Tax Talk

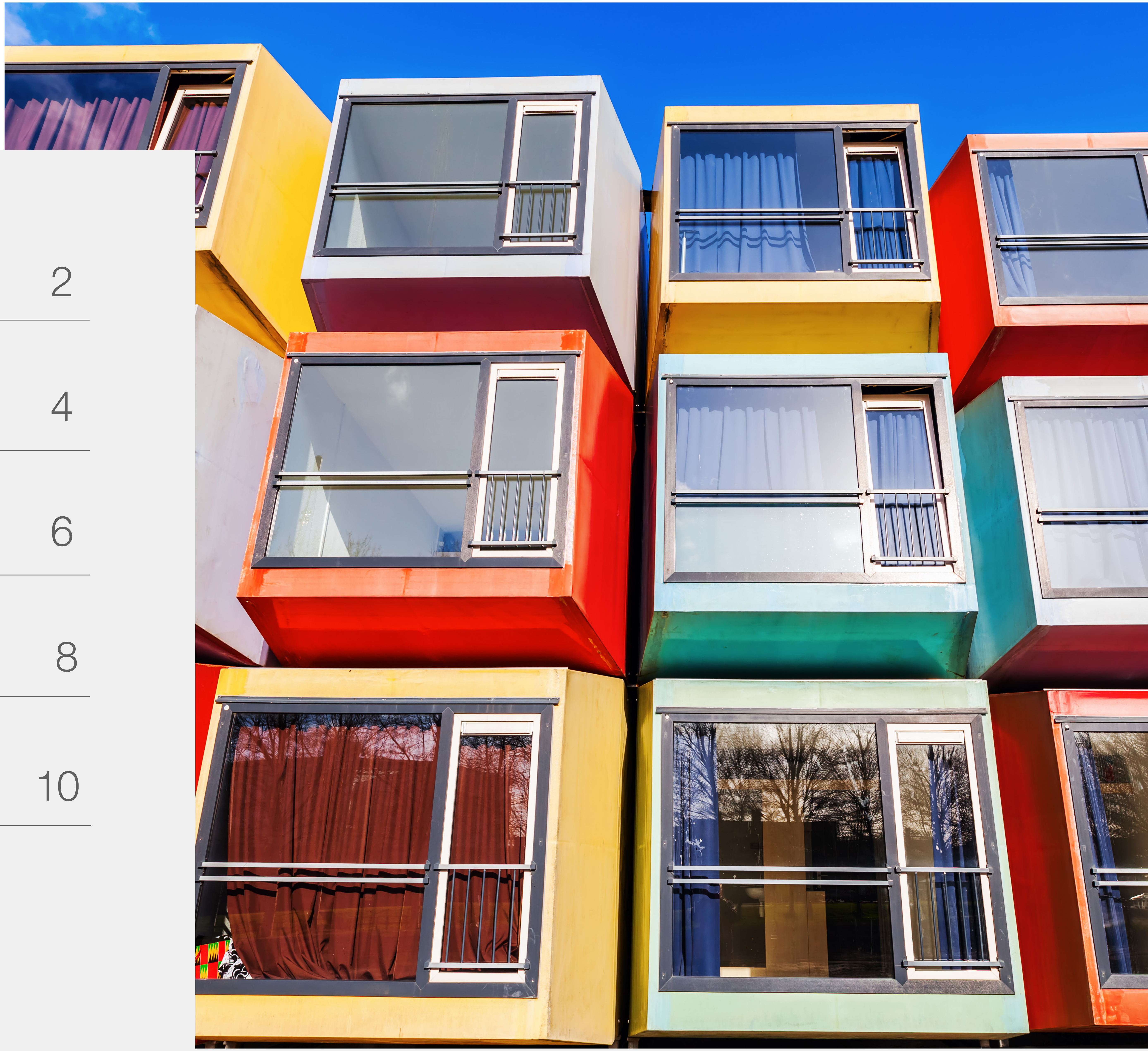
Simplifying the complexities of Tax

June 2024

PKF

pkf-l.com

TaxTalk: June 2024



What could the end of the non-dom regime mean for you?

We look at the key changes proposed for the non-dom regime and overseas workday relief for expats.

As part of the Spring Budget, Jeremy Hunt announced the abolition of the non-dom regime and significant reform of the current rules. So how would this affect expat individuals in the UK? With an election now on the table there is no guarantee in a general election year that the proposed changes will go ahead, both the Conservative and Labour parties have plans to abolish the non-dom regime.

What are the current rules?

- Non-domiciled individuals can claim the remittance basis of taxation for their first 15 years out of 20 in the UK. This allows them to keep foreign income not remitted to the UK outside of the UK tax net
- Non-domiciled, inbound expat individuals are also eligible to claim overseas workday relief (OWR) in the first three tax years after they become a resident, if they claim the remittance basis
- Once OWR is claimed, income related to overseas workdays is not taxable in the UK if it is paid into an offshore bank account and kept overseas
- If the income related to overseas workdays is later remitted to the UK, it will be subject to UK tax at the marginal rate
- Special mixed fund rules apply if the employment income is paid into a 'qualifying' bank account, simplifying the usual, complex rules for mixed funds
- Individuals are not be eligible for the tax-free personal allowance or annual exemption for capital gains if the remittance basis is claimed and the unremitted overseas income exceeds £2,000 in the tax year.

Currently, in order to benefit from the OWR, UK inbound expat individuals have to carefully structure their bank accounts and avoid remitting income related to foreign workdays to the UK to maximise the relief.

What are the proposed new rules?

From 6 April 2025, the remittance basis would be abolished and replaced with a residence-based test. Under the new test, those who have been non-resident continuously for 10 tax years before moving to the UK would be treated as follows:

- they could claim the foreign income and gains (FIG) regime for the first four tax years of UK residency. Under the FIG:
  - foreign income and gains would be exempt from UK tax, even if brought to the UK
  - they would not be eligible to the personal allowance or annual exemption for capital gains
- FIG would not apply to income related to overseas workdays, which would continue to be subject to OWR
- from the fifth tax year onwards, they would be taxed on worldwide income and gains.

Under the new rules, OWR would only be available if the FIG regime is claimed. It would continue to apply for the first three tax years of UK residence, and income related to overseas workdays could be brought to the UK.

Easier for companies

Under the current Government's proposals, from 6 April 2025 UK inbound expat individuals would no longer need to worry about complex bank account structuring for their employment income. Employers could simply pay their full employment earnings into a UK bank account. For the first three tax years, OWR could be claimed in full as long as the FIG regime is used, simplifying the administrative burden on both the company and the individual.

What could the end of the non-dom regime mean for you?

Please note that in the fourth year, although the individual could still claim the FIG and receive tax relief on their personal foreign income and gains, there would be no relief available on foreign workday income. Instead, foreign tax paid on income related to foreign workdays could be claimed as a credit against the UK tax to avoid double taxation.

What would happen during transition?

The Government has also proposed some transitional rules. How would they work?

- There would be a ‘temporary repatriation facility’ available for tax years 2025/26 and 2026/27. This means individuals could elect to pay UK tax at a reduced rate of 12% on remittances of pre-6 April 2025 foreign income and gains, including income previously subjected to OWR claims
- After 5 April 2027, previous unremitted foreign income would be taxable in the UK at the point of remittance
- In the 2025/26 tax year, those not eligible for the FIG would be taxed in the UK on 50% of their personal foreign income arising in the year. Foreign capital gains are not eligible for the reduction. So far there is no clear guidance on whether income related to foreign workdays would be covered by this rule. But since OWR is limited to the first three tax years, we don’t expect foreign workday income to qualify for the relief
- There would be an option to use the value of foreign assets on 5 April 2019 as the base cost for capital gain purposes, instead of the actual cost, if the remittance basis has been claimed previously.

Based on current rules, remitted employment income related to foreign workdays would be taxed at the individual’s marginal rate up to 45%. Under the transitional rules, if they needed to transfer money to the UK, for example to buy a UK home, there may be a significant tax saving if they made the transfer using the temporary repatriation facility.

For detailed information and advice on any issues raised, please contact Stephen Kenny or Brenda Hu.

Stephen Kenny
Partner, Personal Tax

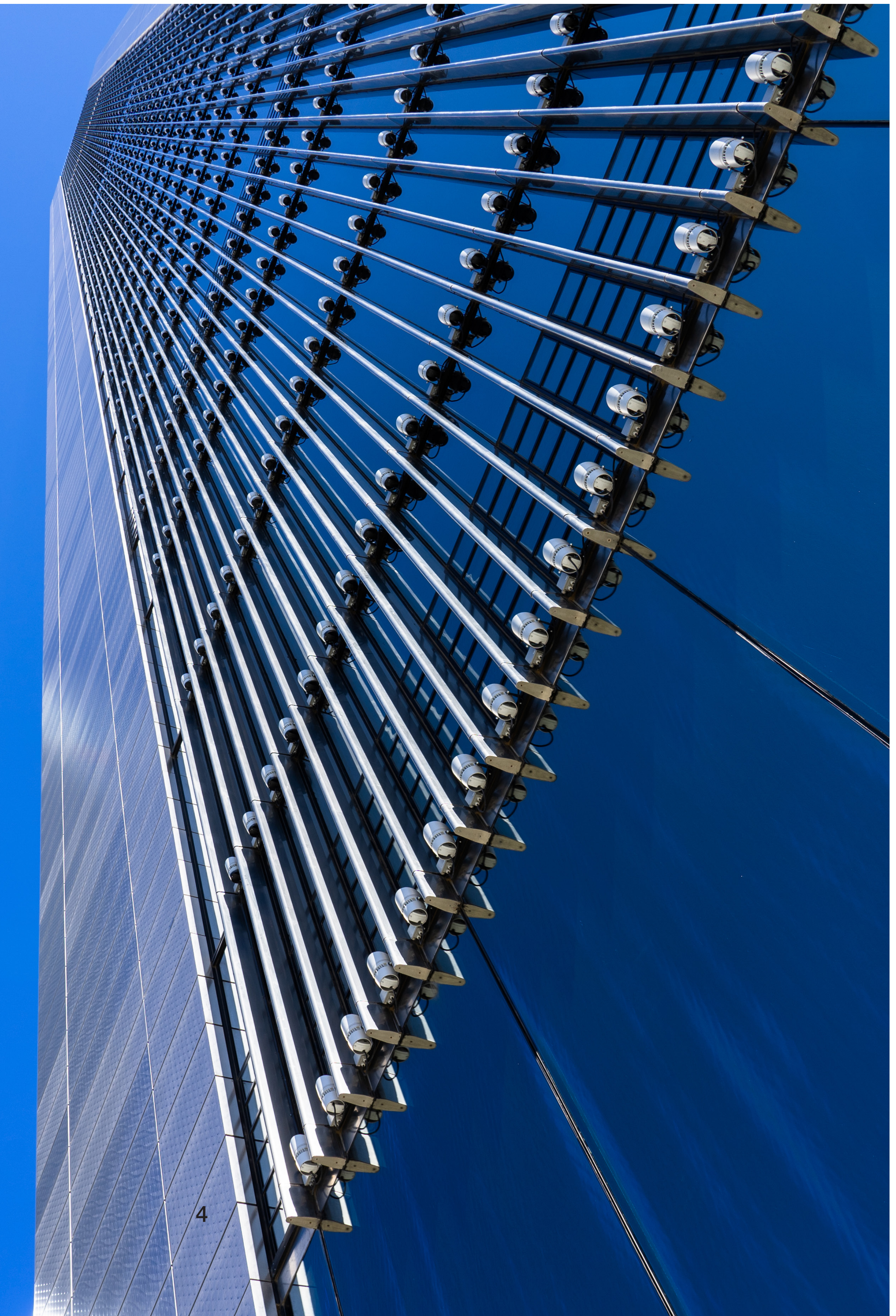
+44 (0)20 7516 2200
skenny@pkf-l.com

Brenda Hu
Manager, Employment Tax

+44 (0)20 7516 2429
bhu@pkf-l.com

Private residence relief: pitfalls for the unwary

Principal private residence relief, or private residence relief (PRR), is a Capital Gains Tax (CGT) relief that can prevent a tax charge when someone disposes of or sells a residential property which they have used as their home. We outline the key pitfalls to be aware of.



Where a taxpayer owns a home and lives in it as their only or main residence throughout their period of ownership, any gain made on sale or disposal is usually exempt as it's wholly covered by PRR. But this is not always the case – the rules have nuances and can be misunderstood.

To benefit from the relief, the taxpayer must generally meet all the following conditions:

- have one home and have lived in the property as their main residence during the entire period of ownership
- have not let part of the property out (although having a lodger may not rule out the relief)
- have not used part of their home exclusively for business purposes
- the grounds, including all buildings, are less than 5,000 square metres (just over an acre) in total
- have not purchased the property just to make a gain.

Where all of these apply, any gain is usually wholly covered by PRR with no CGT liability or reporting requirement to HMRC. Otherwise, there could be a reporting requirement and/or a tax liability.

For example, if the taxpayer has been absent from the property during part of the ownership period or if they own more than one residence. The rules are also different if they sell a property that's not their home or if they live abroad.

Absence from the main residence

Where the property has not been occupied as the taxpayer's only or main residence during the entire period of ownership, PRR generally applies to the period the owner was in occupation. The last nine months of ownership are treated as a period of qualifying occupation (and this period is increased to 36 months if the owner goes into care), so long as the property was their only or main residence at some point.

Note, too, that where the individual is absent from the property and has no other residence eligible for PRR, some other periods of absence can be treated as periods of residence for the purposes of the relief.

Deemed periods of occupation

The legislation specifies three periods of absence that can count as deemed occupation for the relief, as follows:

- any periods of absence of up to three years
- where the taxpayer is overseas for employment (or is accompanying their spouse or civil partner who is working abroad and who meets the conditions) – an unlimited period
- where the taxpayer is prevented from living in the property due to working elsewhere, or lives with a spouse or civil partner who is working elsewhere – a maximum period of four years.

To qualify as deemed occupation, the property must have been the taxpayer's only or main residence before and after the period of absence. But there may be exceptions in the second and third cases above. This is where the taxpayer is prevented from re-occupying the property, either because of their work location or as a condition of their employment in order to secure effective performance of their duties. The same may apply if the taxpayer is the spouse or civil partner of an individual in this situation.

Private residence relief: pitfalls for the unwary

Other pitfalls

PRR can be straightforward and apply automatically without the need to claim or report to HMRC.

The position is more complicated where a taxpayer has another residence. This may involve nominating one property as their main home for the purposes of the relief. There are separate rules regarding the eligibility to PRR where the property is in the UK and the individual is not a UK resident. There are also cases where the relief is not automatic and must be claimed.

But greater complexity can bring opportunities. There can be alternative ways to calculate capital gains and elections may be possible to mitigate tax.

How to report to HMRC

When someone is selling or disposing of a residential property, it's important to check the UK tax position as soon as possible.

PRR may apply automatically with no tax charge and usually no reporting requirement to HMRC.

But where tax does arise on the disposal of UK residential property, a CGT return must be submitted to HMRC and tax paid within 60 days of the sale completion.

There are circumstances where a CGT return with the same deadline is required where there is no tax liability – such as when the taxpayer is not a UK resident. Non-UK residents must also submit a CGT return if they make certain indirect disposals of UK land and property such as shares in a company deriving 75% or more of its gross asset value from UK land or property.

To submit a CGT return, first register with HMRC and create a 'CGT on UK property' account. Because of the 60-day deadline, individuals should review their UK tax position well in advance to avoid incurring late filing penalties, late payment penalties or interest charges for late paid tax. Professional property valuations may also be needed, so take advice at an early stage.

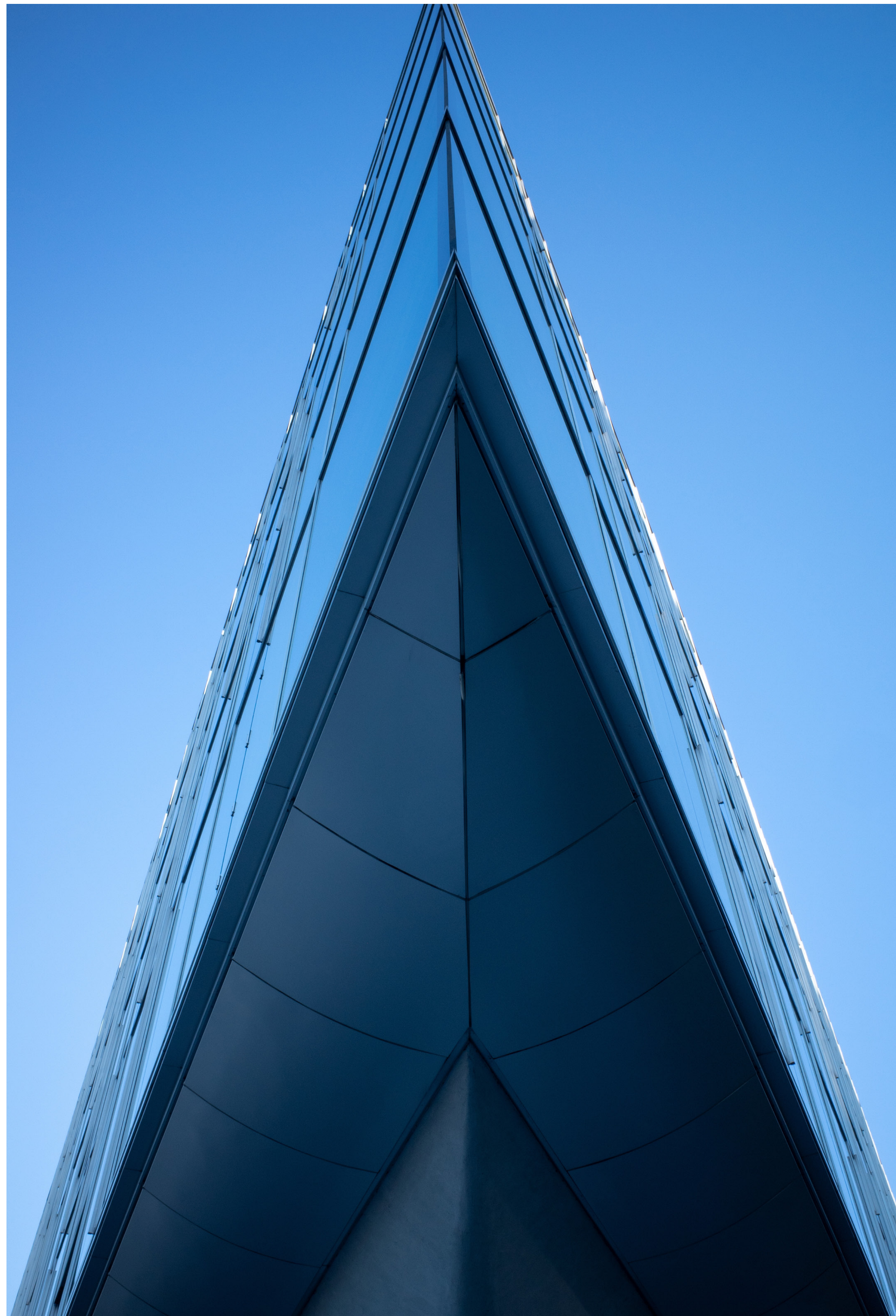
How we can help

If you are thinking of disposing of or selling UK residential property, we can advise on your UK tax position. We can review the availability of CGT reliefs, complete and submit CGT returns to HMRC, and advise regarding any tax liabilities.

For more information, please contact Jonathon Collins.

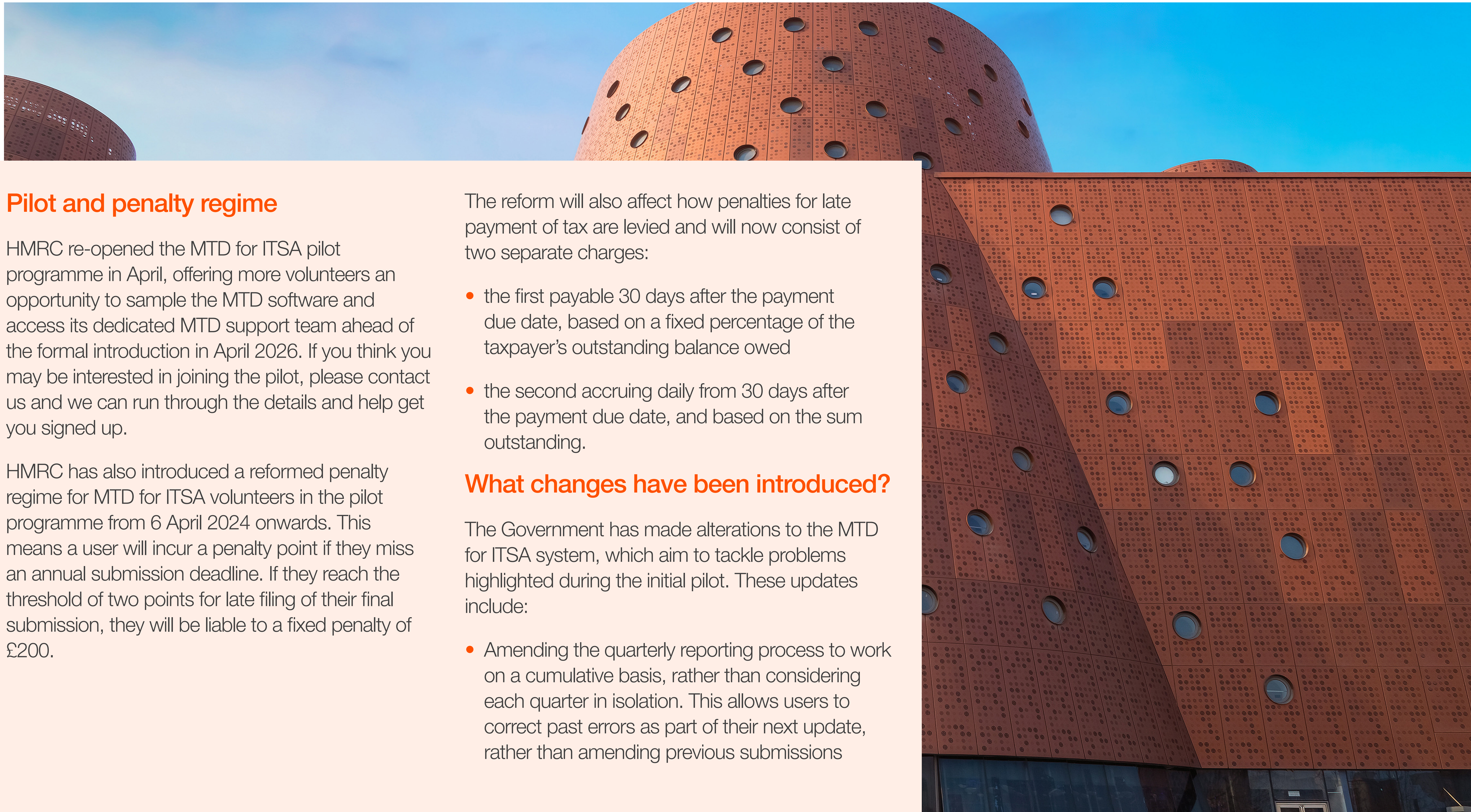
Jonathon Collins
Senior Manager, Personal Tax

+44 (0)20 7516 2226
jcollins@pkf-l.com



MTD for ITSA – a simplified system

In the autumn, the Government announced its review of the current system. Discover how this may ease the burden.



The plans include some design changes that aim to simplify and improve the system for taxpayers and their representatives. The Government is still committed to implementing the regime from 6 April 2026.

These updated proposals will introduce MTD for ITSA for the self-employed and landlords with income above £50,000 from 6 April 2026. It will apply to those with income over £30,000 from 6 April 2027.

There's been no further update on the self-employed and landlords with income below £30,000, but this remains under review. Those who fall into this category will still be able to register voluntarily for MTD for ITSA.

Pilot and penalty regime

HMRC re-opened the MTD for ITSA pilot programme in April, offering more volunteers an opportunity to sample the MTD software and access its dedicated MTD support team ahead of the formal introduction in April 2026. If you think you may be interested in joining the pilot, please contact us and we can run through the details and help get you signed up.

HMRC has also introduced a reformed penalty regime for MTD for ITSA volunteers in the pilot programme from 6 April 2024 onwards. This means a user will incur a penalty point if they miss an annual submission deadline. If they reach the threshold of two points for late filing of their final submission, they will be liable to a fixed penalty of £200.

The reform will also affect how penalties for late payment of tax are levied and will now consist of two separate charges:

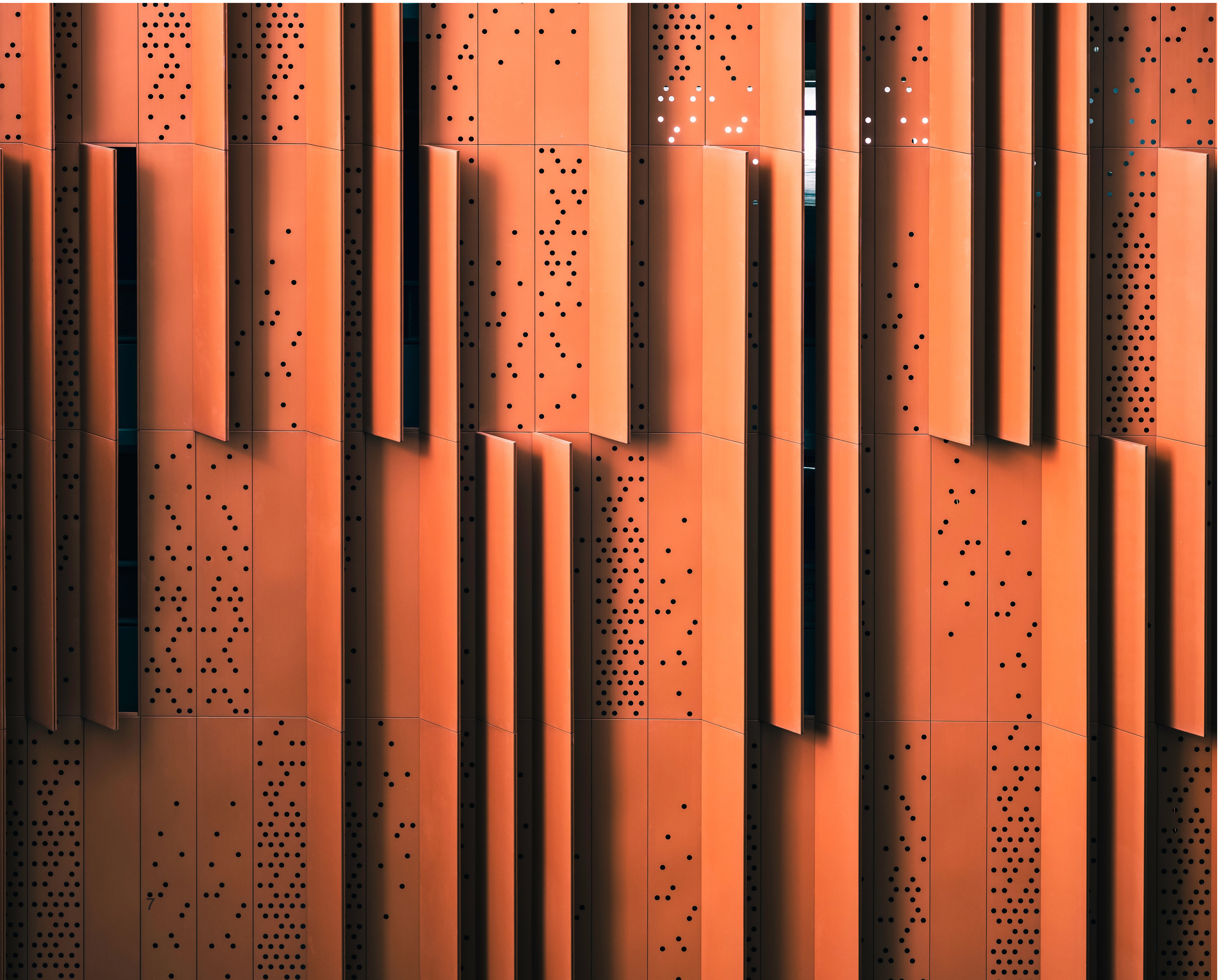
- the first payable 30 days after the payment due date, based on a fixed percentage of the taxpayer's outstanding balance owed
- the second accruing daily from 30 days after the payment due date, and based on the sum outstanding.

What changes have been introduced?

The Government has made alterations to the MTD for ITSA system, which aim to tackle problems highlighted during the initial pilot. These updates include:

- Amending the quarterly reporting process to work on a cumulative basis, rather than considering each quarter in isolation. This allows users to correct past errors as part of their next update, rather than amending previous submissions

MTD for ITSA – a simplified system



- Enabling users to authorise more than one tax agent for MTD, allowing the quarterly reporting updates and the year-end final submissions to be performed by separate advisors
- Simplifying the reporting requirements for taxpayers with more complex affairs. For instance, landlords with jointly-owned rental properties can now keep less detailed digital records for those properties, and opt out of submitting quarterly updates of their rental expenditure
- Removing the requirement for all users to provide end of period statements, to reduce the administrative burden
- Exempting certain groups from MTD requirements. These include foster carers, for whom MTD for ITSA offers limited benefit. Those who do not have, and cannot obtain, a national insurance number are also excluded - as this often prevents users from accessing HMRC's online services.

We will provide further updates as details are announced in the run up to implementation in April 2026. If you have any questions, or think you will be affected by MTD for ITSA and need guidance on how to prepare, please contact Karen Ozen or Jake Whittaker.

Karen Ozen
Director, Personal Tax

+44 (0)20 7516 2273
kozen@pkf-l.com

Jake Whittaker
Lead Assistant Manager, Personal Tax

+44 (0)20 7516 2200
jwhittaker@pkf-l.com

Recovering VAT: how to avoid the pitfalls

What happens when a business considers claiming back VAT incurred on expenditure, via its VAT return to HMRC? Mark Ellis, VAT Partner provides a guide.

The starting point is to determine whether the VAT is partly or wholly attributable to the business's past, current or future VAT-able supplies.

For this article we'll assume this is the case. So let's consider the two key questions that arise:

- Was UK VAT correctly charged at either the 5% or 20% rate?
- If the correct rate was charged, does the business hold appropriate evidence in order to recover some or all of that VAT via VAT returns to HMRC?

Was VAT correctly charged by the supplier?

There are many reasons why VAT is incorrectly charged by suppliers who misunderstand the treatments of their supplies. Examples include:

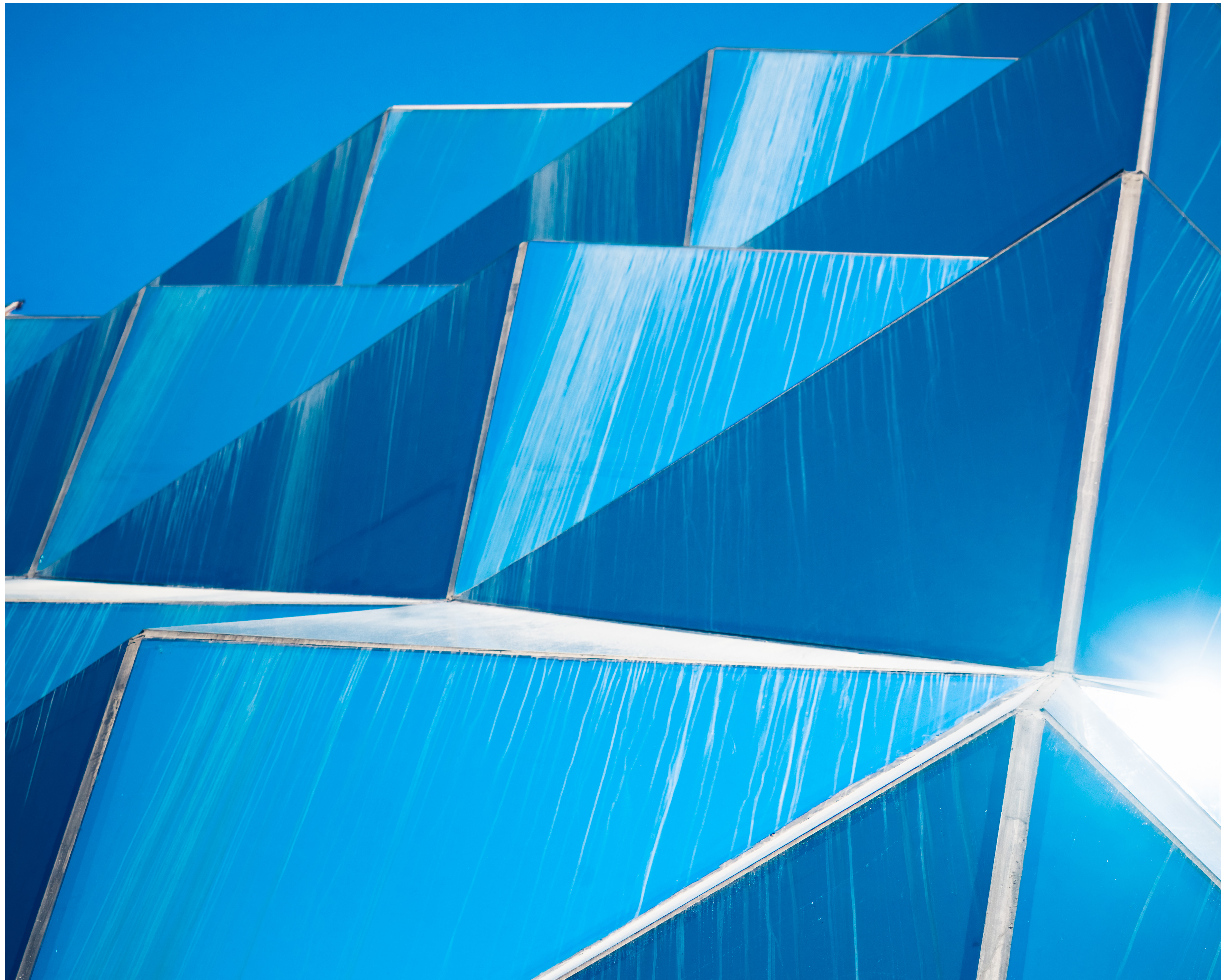
- Charging 20% VAT instead of 5%
- Charging VAT when the supply was actually subject to: the reverse charge (e.g. certain construction-related services); the zero rate of VAT (e.g. certain food, certain publications); or one of the VAT margin schemes
- The supply fell outside the scope of VAT, eg a transfer of a business as a concern
- The supply was exempt from VAT, eg insurance-related services, finance-related services.

But note, it is an error for a business to try to reclaim via a VAT return some or all of any incorrectly charged VAT. Doing so can render the business liable to:

- interest (currently 7.75% pa) if HMRC initially refunds the VAT and then claw it back later (e.g. following a VAT inspection)
- a 'careless error' penalty of up to 30% of the incorrectly reclaimed VAT.

So, where there is any doubt, a business should query what looks like an erroneous VAT charge by a supplier. If the supplier won't back down, and the business is still in doubt, it should avoid claiming the VAT via a VAT return. Instead, it should file a separate claim to HMRC providing full details.

If HMRC repays the separate VAT claim, the business can take comfort that it accepts the supplier has correctly charged VAT. If HMRC rejects the claim, the business has ammunition to go back to the supplier and seek a refund.



Recovering VAT: how to avoid the pitfalls

What evidence do you need to reclaim the VAT?

Assuming that VAT has been correctly charged, does the business have the necessary evidence under VAT law to reclaim the VAT?

Any electronic or hard copy document (e.g. a sale contract) can constitute a VAT invoice. The document form isn't important. The details it contains are what matter. The critical components for a VAT invoice (per VAT case law precedent) are:

- the supplier's VAT number – check this on [HMRC's free VAT number checker]
- a unique invoice reference number
- the invoice issue date
- the amount of VAT charged stated in GBP.

Here are some other issues that may be important:

- If there are several companies in your group with similar names and different VAT registration numbers, check the name of the customer shown on the invoice so that the correct company in your group reclaims the VAT
- If the supplier makes different supplies, some of which may be VAT-exempt or subject to VAT at different rates, make sure there's an accurate description of the supplies on the invoice. This means HMRC can easily check that those supplies match the VAT treatment applied by the supplier
- Where the business has purchased or rents property, always ask for a copy of the supplier's 'option to tax' written notification to HMRC in respect of the property, before blindly accepting that the seller/landlord has charged VAT correctly.

Is it a VAT invoice or a request for payment?

The last critical issue is where an invoice showing a VAT amount says 'This is not a VAT invoice' (or similar). If so, the business must wait to receive a VAT invoice from the supplier before reclaiming any VAT from HMRC. This is because the document is merely a request for payment, rather than a VAT invoice. It may well mean the supplier is not paying the VAT shown on that document to HMRC at that time.

For further advice on issues raised in this article, please contact Mark Ellis.

Mark Ellis
Partner, VAT

+44 (0)20 7072 1102
mellis@pkf-l.com

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 Global, an international network of legally independent accounting firms that gives us an on the ground presence in 150 countries around the world.

PKF in the UK

11th largest Tax practice in the UK

£153 million annual fee income

1450+ UK partners and staff

5th 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, transfer pricing, 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

PKF Littlejohn LLP

www.pkf-l.com

London

15 Westferry Circus,
Canary Wharf,
London E14 4HD

+44 (0)20 7516 2200

Leeds

3rd Floor, One Park Row,
Leeds,
LS1 5HN

+44 (0)113 244 5141

Manchester

11 York Street,
Manchester,
M2 2AW

+44 (0)161 552 4220