



TAX

TALK

MAY 2020

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PKF

MAY CONTENTS



THE IMPACT OF COVID-19 ON GLOBAL MOBILITY

As COVID-19 continues to affect our daily lives and we find ourselves working and living in highly unusual circumstances, we have much to contend with.



Whilst there are decisions to be made almost on a daily basis in terms of how we go about our lives, take care of those important to us and adapt our living conditions, we must also continue to make sure we fulfil business needs.

For globally mobile employees and their employers, tax and social security legislation can be complicated to navigate at the best of times. In current circumstances with restrictions on travel and social distancing, people who are working either away from home on secondment or whose role involves international travel may find themselves stuck in countries they would not normally have been in for any length of time. The length of a formal secondment may change.

For companies looking to expand into the UK or start an overseas venture the current climate will have meant putting things on hold/ revising the business plan.

It is important that employers are aware that current circumstances may mean a change in what needs to be done in each country to ensure both employee and employer tax compliance, not just in the UK but elsewhere in the World.

HMRC have issued some guidance in terms of UK tax residency and extended some of the filing deadlines as they acknowledge firms may have difficulty in collating and submitting the information that is required.

COVID-19 Confirmation of extended deadlines

Special Arrangement Payroll and the new Appendix 8 Arrangement

This is the annual payroll arrangement with HMRC that permits a company to run a payroll at the end of the UK tax year to capture visitors from non-treaty countries of less than 30 days.

Any UK group company that has visitors from a non treaty country e.g. Bermuda has a payroll obligation from day 1 and given that visitors may come and go throughout the year, the burden of adding them to payroll each time is significant. It is possible to agree with HMRC to submit just one payroll return at the end of the year that captures all visitors for less than 30 days from non treaty countries, calculate and pay over the UK tax that is due on the UK workdays.

The submission date for the 2019/20 payroll and payment of tax was 30 April 2020. However, HMRC has extended the deadline both for running the payroll and making payment of tax due to 31 May 2020.

The new Appendix 8 scheme

HMRC are formalising the special arrangement payroll and to do this they are ending the special arrangement scheme that ran until April 2020 and replacing it with an Appendix 8 scheme. Letters have been sent to all companies that operate a special arrangement payroll together with a form to either sign up for the new Appendix 8 scheme or to cease their scheme. The original deadline for submission of this form was 6 April 2020 but HMRC have removed that deadline and whilst they have not yet provided details of a revised date, it is important to get the application/ cancellation in as soon as possible.

Forms can be submitted by email to the following address:

stbvappendix8referrals@hmrc.gov.uk

Changes reflected in the new agreement include the increased limit to 60 days from 30 days for visitors from non-treaty countries and the filing/payment deadline has been extended to 31 May from 30 April following the end of the tax year.

THE IMPACT OF COVID-19 ON GLOBAL MOBILITY CONT...



Short Term Business Visitors

The annual reporting deadline for companies that have a Short Term Business Visitors Arrangement with HMRC is 31 May following the end of the tax year. HMRC have extended this deadline to 31 July 2020.

Given the difficulties in physically filing the Short Term Business Visitor (Appendix 4) reports for the 19/20 tax year, HMRC have confirmed that the reports will be accepted via the below email address:

contactexpat@hmrc.gov.uk

To aid getting reports to the correct team please state "App 4 report" in the subject field.

Appendix 7A/7B

NIC settlement returns for employees working in the UK from abroad and those from the UK working abroad

This scheme is for employers who operate PAYE under Employment Procedures Appendix 6 (modified payroll) tax equalisation.

The deadline for returns and payments was 31 March 2020 but this has been extended to 31 May 2020.



Payments on Account

Individuals who are due to make a payment on account to HMRC as at 31 July 2020 have been granted additional time to pay with HMRC not requiring payment until 31 January 2021. We recommend that payment is made by 31 July 2020 if at all possible but it is good to know there is some flexibility in this.

Reminder of HMRC's approach to exceptional circumstances and residence in the UK

HMRC have added to their guidance on the Statutory Residence Test (SRT) to allow for people unexpectedly in the UK. The rules remain the same, however COVID-19 has been classified as falling in the "exceptional circumstances" criteria and as such an individual who finds themselves unexpectedly in the UK for more time than they originally planned can be in the UK for up to 60 days per tax year before triggering a UK tax presence. It is important to remember that this is per tax year, so the day count reset as of 6 April 2020 as we began the new UK tax year. The 60 days is a limit and not an allowance or entitlement. Days spent in the UK over the 60 day limit count as a day of presence for the purposes of the SRT.

Individuals will need to consider the exceptional circumstances criteria to establish if any time they spend in the UK can be ignored for the purposes of the various tests of their presence in the UK under SRT.



SPECIFICALLY, AN INDIVIDUAL WILL QUALIFY UNDER EXCEPTIONAL CIRCUMSTANCES RELATED TO COVID-19 IF THEY:



Are **quarantined** or advised by a health professional or public health guidance to **self-isolate** in the UK as a result of the virus;



Find themselves **advised** by official Government advice **not to travel** from the UK as a result of the virus;



Are **unable to leave the UK** as a result of the closure of international borders; or



Are asked by their employer to **return to the UK** temporarily as a result of the virus.

If you have any questions relating to any topic covered in this article, please get in touch with your usual PKF Littlejohn contact and we will be happy to assist you.

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POTENTIAL DEFERRAL OF **DAC6** TAX REPORTING FOR THREE MONTHS



Tackling tax avoidance and evasion is a key part of the UK government's strategy to ensure that everyone pays their tax. To effectively identify and tackle these measures the UK worked with the OECD, EU commission and other EU member states to introduce the Directive on Administrative Cooperation (DAC) in 2011.

The last amendment to DAC is known as DAC6. From a UK perspective, DAC6 covers all EU taxes other than VAT, customs duties, excise duties and mandatory social security contributions.

The European Commission issued a press release on 8 May 2020 proposing that the various deadlines for reporting and the exchange of information under **DAC6** be deferred by three months because of the impact of the COVID-19 crisis.

The UK implemented the sixth amendment to **DAC** via regulation and from **1 July 2020** a mandatory disclosure regime for intermediaries and / or taxpayers will come into effect. The aim is to improve tax transparency and tackle aggressive tax planning. During the Brexit transitional period, the UK is obliged to implement and comply with EU law and the government has indicated a willingness to maintain the disclosure requirements after the transitional period ends on 30 December 2020.

The International Tax Enforcement (Disclosable Arrangements) Regulations 2019 require the disclosure of any cross-border arrangement **from 25 June 2018** that meets certain "hallmarks". Under the current timetable, an historical report for the period 25 June 2018 to 30 June 2020 is due to be filed by 31 August 2020. At the same time, from 1 July 2020 any arrangement meeting the hallmarks must thereafter be reported within 30 days.

Under the Commission's proposal, the historical report would need to be filed by 30 November 2020 and any arrangements meeting the hallmarks after 1 July 2020, would need to be disclosed by 31 October 2020.

In addition, with "the current uncertainty regarding the evolution of the COVID-19 pandemic", the European Commission indicated the possibility of further extending the deferral of reporting by an additional three months to a total deferral of six months.

This would be good news for taxpayers and intermediaries who are already struggling with all the challenges brought about by COVID-19. It may also help HMRC who have not yet published final guidance on the regulations.

Ensuring full compliance with the regulations will be a big task for many taxpayers and reporting preparations should continue wherever possible. If you have any questions, please get in touch with your PKF Littlejohn contact.

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FURTHER CHANGES TO ENTREPRENEURS' RELIEF



The Chancellor has announced further changes to Entrepreneurs' Relief (ER) or Business Asset Disposal Relief as it is now known, which affects disposals on or after 11 March 2020 and certain disposals before that date.

ER reduces the Capital Gains Tax (CGT) rate from the higher rate of 20%, down to the reduced rate of 10%.

ER is intended to reduce CGT for those individuals disposing of all or part of their business. From 11 March 2020 the lifetime limit of ER that any individual can claim has been reduced from

£10 million down to £1 million. Therefore, gains over £1 million will be liable to the higher rate of 20% whether qualifying for ER or not.

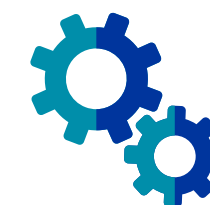
Importantly, as this is a lifetime limit, the £1 million will be reduced by any previous ER claims made, so some individuals may have already exceeded the reduced lifetime limit.

Qualifying conditions

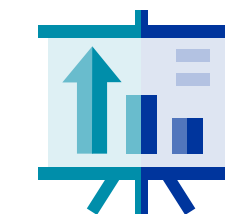
To qualify for ER, you must meet certain conditions throughout a 'qualifying period'. From 6 April 2019, the qualifying period is two years ending with the date the disposal takes place. The following criteria must be met for the duration of the two-year qualifying period to be eligible for ER:



You have been a **sole trader** or **business partner** in the business; an **officer** or an **employee** of the company disposed of; and



The company's main activities are in **trading**, or it's the **holding company** of a trading group; and



You held **5% or more** of the share capital of the company and **5% of the voting share capital**; and



You were **entitled** to at least **5%** of either:

- Profits that are available for distribution and assets on winding up the company; or
- Disposal proceeds if the company is sold.

If the company has issued more shares, diluting your share below 5%, there is an election that can be made to be treated as having sold and re-bought your shares immediately, triggering a gain for CGT purposes enabling an ER claim. However, you must have qualified for ER prior to the date the additional shares were issued.

EMI shares can also qualify for ER, however, the 5% holding requirement for normal shares is not relevant. For EMI shares to qualify, they must have been bought after 5 April 2013, and the option must have been granted at least 2 years prior to the disposal.

In circumstances where shares are held jointly with another person, for example your spouse or civil partner, you are treated as holding the appropriate proportion of the total shareholding and voting rights. This means that each person must hold more than 5% of the share capital and 5% of voting rights proportionally.

Spouses and civil partners are treated separately for ER; thus each person is entitled to a lifetime limit of £1 million. Importantly, however, to claim ER from the disposal of shares in a company, you must be an officer or an employee of the company for the last 2 years. You should have an active role in the company throughout those 2 years, and not just be holding a director role for ER purposes. HMRC has been pursuing this aspect more carefully in recent years.

FURTHER CHANGES TO ENTREPRENEURS' RELIEF CONT...

CHANGES FROM 11 MARCH 2020

Special anti-forestalling provisions have been introduced which could mean arrangements entered into before 11 March 2020 are susceptible to the new £1 million lifetime limit.



THE ANTI-FORESTALLING PROVISIONS FOCUS ON TWO KEY AREAS:



Where an **unconditional contract** has been entered into prior to 11 March 2020, but the conveyance or transfer of the asset does not take place until on or after 11 March 2020. In this instance, the date of disposal will be deemed to be the date of conveyance or transfer unless:

- The relevant parties can demonstrate they did not enter into the contract for the purpose of obtaining a tax advantage through anticipation of the recent changes in ER, and
- Where the parties to the contract are connected, the contract was entered into for wholly commercial purposes.



Where an **exchange of securities** has been entered into on or after 6 April 2019 (a share for share exchange, for example) and the individual makes a claim to subject the share element to tax (overriding the default position where the exchange is not taxed), then that **gain will be treated as arising when that claim is made**, if there is substantial commonality of ownership between the companies, or if the individual has seen an effective increase in shareholdings. This will **prevent gains being realised** for transactions already undertaken where prior tax planning may have identified a potential opportunity to lock in the **previous Entrepreneurs' Relief rules in scenarios such as:**

- A pure imposition of a holding company since 6 April 2019 with no change of beneficial ownership, or
- The imposition of a holding company since 6 April 2019 to facilitate the departure of one or more shareholders, with the remaining shareholders taking a higher percentage interest as a result.

In respect of any transaction occurring after 11 March 2020, including those facilitated by way of share exchange, the new lifetime limit will apply. If you are unsure whether the new rules apply to you, HMRC has confirmed that taxpayers will be able to seek statutory clearance.

FURTHER CHANGES TO ENTREPRENEURS' RELIEF CONT...

Investor Relief

Although the lifetime limit for ER has reduced to £1 million, at this time, the lifetime limit for Investors' Relief (IR) remains at £10 million. This is in addition to the lifetime limit of ER.

IR also reduces the exposure to CGT from 20% to 10%, however has slightly different requirements:

Unlike ER, IR is aimed at "Business Angels", notably the individual investor must not be actively involved in the business, and there is no minimum percentage shareholding requirement. The investors (or persons connected to them) must not be officers or employees of the company when the shares are subscribed for. They may later become unpaid directors, however, they must not receive any value in respect of their shareholdings (dividends are allowed).



The shares must have been invested in on or after **17 March 2016**; and



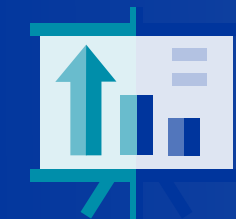
The company must be an **unlisted trading company**, or an unlisted holding company of a trading group; and



The shares must have been held for at least three years from **6 April 2016**; and



The shares must be subscribed for in **cash**.



The shares must be **ordinary shares**; and



Looking forward

In considering future developments to both ER and IR, the impact of COVID-19 on the UK economy, and how the government plans to facilitate a rebound cannot be overlooked. Changes may be made to further align the system of Capital Gains Tax and Income Tax on the basis of equitable treatment for all taxpayers following the crisis. Alternatively, the Government may listen to those lobbying that in order to facilitate investment to restart the economy, reliefs such as ER and IR should be both retained and enhanced.

It is too early to speculate what route the Government may take (if any) which will depend on the political climate when the UK Economy has regained some sense of normality, but any developments will be keenly monitored by owner managers if and when they occur.

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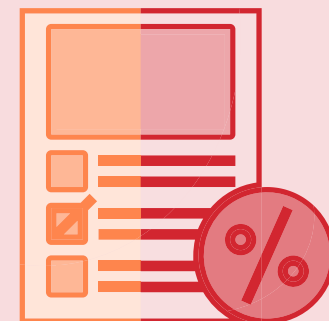
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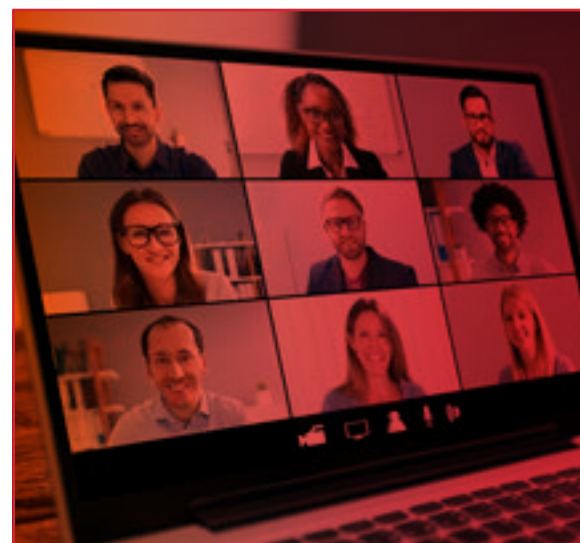
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We provide a **full range of audit, accountancy, tax and advisory services**, and are experts at simplifying complexity - we're particularly well-known for working with complex clients with challenging issues in fast-moving and highly technical areas.



Our aim is to **understand people**, the **organisations** they run, and what matters to them, so we can **simplify complexity** and help them **achieve their ambitions**.



We have **three important principles** that make a big difference in our business, and they also have a significant impact on our clients' organisations. **They are really simple:**

1 People matter; making a difference for the people we work with and the people we work for is our priority

2 We're **relentlessly curious**, because we want to know each client's organisation as well as they do, even better if we can

3 And we're good at **getting things done**.



£140m+
INCOME

We are the **London office of PKF UK & Ireland**, currently the 10th largest network in the UK with a combined fee income of over £140m.

OUR TAX SERVICES

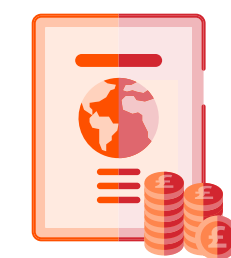
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It's a corporate juggling act: how to keep up with ever-changing tax regulations, while minimising the amount you pay, running your business and handling your tax affairs efficiently.

PKF Littlejohn can provide bespoke advice in all areas of taxation helping our clients receive the specialist knowledge they need to make informed decisions. Our team has the expertise and capacity to take on all challenges, national and international.

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Expert tax advice on your operations around the world, with access to tax expertise in around 125 countries through PKF International, our global network of independent accounting firms.



Tax compliance
The best way to minimise your tax liabilities and avoid penalties or fines is to hand your tax affairs over to professionals. Our processes are designed to ensure your return is completed on time and correctly



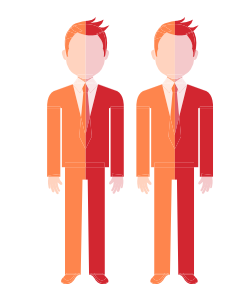
Customs duty
Assistance with trading across national boundaries in Europe



Global Mobility
Our Global Mobility team, together with the global network of PKF International, supports expatriate and internationally mobile individuals in over 150 countries



HMRC enquiries
Not only will we help you minimise the risk of an enquiry by HM Revenue & Customs, but should one be raised you can rely on our wealth of experience in resolving disputes and negotiating favourable settlements



Employee incentives
Encourage the best people to join you and stay with you



Tax planning
In our view, paying the right amount of tax means paying the minimum the law requires of you. We will help you achieve this with tailored strategies that suit your personal and business circumstances



Estate planning and trusts
We can provide sound advice on how to make the best possible use of tax-saving vehicles, ensuring that your family is properly provided for

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