance.

There are, however, anti-avoidance rules that mean in some cases trading losses can still only be carried forward and offset against profits of the same trade.

Certain industries are subject to slightly different rules in connection with the loss rules. These include banks, life assurance companies, oil and gas activities, creative industries companies (film, TV, video games and orchestras), REITS and furnished holiday lettings. There are also some special rules relating to Northern Ireland.

Property losses

Separate rules applied to losses on property income prior to 1 April 2017. Within the property company these losses could be offset against other profits in the same accounting period and could be offset against profits arising in the next accounting period, provided it continues with the property businesses. Property losses could not be carried back to be offset against profits from earlier accounting periods.

Where the property company was a member of a group then losses on property income could be offset against profits of other members of the group, but only if the overall result of the company was a loss.

These rules still apply to losses arising before 1 April 2017 but losses carried forward are now subject to the 50% restriction, subject to the £5 million exemption (see above). Losses post 31 March 2017 follow similar rules to trading losses detailed above.

Chargeable gains and losses

UK resident companies pay corporation tax on gains on the disposal of chargeable capital assets (e.g. property) at the relevant corporation tax rate.

The chargeable gain is calculated as the difference between the net proceeds of sale for a chargeable asset and its purchase price together with any allowable expenditure (such as the incidental costs of acquisition) incurred on that asset. The resulting gain is then reduced by an 'Indexation Allowance' to ensure that the proportion of any gain produced by inflation is not taxed. However, this relief ceased with effect from 1 January 2018, subsequent increases in the allowance are not deductible.

Capital losses, (which may not be increased by inflation) may be utilised only against other gains in the current or subsequent accounts periods. From 1 April 2020 the 50% restriction on carried forward losses also applies to capital losses and the £5m allowances will also apply.

Capital losses may not be surrendered to other group companies but there are provisions for electing for gains to be taxable in a selected group company which, effectively, gives rise to the same position.

There is a potential exemption for chargeable gains (and no relief for losses) on the disposal of substantial (more than 10%) shareholdings in trading companies by corporate vendors. Where this exemption applies, no loss may be claimed where the disposal is less than the original cost.

Making Tax Digital

'Making Tax Digital' is a significant change to the administration of the tax system. Further details can be found in Appendix II.

4. VAT

The system of VAT in the UK is basically the same as that used in the rest of the EU but with some significant differences of detail.

VAT is charged on the supply of goods and services in the UK made by a taxable person in the course of furtherance of a business, unless the supplies are an exempt supply. A UK taxable person is anyone registered or liable to be registered for UK VAT.

VAT is effectively a tax on consumer expenditure so, in theory, the final burden of the tax should not fall on business activity. The VAT regime works under an input/output system. When a business buys goods or services, it pays VAT to the supplier (input tax). When it sells goods or services, whether to another business or to a final consumer, it is required to charge VAT (output tax) unless the supplies are specifically relieved. The business must periodically total the input tax it incurs and deduct this from the output tax charged, paying the balance to HMRC.

The result of this should be that the final consumers bear the cost of VAT on the final price of the goods or services they purchase.

There are three rates of VAT on table supplies in the UK:-

- Standard rate 20%;
- Zero rate; and
- A 5% reduced rate that applies to limited goods and services.

VAT on property transactions is very complicated in terms of reclaim on acquisition, refurbishment, leases, options to tax, charging VAT on rent, etc. Advice should be taken on each transaction so the specific circumstances may be considered.

With effect from 1 April 2019 all VAT registered businesses will have to provide VAT information under the Making Tax Digital regime. With effect from 1 April 2021, MTD will require full digital links to be in place in a business accounting system.

HMRC will require business to account for VAT using functional compatible software approved by them which must include:-

- The taxable person's name, address and VAT number;
- The time and value of each supply made and the VAT charged;
- The time and value of each supply received, plus the amount of VAT recovered;
- The amount of any adjustments or corrections;
- The VAT exclusive value of each of the following outputs: standard rated, reduced rated, zero rated, except or outside the scope.

MTD requirements can be met by a number of software packages provided they are digitally linked, so, for example, a business could record sales and purchases in an accounting package, transfer the figures to a spreadsheet which calculates the return figures which then sends the information to bridging software to submit to HMRC.

5. Withholding Tax

Dividends

The UK does not normally require the UK payer to withhold tax on dividend payments.

Interest

A 20% withholding tax is imposed on interest payments to non-residents, unless the rate is reduced under the relevant tax treaty. This is not an automatic reduction and clearance needs to be obtained in advance from HMRC. HMRC have set up a treaty passport scheme to speed up the approval process. This involves the corporate lender registering with HMRC to be a "treaty passport holder". If the lender is on the list, the borrower only has to complete a notification form 30 days before making the first interest payment on the loan. HMRC will then issue a directive allowing interest to be paid at the relevant treaty rate.

Currently, interest payments to qualifying EU companies may be exempt if they satisfy the conditions applicable under the EU Interest and Royalties directive. Again this is not automatic and clearance must be granted by HMRC. Among the conditions are:-

- A UK company is paying interest or royalties to a company in another EU state; and
- One of the companies has a direct interest in at least 25% of the capital and voting rights of the other; or
- A third company has a direct interest of at least 25% of the capital and voting rights of both the companies.

The directive may not apply to the interest paid between group companies as there may not be a direct holding. In practice this is rarely an issue as the UK treaties with most EU countries reduce the withholding tax to 0% in any event. However, not all treaties do, so this could give rise to potential withholding tax following Brexit.

Withholding tax on interest can also often apply to interest paid to non-corporate UK tax residents.

Royalties

There is a 20% withholding tax on payments to non-residents unless it is reduced by the relevant tax treaty or by the EU Interest and Royalties directive. Reduced withholding tax rates can be self-assessed, as no advanced clearance is required.

Historically, withholding tax is not deductible in any event on UK film, trademark, franchising and know-how royalties or on UK leasing rentals. However, from 26 June 2016 a 20% withholding applies to payments (whether or not annual payments) made overseas where the payment relates to relevant intellectual property. Relevant intellectual property means:-

a) Copyright of literary, artistic or scientific work;
b) Any patent, trade mark, design, model, plans or secret formula or process;
c) Any information concerning industrial, commercial or scientific experience; or
d) Public lending right in respect of a book.

A copyright of literary, artistic or scientific work does not include copyright in:-

a) A cinematographic film or video recording; or
b) The soundtrack of a cinematographic film or recording except, so as it is separately exploited.

It may still be possible to make the payment gross (or with a reduced rate of withholding) where the payment falls within the terms of the EU Interest and Royalties Directive or a relevant double tax treaty. There is, however no right to pay gross (or use a reduced rate) under a double tax treaty where the payment is to a connected party and the payment is made as part of a treaty tax avoidance arrangement.

Offshore receipts in respect of intangible property

From 6 April 2019 there has been a UK income tax charge on foreign entities in receipt of income from intangible property to the extent that it is referable to the sale of goods or services in the UK. This will not apply to foreign entities that are resident in jurisdictions that have a double tax treaty with the UK that contains a non-discrimination clause.

The change will include embedded royalties and income from the indirect exploitation of intangible property in the UK. There is though a £10 million UK sales threshold before the charge is imposed.

Management fees

There is no withholding tax on management fees.

Property fees

Rental income received by a foreign resident is liable to a withholding of income tax of 20%. The withholding tax is a payment towards the final liability, which is determined when the individual's tax return has been submitted. Certain expenses are deductible in determining the final liability.

If a non-resident landlord appoints a UK agent who makes tax returns on behalf of the landlord, the tax is payable on the net profit. Where there is no agent the tenant has to account for the tax.

Alternatively, non-resident landlords can receive rent gross under the non-resident's landlord scheme. They need to register with the scheme and submit annual returns and payments to HMRC. This scheme continues to operate even though the profits of non-UK resident companies with a UK property business now fall within corporation tax.

Non-Resident entertainers and sports people

Payments made in connection with appearances in the UK by foreign entertainers and sports people are subject to a maximum 20% withholding tax. Where expenses are paid on behalf of the person, the figure needs to be grossed up first so the maximum withholding is then 25% of the net expense.

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6. Capital allowances

Capital allowances provide for the cost of capital assets to be written off against the taxable profits of a business (whether incorporated or not). Effectively they take the place in the tax computation of depreciation in the accounts.

There are differing rates of tax allowances available for capital expenditure on qualifying assets and it is important to properly analyse costs to ensure that relief is claimed at the appropriate rate. From a tax planning standpoint, it is important to:-

- Consider whether you are entitled to claim the Super Deduction
- Allocate the 100% annual investment allowance to assets that would otherwise qualify at the lowest rate;
- Consider claims under the short life assets regime to bring forward tax relief due;
- Ascertain the acquisition date;
- Consider the need for elections on acquisition.

The details of various categories and allowances available are given below.

Annual Investment Allowance

A capped 100% allowance is available for expenditure on plant and machinery (excluding cars but including integral fixtures and long life assets). The relief is flexible; allocation of relief to different categories of qualifying assets is at the business' discretion.

The allowance is reduced proportionately for periods of less than 12 months and for groups and certain associated companies/businesses.

The current allowance of £1,000,000 has been extended to 31 March 2023.

Super Deduction

The super deduction is in addition to the Annual Investment Allowance with no spending cap. It provides for a 130% first year deduction for expenditure on plant and machinery which is incurred on or after 1 April 2021 but before 1 April 2023.

In order to claim the deduction, certain conditions must be met including:

- The plant and machinery must be unused and nto second hand, and
- Cannot be within any of the the eight general exlcusions in section 46(2) of the the Capital Allowances Act 2001 which includes exclusions for cars and plant and machinerty for leasing.

Enhanced Capital Allowances

100% tax relief was given, in addition to the Annual Investment Allowance, on 'green' assets including energy saving plant and machinery and very low emission cars - for a full list visit:-

www.gov.uk/government/publications/enhanced-capital-allowance-scheme-energy-technology-product-list.

It is worth liaising with a specialist to see what equipment can be sourced as assets that do qualify for the 100% allowance as this can substantially enhance tax reliefs in the early stages, however, these reliefs expired on 1 April 2020.

100% first year allowances are available on electric charging points for cars until 1 April 2023.

100% first year allowances are available for cars with a CO_2 emissions of 50g/km or less.

Research & Development

Capital costs incurred on assets in connection with R&D qualify for 100% allowances, again in addition to the Annual Investment Allowance.

Short life assets

These are assets that would normally fall within the general pool but are expected to be sold or scrapped within the eight years following the year of acquisition. These assets may be elected to be kept in single asset pools. If the proceeds of disposal within the period are less than the tax written down value, a balancing allowance is given on disposal. This can significantly advance tax relief. The relief can be of particular relevance where you buy a property and immediately refurbish it.

General pool

This covers any plant that is not an integral feature (as below) and cars with CO_2 emissions below 110g/km. The general pool qualifies for writing down allowances at 18% on a reducing balance basis. Toilet and kitchen facilities are not included in the integral features list below so therefore qualify at the 18% rate.

Integral features pool

This is a pool with writing down allowances at 6% (8% prior to 1 April 2019) on a reducing balance basis that includes not only integral features (see following list) but also long life assets (those with a life of more than 25 years), and thermal insulation.

Integral features cover:-

- Electrical systems (including lighting systems);
- Cold water systems;
- Lifts, escalators and moving walkways;
- Space or water heating systems, powered systems of ventilation, air cooling or air purification and any floor or ceiling comprised in such systems;
- External solar shading;
- Active facades.

Car Pool

Cars with CO_2 emissions in excess of 50g/km (110g/km prior to 6 April 2021) form a separate pool that attracts writing down allowances at 6% (8% prior 1 April 2019) on a reducing balance basis.

Fixtures in commercial property

With very limited exceptions, from April 2012 a buyer of previously used commercial property must agree with the seller the value of the fixtures in the building within two years of the acquisition.

Additionally, from April 2014, the buyer is only entitled to allowances to the extent that the seller has included such costs in its Capital Allowances pool.

Structures and buildings allowance (SBA)

Capital expenditure on new structures and buildings incurred on or after 29 October 2018 will be eligible for SBA provided that no construction work was entered into before that date. SBAs are given on a straight line basis with an allowable deduction of 3% from 1 April 2020 (previously 2%) of the eligible cost per annum. Expenditure eligible for SBAs is not eligible for Annual Investment Allowance.

The relief is only available on the costs of purchase, construction or renovation; not the cost of land, alterations or demolition work.

Summary

You will appreciate from the above, the various assets, classifications and rates that are potentially applicable for capital spend. It is important properly to identify these and we would recommend the involvement of a specialist at an early stage on any property acquisition. Ideally, we would recommend that advice is taken prior to acquisition as it may be possible to claim allowances on assets bought and immediately scrapped (under the short life assets regime) and then claim relief on the refurbishment. It is much harder to ascertain the position in arrears. The position on tax elections is crucial and advice should be sought before agreeing to any election on property acquisitions.

7. R&D tax credits

R&D tax credits provide potentially substantial tax incentives for companies that incur expenditure on qualifying research and development. The tax benefits are different depending on the size of the company.

For SME's for every £10,000 of qualifying expenditure incurred, the company can claim a deduction of £23,000 from its taxable profits. Additionally, loss-making companies can choose either to increase the value of their losses carried forward, or to surrender the tax credits in return for a cash payment. HMRC will repay 14.5% of the loss (equivalent to just over £33 for every £100 of qualifying expenditure).

For large companies, the relief is different, these companies receive a tax credit equal to 13% (12% to 1 January 2020) of the R&D costs. This receipt is taxable. The credit will initially be used to reduce any corporate tax liability within the group. If the tax credit exceeds the tax liability, then there are prescribed rules for set-off. One key advantage is that loss-making large companies are now able to receive a cash benefit from their R&D activities (although it will be repaid net of tax).

There is a lot of confusion over what constitutes R&D. Essentially the company has to be doing something new to the market in a field of either science or technology where, at the outset, it is looking to resolve an uncertainty. This covers a lot of areas and advice should be sought on the availability of relief.

As can be seen from the differing rates of relief, one crucial factor is whether or not the UK company (or the group) will be regarded as small or medium-sized. Broadly, a company or group is small or medium-sized if it has less than 500 employees and either:-

- An annual turnover of not more than €100 million; or
- Total assets on its latest balance sheet of not more than €86 million.

Additionally, the company must not be owned 25% or more by companies which are themselves not small or medium-sized for these purposes. There are, also, other tests on linked shareholders which need to be considered.

A company can potentially claim R&D tax credits on the costs of:-

- Employing staff for R&D, including salary, bonus, employers' NIC and employers' pension contributions;
- Consumables used up in the R&D process and not included in a final saleable product;
- Externally provided workers and for SME's only, certain costs of subcontracting R&D (although the claim is restricted on such costs).

The impact of the relief can be significant, for example:

	£
Qualifying labour costs	75,000
Qualifying direct costs	20,000
Attributable overheads	5,000
	100,000
R&D uplift	130,000
	230,000
Potential additional reduction in corporation tax liability (at 19%)	24,700

This is a valuable relief in terms of reducing UK tax liabilities and should not be overlooked.

In the Autumn 2021 Budget, the Chancellor announced proposals to make the following changes with effect from 1 April 2023:

- Relief will be extended to cover cloud computing and data costs, and
- Will be refocussed on targeting innovation and investment undertaken in the UK.

Further details are expected in due course.

8. Tax Interaction between the UK and overseas companies

8.1 Relief for non-UK losses

The UK does permit, to a limited degree, the surrender of losses from overseas companies against profits of UK companies. The legislation applies where a UK parent company has a foreign subsidiary that has incurred a foreign tax loss, and that subsidiary is either resident in the EEA or has incurred the loss in a permanent establishment in the EEA. Provided certain conditions are met, the UK parent company (or a UK subsidiary of the parent company) may be able to claim an amount representing the foreign tax loss against its profits.

There are four conditions, each of which must be satisfied, to enable a claim for loss offset to be made in the UK. These are:-

- The loss must be of the same nature as losses that are already allowable under the UK's group relief rules;
- There is a loss under the rules of the EEA territory of residence of the surrendering company;
- The loss is one which cannot be relieved in the EEA territory of residence and has not been relieved in any other territory;
- The loss cannot be relieved by an intermediate foreign company in the ownership chain.

8.2 Miss-match provisions

Care needs to be taken over the anti-avoidance hybrid miss-match rules.

Mismatches can include either double deductions for the same expense or deductions for an expenses without the corresponding receipt being taxed.

In the case of double deductions, the primary response is to deny a deduction to the parent or investor company. If this does not occur the secondary response is to deny the deduction to the hybrid entity or permanent establishment.

In the case of deduction/non-inclusion the primary response is generally to deny a deduction for the payer. If this does not occur, the secondary response is to bring the receipt into charge for the payee.

8.3 Profit fragmentation

In 2019 the government introduced an anti-avoidance measure on profit fragmentation . This will apply to sole traders, partnerships and most private companies namely those controlled by their directors or by five or fewer shareholders. The aim is to prevent UK-resident traders diverting profits to an entity resident in a territory with significantly lower taxes than the UK.

9. Large company issues

Transfer pricing

Most countries now have detailed rules governing the pricing of transactions between related parties. These are usually tax rules but they stem from the basic legal requirement that companies, for example subsidiaries that form part of a group, account for goods and services bought or sold regardless of whether those transactions are with third parties or other group members. Many countries also have formal or informal rules on compliance (for example the preparation of transfer pricing documentation) and operate penalties for non-compliance.

The OECD has agreed a general principle - the arm's length principle - which should govern transactions of this sort and has published detailed guidelines on its application. The UK has adopted these guidelines in tax law.

In the UK, transfer pricing rules apply to a wide range of transactions including those between two UK companies or between any person (including individuals and charities) and a company or partnership. In principle, the rules cover almost everything from sales or purchases of goods and services, to intellectual property, debt or deemed transactions that are not reflected in any accounts. As a general principle, the 'arm's length' rule applies to transactions between connected parties and provides that, for tax purposes, such transactions are treated by reference to the profit that would have arisen if the transactions had been carried out under comparable conditions by independent parties.

Importantly, there is an exemption for small companies and also for medium-sized companies unless HMRC otherwise direct. This will apply for most SME's, subject to details of the other group companies and the ownership of the companies. Very briefly, a business is regarded as small for transfer pricing purposes if it has no more than 50 staff and either an annual turnover or balance sheet total of less than €10 million. A business is medium-sized if it has no more than 250 staff and either an annual turnover of less than €50 million or a balance sheet total of less than €43 million.

Interest relief

From 1 April 2017 for groups with UK interest costs of £2 million or more, tax relief is restricted to 30% of a group's earnings or by reference to a group ratio rule based on net the ratio of interest to EBITDA for the worldwide group.

The rules are complex and if applicable, detailed advice should be sought.

Country by Country (CbC) reporting

The obligation to file a CbC report is targeted at large companies with total consolidated group revenue of €750 million or more.

There is an initial requirement to notify HMRC that reporting will be due. The notification is due to be filed by the end of the reporting period.

The CbC report itself must be filed in respect of the accounting period immediately following that in which the threshold requirement is met. So, if a group meets the threshold for the year ending 31 December 2020, the report must be filed in respect of the year ended 31 December 2021.

Tax Strategy

Large corporations are now required to publish their annual tax strategy on their website. This obligation applies to UK groups with an annual turnover of £200 million or more, or a group balance sheet total of more than £2 billion. It also applies to any company within the country by country reporting regime.

Senior Accounting Officer

The senior accounting officer (SAO) rules apply to companies who either alone, or together with other UK incorporated companies within their group, have a turnover in excess of £200 million and/or a balance sheet in excess of £2 billion.

The requirement is for all such companies to appoint a director or officer who, in the company's reasonable opinion, has overall responsibility for the company's financial accounting arrangements, the SAO.

The SAO is responsible for ensuring that the company establishes and maintains tax accounting arrangements appropriate to its size and complexity.

The company must notify HMRC annually of the name of each individual who acted as the company's SAO during the financial year. Failure to do so may result in a penalty of £3,000.

The SAO has to provide HMRC with an annual certificate confirming that the company had appropriate tax accounting arrangements throughout the financial year. If not, they must provide an explanation. Failure to do so may lead to two separate penalties of £5,000 being levied on the SAO personally.

The deadline for providing the certificates and notifying HMRC of the name(s) of the SAO(s) is the filing deadline of the company's accounts.

10. Diverted Profits Tax

Diverted Profits Tax ("DPT") applies at the rate of 25% to profits of multinationals that have been artificially diverted from the UK. DPT is distinct from corporation tax and the UK considers it falls outside the scope of current tax treaties.

DPT applies in two distinct situations:-

- Where a group has a UK company (or a UK Permanent Establishment) and there is a tax mismatch as a result of transactions with a non-UK entity that lack economic substance. Broadly, there is a mismatch where the overseas tax is less than 80% of the UK tax that would have applied;
- Where a foreign company has artificially avoided having a taxable presence (permanent establishment) in the UK. There is a requirement that there is activity (people) in the UK.

There is an exception from DPT for SMEs. For cases involving the avoidance of a UK permanent establishment there are also exceptions where either:-

- Total UK sales made by the group that are not within UK corporation tax are less than £10 million per annum; or
- UK expenses of the group are less than £1 million.

11. Digital Services Tax

From April 2020 a new Digital Services Tax (DST) was introduced. It is a 2% tax on revenues of certain digital businesses that derive value from UK users. DST will apply to:-

- Revenues generated from search engines, social media platforms and online market places that are linked to UK users, subject to a £25 million annual allowance.
- Groups that generate revenues in excess of £500 million per year for such businesses globally.

There will be safe harbour provisions for loss making companies. There will also be provisions to reduce the effective rate of the tax for businesses with very low profit margins.

12. Employee issues

Remuneration

Employees' cash remuneration is paid under deduction of PAYE, income tax and NIC. This applies to:-

- Salary;
- Bonus;
- Cash allowances – including housing allowance;
- Payment of personal liabilities e.g. school fees.

Where employees are provided with additional benefits there are specific tax provisions concerning the reporting and taxation of these. Where the expense is incurred by the company on the employee's behalf, the cost to the employer including any VAT not reclaimable but excluding the employer's NIC cost, is a benefit in kind. This will be reported on a form P11D and tax will be due for payment by the employee. It is likely that HMRC will seek to adjust for the cost of such benefits through the code number operated on the salary payments. It is possible for the employer instead to payroll some benefits.

Certain payments may be provided free of tax. The most common are:-

- Payments into a registered pension scheme;
- Meals provided in a staff canteen;
- Drinks and light refreshments at work;
- Parking provided at or near an employee's place of work;
- Workplace nursery places provided for the children of employees;
- Certain other employment supported childcare up to £55 a week (not available to new entrants after October 2018);
- In-house sports facilities;
- Payments for additional household costs incurred by an employee who works at home;
- Removal and relocation expenses up to a maximum of £8,000 per move;
- The provision of a mobile phone or vouchers to make available a mobile phone (limited to one phone per employee only). The contract for the mobile must be in the company's name for the exemption to apply;
- Interest free loans up to £10,000;
- Christmas parties and other annual events capped at £150 per attendee.

Where certain conditions are met, expenses for employees travelling abroad may be exempt. There are tax differences depending on whether or not the duties are performed wholly or partly abroad. The exemptions are in three forms:-

- The costs of travelling to and returning from a foreign employment. To qualify:
    - The duties must be performed whilst outside the UK;
    - The employee must be UK tax resident;
    - The employer is a foreign employer - the employee must be UK domiciled;
- Travel between employments abroad. Again, various tests must be met;
- Travel between the UK and an overseas workplace for an employee who is UK resident and ordinarily resident. The travel must be wholly and exclusively for the performance of overseas duties that can only be performed there.

Where appropriate, some relief applies to an employee who works in the UK but is not UK domiciled. Provided the residence test as above is met, the employee is entitled to relief for five years from the date they came to the UK for the full cost of journeys to the UK from the place where he or she usually lives and back home after carrying out those duties. There is no limit on the number of such journeys. Additionally, if the employee's work in the UK keeps them in the UK for 60 days or more, tax relief is given on the cost of a spouse or civil partner and children travelling from their home to visit or accompany the employee to the place where he or she is working in the UK, and their return journey. However, this relief is capped at two outward journeys and two return journeys in each tax year for each member of their family.

It is important to note that this is an exemption from a charge to tax. It does not permit a claim against tax for any such costs not met by the employer.

Off-payroll working

Currently where a contractor works through their own limited personal services company that company will need to assess whether the worker would be employed or self-employed and if applicable account for PAYE and National Insurance and the IR35 regulations. From 2021 this became the obligation of the person paying the service company to make that assessment and operate PAYE.

Non-resident directors coming into the UK

Non resident directors are seen to be either employed by or will be office holders of the UK company. Where the non-resident director enters the UK for board meetings and the performance of other director duties, these are seen to be substantive duties and the earning attributable are taxable in the UK. This therefore gives rise to a PAYE withholding obligation for the UK company.

The non-resident director may then wish to complete a self-assessment tax return to reconcile his tax position at the end of each tax year.

There is a concession for National Insurance related to non-resident directors who are visiting the UK solely for board meetings (provided certain conditions are met). There may also be some specific exemptions available under international social security agreements.

Short-term business visitors coming into the UK

Where a UK company has an employee from its international business travel to the UK for a short term business trip, PAYE and NIC obligations could be triggered from day one, where substantive duties are performed in the UK. Please note the fact that the traveller may be exempt from UK tax under the provisions of the Double tax treaty does not negate the PAYE obligation.

If the traveller is from a country which has a double tax treaty with the UK, an agreement can be sought with HMRC to relax the PAYE obligations and complete an annual report instead. The UK company will need to keep track of all international mobile employees from member overseas companies, even if their visit is directly to a client and they do not enter the UK company offices. This Short Term Business Visitor Agreement (STBVA) does not cover NIC (as the position will need to be considered separately), nor can non-UK resident directors be included in the report.

The STBVA annual report has a filing deadline of 31 May following the end of the tax year.

Employees coming into the UK

Relocation costs

The exemption for reimbursement of relocation costs may be particularly useful to companies looking to bring employees to the UK to work on a permanent basis. HMRC have provided a list of costs that can qualify for the exemption, subject to the £8,000 cap:-

- Costs of disposing of the existing home, such as legal fees, estate agent's fees, advertising, disconnecting gas, electricity, water and telephone supplies, rent, insurance, maintenance and security once the property is left empty and before you sell it;
- Costs of acquiring a new home including legal fees, loan arrangement costs, structural surveys and valuations, Stamp Duty, Land Tax and Land Registry fees, connection fees for gas, electricity, water and telephone supplies, removal costs, temporary storage;
- Travel and subsistence costs for family visits to the new location and travel when the actual house move takes place;
- Temporary accommodation provided for the employee at the new location;
- Costs of replacing domestic goods;
- Interest payments on certain bridging loans.
- Shipment of personal belongings

HMRC have also provided a list of expenses that fall outside the exemption:-

- Mortgage or housing subsidies if you move to a higher cost area;
- Interest payments for the mortgage on the existing home;
- Re-direction of mail;
- Council tax bills;
- The purchase of uniforms for the employee's children's new school;
- Compensation for losses.

Again, it should be noted this is an exemption for reimbursed payments. Tax relief is not available on expenses paid personally.

Employee accommodation

For companies looking at bringing employees over to the UK on a temporary basis there is a specific exemption for the provision of accommodation for such employees, provided that the costs are "reasonable". HMRC regard an employee as having a temporary workplace where the situation is expected to last for less than 24 months.

Accommodation provided in other circumstances is taxable on the employee based on the cost of providing the accommodation if rented or in a hotel, or on the value of the property if the property is owned.

Where accommodation is rented privately and the company meets the costs the tax treatment will depend on whether the costs are part of the £8,000 relocation costs permitted. If not, the payments should be put through the payroll to collect the tax and NIC due thereon.

Company vehicles

The provision of company vehicles causes a lot of tax issues. Where an employer makes a car available to an employee a benefit in kind is chargeable based on the list price (as opposed to cost price) of the car multiplied by a fixed rate. The multiple is dependent on the CO_2 emission of the car. Additionally, if <u>any</u> private fuel is

provided an additional benefit is charged at the same percentage on a flat £24,600 from 6 April 2021. The fuel benefit does not apply to electric cars.

Where the vehicle provided is a van that employees are permitted to use privately there is a standard benefit charge, normally £3,500 from 6 April 2021) for the use of the van and a further £669 for 2021/22 (£666 for 2020/21) for private fuel.

There are reliefs for electric vans which are taxed at a reduced rate.

Pension provision

Workplace pension law has changed and employers are expected to place members of staff who meet certain criteria into a qualifying pension scheme and make contributions.

Staff members who meet the criteria will automatically be enrolled into the scheme. Staff members who do not meet the auto enrolment criteria must be told of their right to join the pension scheme if they wish. If a staff member does not wish to join the scheme they may opt out after having been auto enrolled, but the onus is on them to do so.

Apprenticeship Levy

This affects employers in all sectors, but is, effectively, only paid where the annual pay-bills are in excess of £3 million. An employer's pay-bill will be based on the total gross employees' earnings subject to employers' NIC.

The levy is charged at a rate of 0.5% of an employer's pay-bill. Each employer will receive an allowance of £15,000 (0.5% of £3 million) to offset against their levy payment. There is a connected party rule, so employers who operate multiple payrolls will only be able to claim one allowance of £15,000. The levy is collected though PAYE and is payable alongside income tax and national insurance.

Shareholdings

Shares in companies are commonly used by employers to reward, retain or provide incentives to employees. The most common forms of employment-related securities are share options and share awards. These may be provided to employees under a formal scheme which will usually have a written set of rules, or as informal one-off awards.

Very broadly, the legislation provides that where shares and securities are provided to an employee or officer of a company at less than full market value, the money's worth of the shares (less any amount paid) will normally be taxed as earnings.

The position is different depending on whether the employee receives shares or an option. Shares give immediate ownership and the right to future dividends in the hands of the employee. It is recommended that the shareholding is governed by a formal Shareholders' Agreement that sets out procedures for managing the ownership and sets out values to be applied on an employee leaving, etc.

Many companies are happy for the employees to have the right to share in future growth and benefit from any exit, but do not wish to dilute ownership in the short to medium term. In these circumstances a share option scheme may be appropriate. A share option is simply a right to acquire a share in the company at a future date; the price and timescale may be set on grant of the option and exercise can be made conditional on length of service, performance, etc.

Approved option schemes normally permit employees to acquire shares in the future at a reduced cost without an income tax liability.

Unapproved share options carry no tax benefits; income tax is charged on the difference between the market value and the price paid on exercise of the option and capital gains tax at potentially 20% on the ultimate sale. Where the option is exercised in anticipation of a sale or listing the company has to account for PAYE (income tax and NIC) on the discount, and this is likely to be at the expected sale value.

The most flexible, tax efficient approved share option scheme currently available for UK trading companies is the EMI scheme. EMI schemes enable employees to participate in the growth of the company at a low risk. Options are issued over shares in the company, normally at today's price, with the right to exercise the options falling due at a future date or event. The right to exercise can be conditional on specified criteria, for example the employee's performance and/or on a sale of the business.

Since EMI is a share option scheme, the employees can choose whether to exercise or not and so are not taking any financial risk if the shares fail to increase, or fall in value during the option period. Assuming that the company continues to perform well and the shares increase in value the employees can then exercise the options and acquire shares at today's price with no tax cost. Even then there is no obligation to exercise; it is a personal choice.

Once the shares are held the employees would participate in any future sale and should pay only CGT, potentially at 10% if Business Asset Disposal Relief is available or at 20% if not.

The tax benefits of EMI schemes are: -

- No income tax charge on the employees when the option is granted;
- No income tax or NIC is payable on the exercise of the option, provided it was granted at market value or higher;
- CGT is payable on disposal on proceeds less cost;
- Business Asset Disposal Relief (reducing the rate of CGT to 10% on the first £1 million of gains) is available where employees acquire shares under EMI options and hold the shares and/or options 2 years (12 months for disposals before 6 April 2019) before any disposal;
- Tax relief in the company on the difference between the market value on exercise and the cost of the shares.

Key factors are that approved option schemes are not permitted in subsidiary companies and that only certain types of trade qualify for EMI.

13. ATED

An annual tax charge based on property values applies to UK residential property owned by certain non-natural persons e.g. companies.

The current charges under the ATED exempt properties valued under £0.5 million (as at 1 April 2017) but thereafter the charges are for 2021/22:-

- £3,700 for properties valued between £500,000 and £1 million;
- £7,500 for properties with a value between £1 million and £2 million;
- £25,300 for properties with a value between £2 million and £5 million;
- £59,100 for properties with a value between £5 million and £10 million;
- £118,600 for properties with a value between £10 million and £20 million; and
- £237,400 for properties with a value over £20 million.

Properties need to be revalued every 5 years at which time the ATED is reassessed, with the next revaluation date being 1 April 2022 for the tax year 2023/24.

There are a number of reliefs available which can be claimed through the ATED return. In particular, no ATED will be due if the property is let to a third party on at arms-length terms. Property developers will also usually be able to claim relief.

Prior to 6 April 2019 a 28% tax charge applies to entities (regardless of tax residence) that dispose of UK residential property where ATED has been payable at some point in the period that the property was owned. This ATED surcharge is to be abolished from 6 April 2019.

Since 6 April 2015 a 20% charge applies to non-resident corporate entities that dispose of UK residential property even if they fall within the ATED exemptions.

From 6 April 2020 the profits on all UK properties held by non-resident companies will be subject to corporation tax.

Appendix I - Summary tables and rates for 2021/22

Income Tax

Bands	2021/22		2020/21	
Basic rate	£0 - £37,700	20%	£0 - £37,500	20%
Higher rate	£37,701 - £150,000	40%	£37,501 - £150,00	40%
Highest rate	£150,000	45%	£150,000	45%

Dividends are subject to different tax rates; the first £2,000 (£5,000 10 year-period ended 5 April 2018) of dividends is "taxed" at 0%, within the basic rate limit at 7.5%, within the higher rate limit at 32.5% and thereafter at 38.1%.

There is also a limited nil rate band for non-dividend investment income, dependent on total income.

There are special rules for trusts, and also for individuals with income assessable on the remittance basis (e.g. certain non-UK domiciled individuals).

An additional charge applies to claw back child benefit where one income in a household exceeds £50,000.

Personal Allowances

	2021/2022	2020/21
Personal allowance	£12,570	£12,500
Income limit for personal allowance	£100,000	£100,000

The personal allowance is reduced by £1 for each £2 by which income exceeds £100,000, such that for individuals with taxable income over £125,000 no allowance is due.

Pensions

	2021/22	2020/21
Tax relief on pension contributions is governed by various limits:-		
Lifetime allowance	£1,073,100	£1,073,100
Maximum contribution annual allowance	£40,000	£40,000
Minimum contribution and allowance	£4,000	£4,000
Normal minimum pension age	55	55

Anyone with income above £240,000 (includng employer pension contributions) will see the annual allowance of £40,000 reduced by £1 for every £2 above £240,000. The maximum reduction is usually £36,000 which will be reached on an income of £312,000. Unused allowances from the previous three years may be carried forward, potentially increasing the current year's allowance.

Company Cars – annual benefits

The annual benefit is a percentage of the list price, with the percentage dependent on the level of CO_2 emissions.

Fuel

If fuel is provided for private use in a company car, the car benefit percentage is applied to a flat £24,600 from 6 April 2021.

Mercer & Hole

National Insurance Contributions (NIC)

Class 1 - employees:

2021/22		2020/21	
Weekly earnings	Percentage	Weekly earnings	Percentage
Up to £184	Nil	Up to £183	Nil
£184.01 - £967	12%	£183.01 - £962	12%
Over £967	2%	Over £962	2%

Class 1 - employers:

Weekly earnings	Percentage	Weekly earnings	Percentage
Up to £170	Nil	Up to £169	Nil
Over £170	13.8%	Over £169	13.8%

No employers' national insurance is payable for employees under the age of 21 and apprentices under 25 up to £967 a week

An employment allowance of £4,000 per employer can usually be offset against the employer's national insurance (previously £3,000). The relief **has** to be claimed. From 2020 this will only apply to small businesses (total NIC to be less than £100,000)

Capital allowances

Expenditure on:	**2021/22**	**2020/21**
Plant and machinery ignoring annual investment allowance	18%	18%
Plant and machinery in certain designated assisted areas	100%	100%
Motor cars acquired on or after April 2009 – CO_2 emissions		
0g/km (new and unused or car is electric)	100%	100%
<50g/km	18%	18%
New or second hand >50g/KM	6%	6%
New zero emission goods vehicles	100%	100%
Long life assets/integral features in buildings	6%	6%
Research & development	100%	100%
Environmentally beneficial plant and machinery	100%	100%
Plant or machinery for certain refuelling stations	100%	100%
New structures and buildings	3%	3%

There is a 100% annual investment allowance for companies, groups or related entities on the first £200,000 of capital expenditure on plant and machinery including long life assets and integral features, but excluding cars. This increased to £1 million for a limited three year period from 1 January 2019.

The is also a super deduction in addition to the Annual Investment Allowance with no spending cap. It provides for a 130% first year deduction for qualifying expenditure on plant and machinery which is incurred on or after 1 April 2021 but before 1 April 2023.

Appendix II - Making Tax Digital

The Government's plans for MTD are a total transformation of the existing tax system.

The intention is that ultimately **all** taxpayers; individuals, partnerships and companies, will have their own digital tax account, provide digital reports and be able to see all of their taxes in one place.

HMRC has now issued draft legislation and guidance, including Making Tax Digital for VAT. (www.gov.uk/government/publications/vat-notice-70022-making-tax-digital-for-vat/vat-notice-70022-making-tax-digital-for-vat)

In reality, whilst MTD is tax driven, the main areas where additional work is required are record-keeping and accounting.

The timeline is: -

Currently HMRC is seeking to collect tax in year on employees;

1 April 2019

All VAT registered business with turnover over £85,000 will fall within the MTD regime - for VAT returns only;

6 April 2020

This is the earliest date that **all** businesses (companies, partnerships, sole traders) and landlords with turnover or gross rents in excess of the VAT threshold, currently £85,000, will come into MTD whether or not they are VAT registered.

The £85,000 limit is for all sources, profits and rents, on a combined basis.

MTD will be voluntary for those under the VAT threshold.

VAT and MTD

For the first VAT period starting on or after 1 April 2019 VAT returns will have to be made using functional compatible software approved by HMRC which must include:-

- Business name, address, VAT number and any VAT schemes used;
- For supplies made, the time made, value of and rate of VAT applicable to each supply and the VAT charged;
- Details of the output VAT and sales values per VAT rate (whether standard, reduced or zero-rated, exempt or outside the scope).

- The time and value of each supply received, plus the amount of VAT that is recoverable and that which is not; and
- The amount of any adjustments or corrections;

MTD requires electronic links between the return figures submitted and VAT records supporting those figures covering VAT due and claimable (along with acquisition and reverse charge VAT and any VAT adjustments made).

MTD requirements can be met by a number of software packages not just one - provided they are digitally linked, so, for example, a business could record sales and purchases in an accounting package, transfer the figures to a spreadsheet which calculates the return figures which then sends the information to bridging software to submit to HMRC.

Some adjustments and calculations are permitted outside the functional compatible software, but care is needed to ensure these are compliant. Partial exemption calculations are an area of particular interest.

Digital links between internal software are required, whilst the digital submission to HMRC must be made via API enabled software.

It should be noted that HMRC is not intending to provide free software but has compiled a list of approved software suppliers.

The list is available at https://www.gov.uk/government/publications/software-suppliers-supporting-making-tax-digital-for-vat.

Rationale for MTD

The key issues announced by HMRC include: -

- Better use of information by HMRC;
- Bringing business tax into the digital age; and
- Reducing tax errors and the estimated £9.4 billion “tax gap”.

MTD post VAT

The plan is that MTD on direct taxes will apply to all businesses and landlords with turnover/rental income over the VAT threshold. Those affected will be required to keep their records for each business activity digitally and make **quarterly returns** from these records to their digital account within a 30 day period – for each business (separately for each activity).

A final annual return for each business will also be required, within ten months of the year end or 31 January as now – whichever is earlier.

Behind the quarterly reporting requirements the existing requirements on recordkeeping (invoices, receipts and cash records) will not change.

The proposals give flexibility on when tax adjustments are made; either quarterly or at the year end. Clearly a better idea of liabilities will be available if adjustments are made earlier.

What to report

The quarterly returns will need to include:-

- For businesses – a trading summary;
- For landlords – the property address and income and expenses split by property;
- For gains – dates of acquisition and disposal and costs and proceeds values.

Deadlines

The proposed reporting deadlines are very short and penalties will apply to late filings:-

- For quarterly returns - one month;
- For year end - ten months from the accounting period end.