

Tax Talk

Simplifying the complexities of Tax

November 2021

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We will be holding two series of tax webinars, one focusing on International Tax, and the other on Global Indirect Taxes.

Register now.

Read on for further information:

[International Tax](#)

[Global Indirect Taxes](#)

Making a Will as a Muslim: IHT considerations

Preparing a Will is complicated for everyone. Here we explain some of the specific requirements and tax implications under Sharia law.

Sharia law is based on the Quran (regarded by Muslims as the direct word of God) and the Sunnah (the words and acts of the Prophet Muhammad). Sharia provides a framework for life as a Muslim and governs everything that a Muslim does.

The importance of leaving a Will

There are specific requirements under Sharia law to make a Will. According to the Islamic scholar Bukhari, the Prophet said, "It is not permissible for any Muslim who has something to bequeath to stay for two nights without having his last Will and testament written and kept ready with him".

The reason for this is to avoid dispute or ill feeling between the benefactors after the person has passed away. It also means the executors can move swiftly to deal with the estate.

An Islamic Will is not only required for succession but, like all other Wills, it needs to address the following issues:

- funeral and burial wishes
- who will be in charge of administering the estate
- who should look after the children on death
- who gets specific gifts and what they are
- any charitable donations to be made.

General succession rules

Sharia law stipulates that at least two-thirds of a deceased's estate must be distributed among surviving relatives. The heirs' entitlement is fixed, depending on the number and nature of the heirs who survive. This means it's not possible to say in advance who will inherit. Only at the date of death can the division be calculated. But as a general guide note that, if all the heirs are alive, the division may be as follows:

- a surviving wife is entitled to 12.5%
- a surviving husband is entitled to 25%
- a surviving mother and father are entitled to 16.67%

- the balance passes to children, in so far as a male is entitled to double the share that a female would receive. This is because the men in Islam have a religious duty to maintain their spouses and offspring.

With the remaining one third of the estate, interpretations of Sharia law vary, and some provide the flexibility to distribute it as you wish. But there is also a view that the 'freely disposable' one third cannot increase the shares of those who are entitled to a fixed share (a wife, husband, parents, children, and so on). So this is a point that needs to be checked by an Islamic scholar.

Sharia and the intestacy rules

When a person dies without leaving a valid Will, their estate is distributed in accordance with the intestacy rules. Under these rules there is a prescribed formula for how the estate is divided - but this differs from Sharia law. So as a Muslim it's advisable to have a Will in place to prevent this situation. Alternatively, a deed of variation may be made within two years of death so that the estate is divided

Making a Will as a Muslim: IHT considerations

in accordance with Sharia, but this will require agreement from all the heirs who benefited from the intestacy rules.

Inheritance tax (IHT) considerations

Generally, on death assets transferred to a spouse are exempt from IHT. The exception is where the estate passes from a UK-domiciled spouse to a non-UK-domiciled spouse, in which case the exemption is restricted to the nil rate band (£325,000) and the remaining estate is taxed at 40%.

As in Sharia law, the majority of the estate may pass directly to the children or even to the parents, the spouse exemption may not be utilised fully and the estate may be subject to a higher level of IHT. In order to avoid this scenario, Sharia law does allow for making lifetime gifts or creating trusts.

Lifetime planning

Sharia law does not place any restrictions on lifetime giving. This means individuals are free to make potentially exempt transfers (PETs) for IHT purposes without incurring a charge to tax,

provided they live seven years from making the gift. It's also important to consider the capital gains tax (CGT) consequences when gifting non-cash assets. Before making such gifts we would recommend you seek tax advice.

Note too, that lifetime gifts between husband and wife are exempt from IHT and CGT.

Transferring assets into trust

Under Sharia law you may create a trust during your lifetime or on death. A trust in Islam is known as 'Waqf', which is defined as an Islamic endowment of property to be held in trust and used for a charitable or religious purpose. According to Islamic teachings, providing for one's family is an act of charity, which means that the Waqf is permitted. Once the trust is created, the wishes of the settlor must be respected, so long as they do not go against Sharia law. For example, investment powers should be Sharia compliant. What's more, depending on interpretation, there may be certain restrictions on beneficiaries and succession when creating the trust.

A Waqf can also be included in a person's Will. But the assets should be no more than one third of the total wealth of the individual, because this is the portion of the estate that can be freely distributed under Sharia law.

For UK tax purposes the Waqf is treated as any other trust.

PKF Littlejohn cannot advise on Sharia law. But we can work with your Islamic scholar to provide UK tax advice on making a Will, gifting assets or creating a trust.



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Director's loan accounts: avoiding the pitfalls

Loans by a company to either its shareholders or its employees (including directors) can have tax consequences. We explain what to look out for.

Often referred to as 'director's loan accounts', the rules make sense in principle. If loans to directors or employees are not subject to tax in some form, a company could habitually transfer profits into their hands without suffering the same tax charges as if paid as a dividend or salary.

Suppose you are a shareholder in a UK company that is a close company (one controlled by five or fewer shareholders, or controlled by any number of director-shareholders), and you take out a loan from your company in a given accounting period. Unless you repay that loan within nine months of the end of the period, your company will generally have to pay tax on the outstanding loan amount. This tax charge is commonly known as a section 455 (s.455) and is calculated on the amount outstanding at the end of the period, minus any repayments you've made within the following nine months.

The current rate of s.455 tax is 32.5%, which you might recognise as being the higher rate of tax on dividends. This is no coincidence. The point of the tax charge is to effectively tax the loan as though it were a dividend. The higher dividend rate is set to increase to 33.75% from 6 April 2022, and the s.455 tax rate will increase with it.

Tax criteria and deadlines

Your loan may not be subject to s.455 tax if you are also a director or employee who fulfils certain criteria. You must work full-time for your company, not own more than 5% of the shares in your company, and not owe more than £15,000 in total from your company (or any companies associated with it) at the end of the period.

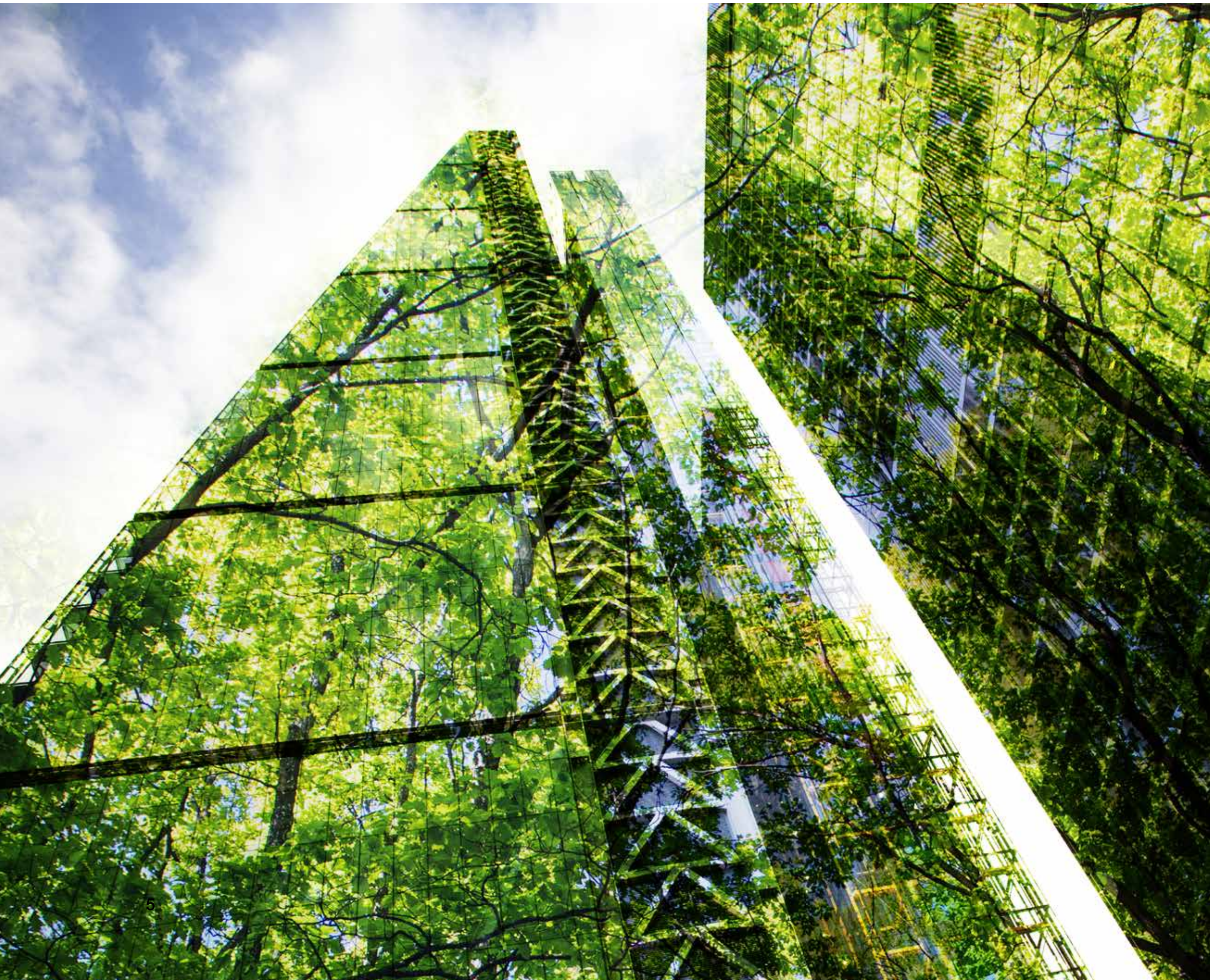
The s.455 tax is treated as if it were corporation tax for the period in which the loan was made. That means it's due at the same time as normal corporation tax. But s.455 is a temporary tax – it becomes repayable once the loan is repaid or written off. The company can only claim the repayment once nine months and a day have passed from the end of the period of the repayment or write-off.

Note that if you choose to write off the loan in the company's books, rather than repay it, your company won't get a corporation tax deduction for the loan write-off.

Difficult to avoid

Over the years, many people have tried to bypass the s.455 charge by applying a range of cunning schemes or unusual transactions. Examples include repaying the loan immediately before the nine-month deadline and then lending the money back, making loans to unconnected parties who then loan the money to the individual, or even 'swapping' loans with another company owned by a friend. As a result the government has frequently updated the rules to tackle such arrangements. It's probably fair to say that if you've thought of a way to get money into your hands from your company without receiving a dividend or s.455 loan, the legislation blocks it!

Director's loan accounts: avoiding the pitfalls



Beware personal tax

You probably wouldn't think about charging much (if any) interest on a loan you've taken out from your company. But a 'cheap loan' made above a certain amount (one where the interest charged is less than HMRC's official rate - currently 2%), will give rise to a taxable benefit on you personally.

The taxable amount equates to the undercharged interest. If you're just a shareholder it's taxed on you as though it were a dividend. But if you're also a director or employee it's taxed on you like a normal benefit in kind.

Some loans are exempt from these rules. They include:

- loans where the combined outstanding value you owe is less than £10,000 throughout the whole tax year
- loans the company makes to you so that you can acquire shares. These would be qualifying loans, so you would get a personal tax deduction for any interest charged on them.

If you choose to write off the loan, rather than repay it, the amount written off is taxed on you as though it were a dividend. So you'll pay income tax on it at 7.5%, 32.5% or 38.1%, depending on your marginal rate.

If you're also a director or employee make sure, when you write off the loan, that it is treated as being made in your capacity as a shareholder, not as a director or employee. Otherwise, HMRC may tax you on the write-off, as if it were employment income. And this attracts both higher rates of income tax than dividends do, and NICs. To avoid this situation we recommend that, during shareholders' meetings, you discuss the write-off with them, and get their approval and properly document that you have done so.



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Tax relief through R&D: don't miss out

For the payment services sector, research & development (R&D) is one of the most beneficial tax incentive reliefs available. Find out if you're likely to qualify.

There has been significant innovation in the industry, in recent years, in the race for faster and more efficient payments and money transfers across the globe. The ever more remote nature of interaction, fast tracked by the pandemic, is driving constant industry pressure on payment service providers to improve and innovate in areas such as security, device compatibility and reliability.

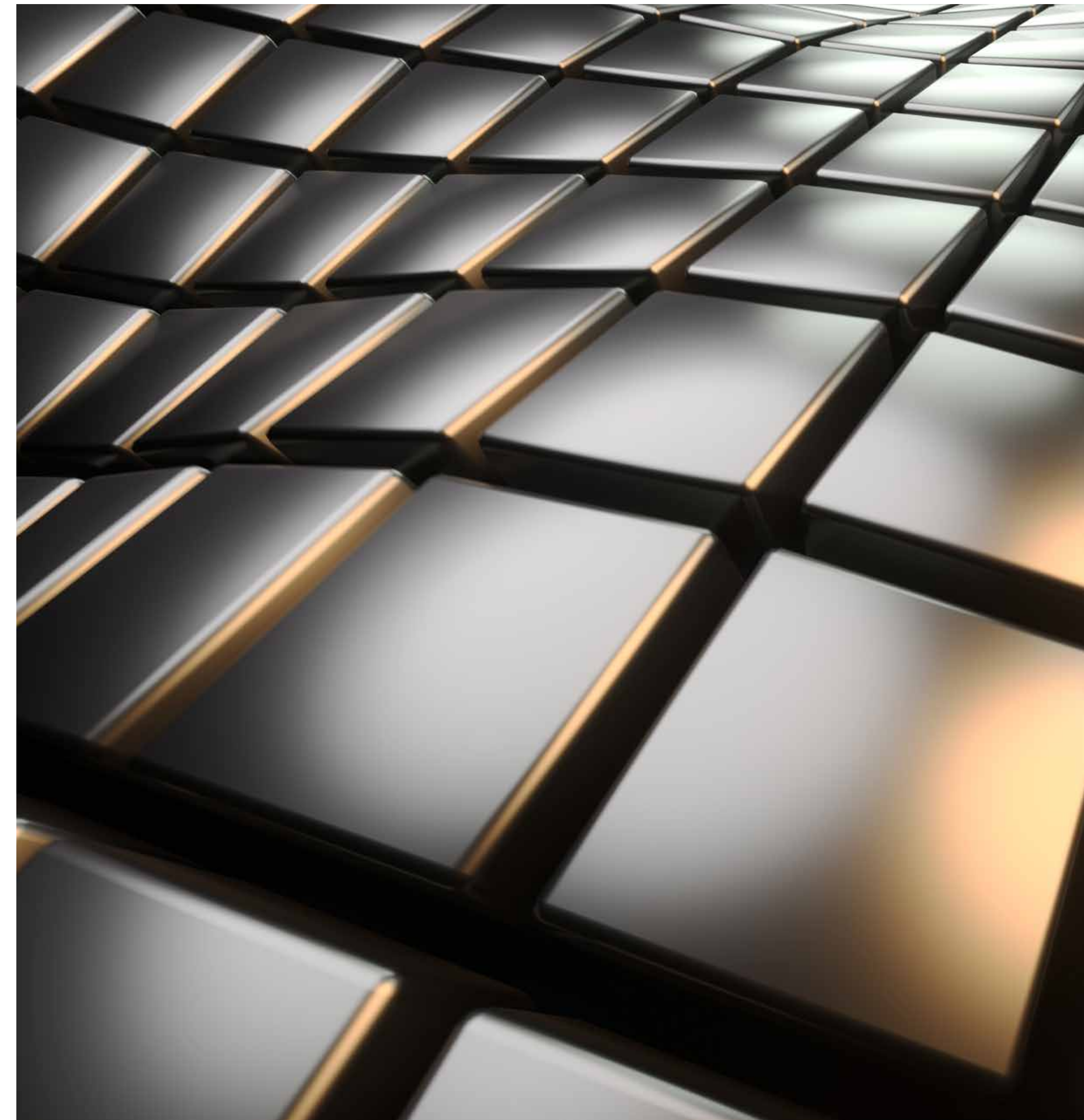
Many fintech businesses are unaware that the government's R&D tax relief is designed for and targeted at them, wrongly believing the relief is only for more traditional industries such as healthcare. But fintech companies often use cutting edge technology and advancements, so they are just as likely to qualify for the R&D tax relief as what many would consider 'traditional R&D industries'.

How might you qualify?

So what are the areas in which the payment services industry is likely to innovate and where it stands a strong chance of qualifying for R&D tax relief? They include, but are not limited to:-

- algorithms
- trading and commodities markets
- mobile banking
- peer-to-peer lending
- digital currencies
- digital wallets
- big data
- machine learning
- AI.

What is considered R&D for tax purposes? It's when a project seeks to achieve an advance in science or technology, and the activities which directly contribute to achieving that advance, through the resolution of scientific or technological uncertainty. But note that the advance in technology must only be sought - and may not necessarily be achieved. This means that failed R&D projects may be as valuable in terms of R&D tax incentives as successful ones.



Tax relief through R&D: don't miss out

What kind of expenditure qualifies?

The types of expenditure that may qualify for relief are: directly and externally provided staff; subcontracted R&D; consumables; software; trials; prototyping; and independent research costs. Capital expenditure does not qualify under this scheme, nor does expenditure on the production and distribution of goods and services.

In July 2020, the government launched a consultation inviting views on whether to expand the scope of qualifying expenditure to include data and cloud computing costs and at the recent Autumn 2021 Budget, the chancellor confirmed that data and cloud computing costs are to be included within the scope of qualifying expenditure. However, we are yet to see the specific details of this enhanced scope.

Company size matters

The amount of R&D tax relief available depends on whether the company is defined as an SME or large company for R&D purposes.



HMRC defines a large company as having either more than 500 employees or an annual turnover over €100 million and a balance sheet over €86 million. The staff, turnover and balance sheets of any connected companies should be included in the total.

A loss-making SME could make an effective tax saving of up to 33% on its eligible R&D spend and a profit-making SME could make an effective tax saving of up to 25%. So on £200,000 qualifying R&D expenditure, a loss-making SME could receive £66,700 cash, and a profit-making SME an additional £49,400 tax saving.

The R&D relief is not quite as favourable for large companies (the RDEC), where their effective tax saving could be up to 10.53% of the eligible R&D spend. So on £200,000 qualifying expenditure a profit-making large company could receive a £21,060 tax credit.

Seek good advice

With so much R&D activity in the payment services sector, all businesses that are innovating, developing, and maintaining their technology at the forefront of their industry, should consider whether there is scope for an R&D tax relief claim. A good

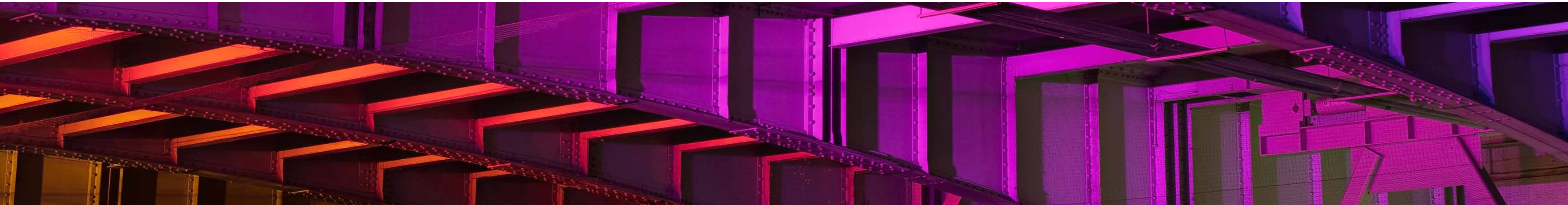
tax advisor can navigate the claims process for you, identify all qualifying expenditure, and make a successful claim. This in turn will provide valuable additional working capital to help drive your business goals and ambitions even further.



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International tax webinar series



We're delighted to invite you to register for a free series of International Tax webinars.

International movement and equity incentivisation of your team
16 November 2021

Indirect taxes issues of global trading
25 January 2022



Structuring your international expansion
19 October 2021

Are you thinking of expanding overseas? Have you thought about if you need to form an entity or a branch? If you do where is the best place for it to sit within your group or do you even need one? How will you finance the operation and how will you repatriate funds back to the parent? Join Corporate Tax Partners **Chris Riley** and **Catherine Heyes** as they consider these questions and more.

[Watch on demand](#)



International movement and equity incentivisation of your team
16 November 2021

As the world opens up again, join Global Mobility Director **Louise Fryer** and Employment Tax Senior Manager **Dan Kelly** as they discuss some of the challenges that can be presented when a company operates internationally including making sure you have a robust global mobility policy in place, are meeting employer "in country" reporting and payroll obligations and, of course, the tax and social security implications for the individual.

[Register](#)



Indirect taxes issues of global trading
25 January 2022

The movement of goods and services cross border can create indirect tax issues in many countries, which can include the location of your customer. There is an increased focus on businesses that trade online and even for more traditional sectors such as manufacturing, indirect taxes can be complicated especially post Brexit. Join VAT Director **Luigi Lungarella** as he presents three case studies to explore these issues and more.

[Register](#)

Global Indirect Taxes Webinars

We are delighted to invite you to register for a free series of Global Indirect Taxes webinars

The series will help you and your organisation navigate the significant changes that have been made to indirect taxes globally and provide an overview of technical and commercial considerations across all key jurisdictions.

Our webinars will also cover e-commerce, cross-border services, the concept of an establishment from a VAT and direct tax perspective, and customs duties. Attendees will be provided with real-world examples of how to minimise cross-border indirect tax issues.

Each event will be led by VAT Director, Luigi Lungarella who will be joined by indirect tax experts from across the PKF International global network, including the USA, Russia and the EU.

Join us for our series of Global Indirect Taxes Webinars:

Session 1 - Global Indirect Tax Update - [Watch on demand](#)

Session 2 - 1st December 2021 - [eCommerce – Goods and Market places](#)

Session 3 - 2nd February 2022 - [Cross-border services – navigating local requirements](#)

Session 4 - 6th April 2022 - [The servitization of the economy and the importance of establishments](#)

Session 5 - 8th June 2022 - [Cross-border goods – The hidden costs and challenges of Customs](#)

About PKF

Simplifying complexity for our clients



PKF is one of the UK's largest and most successful accountancy brands.

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 large, high-profile businesses with challenging issues in fast-moving and highly technical areas.

We are also an active member of PKF International, a global network of legally independent accounting firms that gives us an on the ground presence in 150 countries around the world.

PKF in the UK



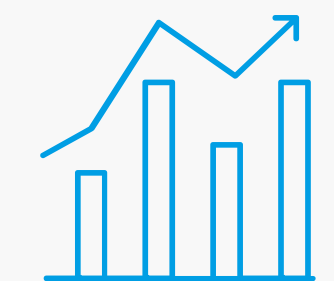
8th largest Audit practice in the UK in the latest Accountancy Daily rankings

£150 million annual fee income



2,050 UK partners and staff

6th ranked auditor of listed companies in the UK



Our tax services At a glance

"By bringing together the extensive expertise and experience of our tax specialists we can provide a fully rounded service that offers excellent value for money."

We offer comprehensive tax compliance and advisory services to a range of clients, both in the UK and globally, helping them find their way in the increasingly complex world of tax.

We find practical solutions that we use to our clients' advantage. Our team of experts supports individuals, and businesses ranging from start-ups and SMEs to large international groups, both listed and privately owned.

Where understanding of our clients' sector makes the difference, our experts invest their in-depth industry expertise to provide invaluable support and insights.

We offer the following specialist tax services:



Corporate and business taxes

Our Business Tax team will ensure that you are both tax compliant and efficient.

We provide specialist corporate and business tax advice on both a local and international level, which includes senior accounting officer and large business compliance, transaction services, due diligence, R&D tax relief, employer solutions and global mobility. We also support both the personal and business affairs of partnerships and LLPs.

[Read more](#)



Personal tax and wealth management

Our team will guide you through the complex world of taxes, helping you meet all filing requirements and identifying risks and opportunities to help mitigate tax liabilities.

We advise individuals, the self-employed, partners, trustees and executors with their UK and international tax affairs. Our services include all aspects of tax, including Self Assessment, Capital Gains Tax, Inheritance Tax, property (both residential and commercial), trusts, family wealth and estate planning, residence and domicile issues.

[Read more](#)



VAT and Indirect taxes

Our indirect tax team will support you in meeting your VAT compliance objectives and advise you on any VAT issues that your business faces.

We can ensure that your VAT risk is assessed and managed, and that your VAT recovery is optimised. We can also provide advice and compliance services on other indirect taxes, such as Insurance Premium Tax, Customs duty, and Air Passenger Duty.

[Read more](#)



Tax disputes

HMRC is increasing the number and scope of tax investigations into both individuals and businesses, covering all aspects of potential underpayments of tax, including offshore investments, personal and corporate Self Assessment Tax Returns, PAYE and NIC compliance and VAT.

If an issue arises, our trusted advisors will match the right specialists with your needs to provide you the necessary support – whether for a routine HMRC enquiry or a more complex investigation.

[Read more](#)



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