Tax Talk

Simplifying the complexities of Tax

February 2021

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Tax Talk: February

Which way for taxes on 3 March?

With only a few days until the next budget, Chris Riley looks at the current rumours about what may lie in store.

It's impossible to avoid headlines telling us the Treasury needs, over time, to recover the huge deficit it faces after the amount it spent during the pandemic. That was not only to support businesses and individuals but also to help fight the virus itself. And all at a time of reduced tax take while the economy struggled.

I haven't seen any commentator contradict the view that the 'Big 3' taxes of income tax, national insurance and VAT are off the table for wholesale increases. The Government is surely planning to stay true to its manifesto commitment, although there's a strong argument that this was a manifesto for a different world. But the closer we get to the 2024 general election, the more I'd expect the Government to hold firm.

The consensus seems to be that 3 March is too early to raise any taxes and that increases are for the autumn, when the outlook is clearer, with the focus on spending and recovery in the near term. I'm sympathetic to this view. But the two main competitors for significant increases – capital gains tax and corporation tax – are payable only where profits arise, and most voters see them as taxes that 'other people' pay. So I wouldn't rule out announcements to increase rates on these taxes in March, albeit, for corporation tax at least, perhaps signposted for the future.

New taxes on the wealthy?

There was much interest in a report published at the end of 2020 on how a UK wealth tax could be designed and implemented. That said, we'd probably have predicted the outcome, given that the report was published by the independent Wealth Tax Commission. It seems unlikely that a Conservative chancellor would implement such a change, but the proposals did perhaps receive broader support than anticipated. So it may not be completely off the table.

One key point identified by the report, though, was that the success of any such tax relies on surprise implementation (immediately or in retrospect) without consultation, to short-circuit opportunities for avoidance.

A more modest move towards the taxation of wealth has also been mooted. A restructure of the stamp duty and council tax system to replace these with a single (higher) charge based on value of residential property. But there's a downside. One of the key issues with higher council tax charges is the potential impact on the asset-rich cash-poor elderly who happen to be traditional Conservative voters. In any event, a change here would likely not be overnight. Changes to inheritance tax can't be ruled out either but, again, perhaps not this year.

How to tackle online businesses

More likely I think is, ultimately, a rebalancing of the tax system to resolve the inequality between online and traditional businesses. In particular, a re-evaluation of the business rates system. This would require new mechanisms to calculate tax for online businesses. The UK has already taken steps in this direction in a cross border context, with the digital services and diverted profits taxes. And, with these, have come varying degrees of success and challenge.

Which way for taxes on 3 March?

Whichever way, like the other measures suggested, changes would have a systemic impact on the tax system that could not be implemented quickly. So, until any new system is designed, I think an announcement is more likely to be of a consultation on the future direction of the tax system, with the introduction of further short term reliefs on business rates.

A bonfire of reliefs?

Although access to Entrepreneurs' Relief (re-named Business Asset Disposal Relief) was already reduced in 2020 from £10m of lifetime gains to £1m, the potential to scrap the relief remains in the spotlight. But I'd be surprised about any further alterations outside a more wholesale change to capital gains tax.

I would also hope, if CGT rates do significantly increase to align with income tax rates, that genuine entrepreneurs receive some additional relief. Otherwise the incentives in the tax system look weaker than I've seen at any point in my career, and would impact significantly on the retirement plans of many.

Changes for pensions tax relief?

Speaking of retirement, the suggestion of removing higher rate relief for pension contributions and replacing it with a flat rate of 25% has been ongoing for over 10 years. And this relief is extremely expensive to the Treasury. For high earners, access to higher rate relief has been repeatedly curtailed in recent years. That means a complex and unpredictable position for many. NHS doctors, for example, refused to work additional hours at one point, because of the punitive effect on their tax position. If the time hasn't now come for a fundamental change in pensions tax relief, it possibly never will under a Conservative government.

Reliefs for business growth

So if we're looking at rebuilding, we would assume the Chancellor will not only consider abolishing some reliefs, but enhancing those reliefs which help businesses to grow. And that, in turn, will bring employment opportunities and future tax revenues. The enterprise investment scheme (EIS) incentivises individuals to invest in growing businesses, and its time has surely come. Providing share incentives is a key tool to enable businesses to retain and recruit staff when cash flows are tight, and the enterprise management incentive scheme (EMI) is a valuable tool to many companies.

But their use is restricted by legislation, much of which was a consequence of adhering to EU state aid rules, and it meant they were out of reach for many businesses. With some of these restrictions now lifted, I hope to see refinement and improvement of the rules in these two key areas. And that will mean they remain as relevant as possible to growing businesses who will, after all, be the future of our economy.

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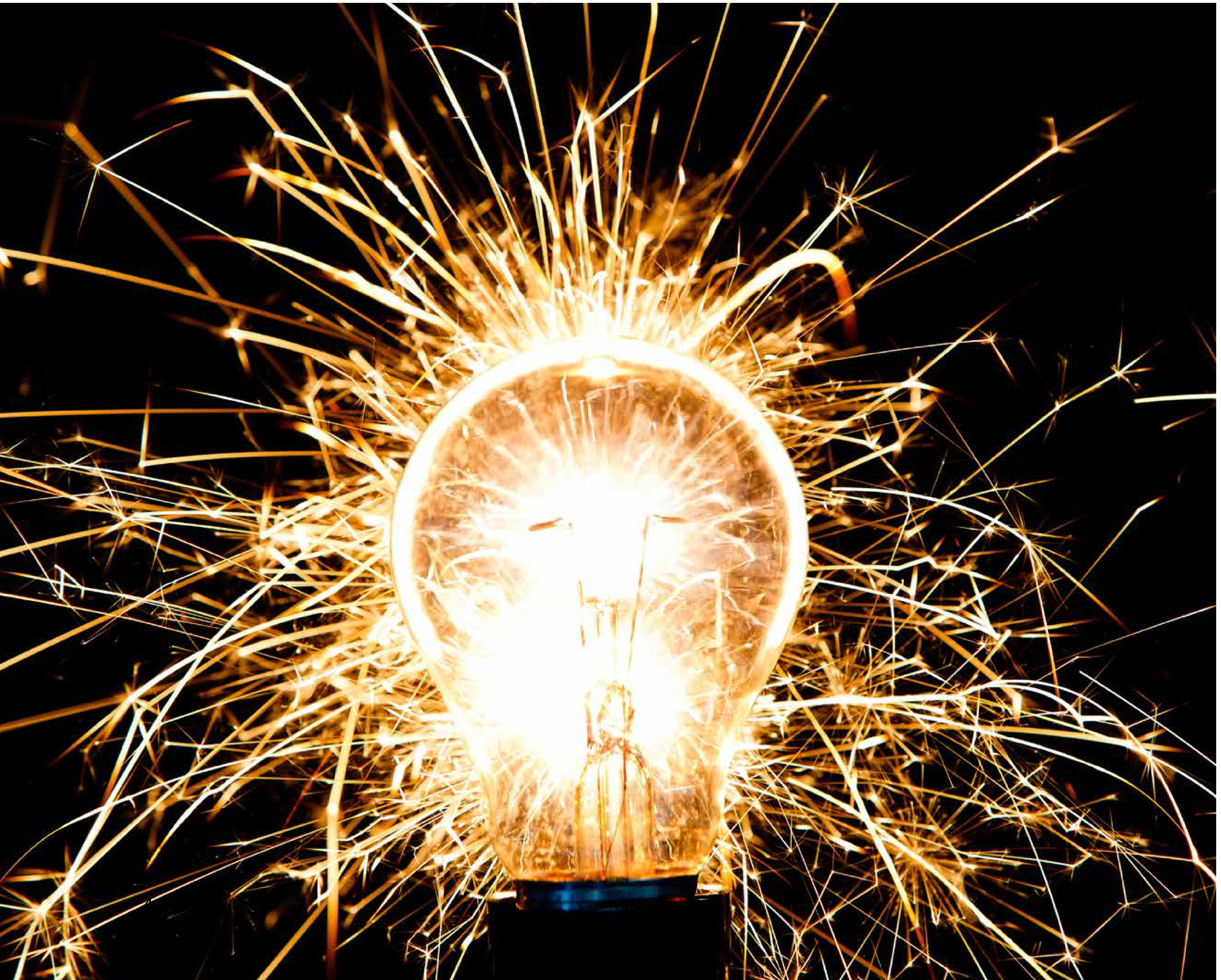
R&D claims: seriously worth it



Is it time to have that conversation about R&D, after all? We explain the criteria for, and benefits of, making a claim.

Your very first corporation tax return might not be due until two years after incorporation. The deadline for making your first R&D claim could be a whole year after that. In short, that gives you plenty of time to focus on running your business, innovating and, let's be honest, procrastinating. There are many conversations you would rather put off, especially when they don't feel directly connected to your core purpose.

If you are in the InsureTech or FinTech space, and especially if you're a start-up, the odds are high that you have a team of people working hard to push the boundaries of technology. Yours may be a sector with infinite jargon, but it's anything but dull. Are your people trying to fuse together technologies that weren't designed to work as one? Are they trying to re-engineer existing processes to make them significantly more cost-efficient?

How and why to check if you qualify

The threshold for what constitutes R&D in the UK is surprisingly low. So if you think your company might be undertaking R&D activity, you should speak to an R&D specialist while you are still within the window to make a claim. R&D claims must be submitted within two years of your accounting reference date, and that's a hard deadline. Once you miss the window, it's closed forever.

For small and medium-sized companies, an R&D claim could be worth up to £33.35 of free money for every £100 of qualifying expenditure. Doesn't that prospect justify having a chat to your tax adviser, after all?

R&D claims: seriously worth it

What's stopping you?

So what are the most common reasons why people are reluctant to talk to their advisers?

01 We're not sure if what we're doing is R&D..

Talk to a specialist and find out for sure. No one should bill you for an initial fact-finding discussion to help you figure out if there's any scope to take a claim forward. Maybe what you're doing isn't R&D – but wouldn't you rather know for sure?

02 We're not planning to sell what we create.

You must try to achieve an appreciable improvement in science or technology. But you can keep the technical secrets in-house if you wish. Nothing in the guidelines requires you to sell your discoveries.

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03 We didn't pull it off.

As the saying goes: if at first you don't succeed, try, try again. Then make an R&D claim. If innovation was easy, there wouldn't be a Government incentive to encourage you to give it a go. Failure can help demonstrate why what you're doing constitutes R&D. It's not a bad thing!

04 We outsource our R&D overseas.

Outsourcing doesn't necessarily prevent a claim and neither does jurisdiction. There are some details to discuss, especially if you have a large corporate investor backing you, but it's still worth exploring.

05 We don't use timesheets.

It might be easier to calculate a claim if you did, but your adviser can create a methodology to work around this.

06 It will take too much time.

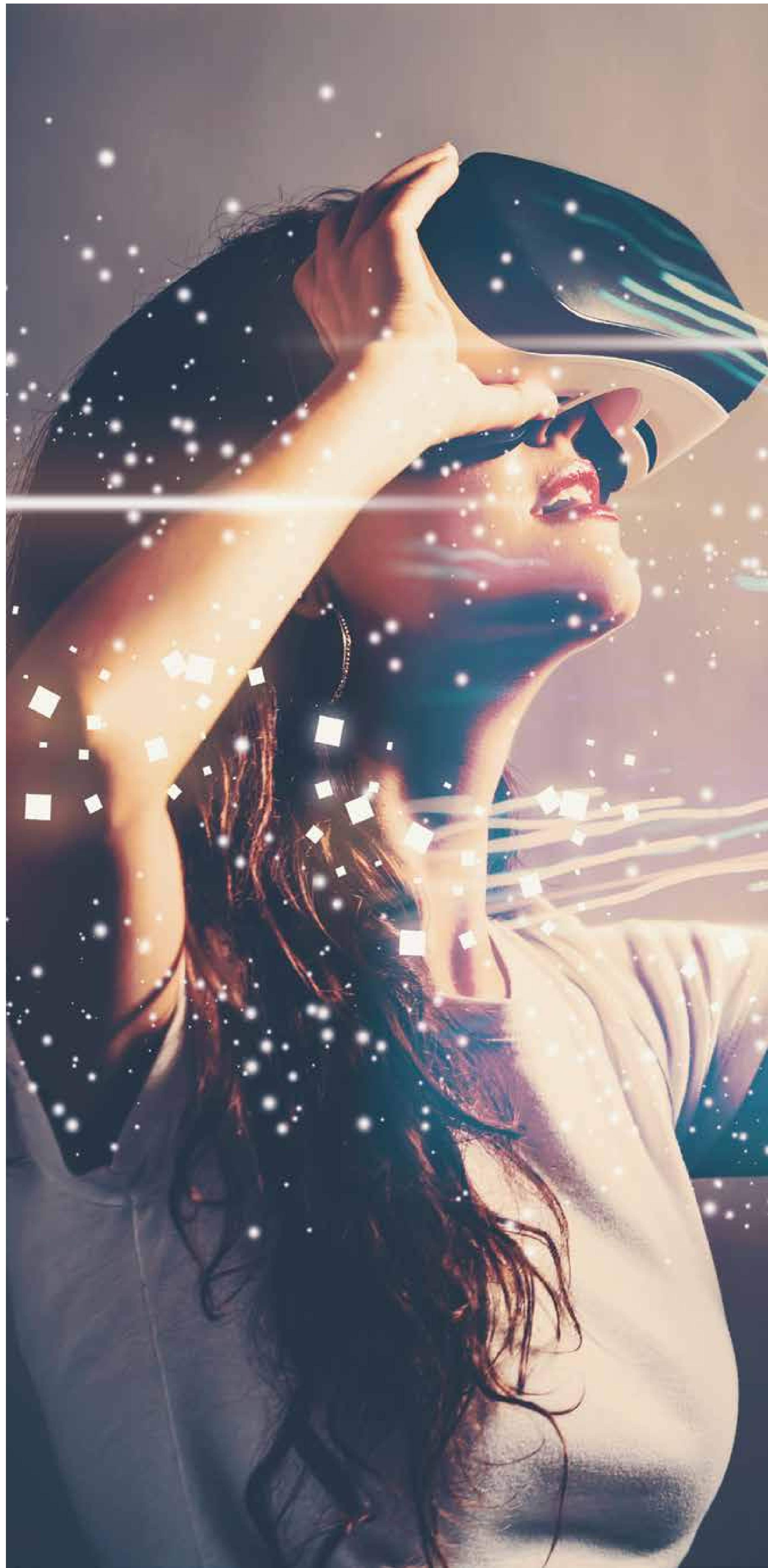
That's what a specialist is for. You can outsource as much or as little as you want of an R&D claim, leaving your people free to innovate to their hearts' desire and get on with their day jobs.

How to choose wisely

R&D advisory is an unregulated market, so ask for a recommendation from another firm in the same space and check the credentials of the people you speak to. Are they qualified? How much experience do they have of making R&D claims? Will they lock you in?

It's important, too, to get comfortable with the fee structure. SMEs claiming a repayable cash tax credit are supposed to receive cash from the Government to reinvest in innovation and keep growing. So be wary of firms charging success fees that take a large percentage of your tax refund. They may not be pricing their services to fairly reflect the time required to support you. Resist clauses that lock you in year after year even when you no longer need as much support. After all, claiming for R&D should be about growing your business, not someone else's!

If you think you may have an R&D claim, we're more than happy to have a conversation. But please, whatever you do, talk to a professional whether it's us or one of our competitors. If you keep putting off that discussion, you could be wasting thousands of pounds of tax relief year after year.



The difference between residency and domicile

Is your career going to take you overseas? Are you moving, or planning to move, to or from the UK for work? Or are you delayed somewhere because of the pandemic? Here's a quick guide to your tax position.

How you are taxed in the UK depends on two factors: tax residency and domicile.

What does tax residency mean?

Your tax residency is determined by the Statutory Residence Test (SRT) on a year by year basis. The UK tax year runs from 6 April to the following 5 April.

You are treated as UK tax resident if you are present in the UK for 183 days or more in the tax year. If you spend less than 183 days in the UK, it does not mean you are automatically non-resident. There are various other criteria to be fulfilled.

If you enter the UK to live here or leave to live elsewhere during a tax year, a 'split year' treatment might apply. If you meet the conditions, you'll be treated as UK tax resident for part of the tax year and non-resident for the rest of the tax year.

What does domicile mean?

Every individual has just one domicile. The UK definition of domicile comes from general law and is unique in its interpretation.

You are normally domiciled in the country where you have your permanent or natural home - or where you have a "settled intention to permanently reside". It's usually your country of birth and comes from your father's domicile.

If you spend a long time in the UK (i.e. you have been resident here for 15 out of the 20 preceding tax years), you are deemed to be UK domiciled for income and capital gains tax purposes.

How does UK residency and domicile affect my tax?

	UK domiciled	Non-UK domiciled
Tax resident	Taxed on worldwide income in the UK (the arising basis)	Option to elect to be taxed on the 'remittance basis' or the 'arising basis'. A UK tax return must be completed and a charge paid in certain circumstances.
Non-tax resident	Only taxed on UK-sourced income, including that paid after you have left the UK, but that relates to the UK period. Taxed on capital gains on disposal of UK properties at time of disposal but other gains are subject to the temporary non residence rules.	

The difference between residency and domicile Q&As

I am living and working in the UK, but not originally from the UK. Is my foreign income taxable in the UK?

If you were born and raised outside the UK, you are probably non-domiciled and eligible for the 'remittance basis'. You will need to complete a UK tax return to claim the remittance basis and It is important to keep foreign income in a foreign bank account and NOT to remit the money to the UK. It is worth setting up different bank accounts for income from separate sources.

I'm planning on working abroad. Do I need to pay UK tax?

It depends. Usually you will remain UK tax resident unless you leave the UK for a full tax year.

If you do break UK tax residence, only UK sourced income will be taxable in the UK. That might be UK bank interest, dividends from UK listed companies and UK rental income. However, if you sell a UK property, you will pay UK tax regardless of your residency position.

If you rent out your UK property after leaving the UK, you will need to inform HMRC and complete a tax return to report the rental income.

I am leaving the UK and will become non-resident. What should I consider?

There are many things to consider from a tax perspective! Here are some important points:

- The ISA allowance is only available to UK tax residents. When you leave the UK, you can keep existing ISA accounts open but can't cannot contribute new funds to them or open a new ISA.
- Pension contributions – if you contribute to a private pension scheme, you will only receive tax relief on contributions up to £3,600 gross (£2,800 net) per tax year unless you have UK relevant income that is taxable.
- If you make regular Gift Aid donations, make sure you pay enough UK tax. Otherwise you'll have to make up for the tax relief the charity is receiving. Your donations must be less than four times what you paid in tax. If in doubt, make a regular donation and don't tick the 'Gift Aid' box.
- Student loans. It's a legal requirement to tell the Student Loans Company when you leave the UK. They may ask you to set up a payment plan to pay your student loan directly to them when you work abroad.
- Voluntary national insurance contributions. Unless you keep paying national insurance after leaving the UK, there will be gaps in your national insurance record which may affect your eligibility for claiming a UK state pension in the future. Consider making a voluntary contribution to fill in the gaps. It's as low as £3.05 per week.

The difference between residency and domicile Q&As

Because of COVID, I'm stuck in the UK/overseas. What are the tax implications?

1) Working overseas for a UK company. Unless you leave the UK for a complete tax year, you'll usually remain UK tax resident and taxable in the UK on your employment income. However, beware you may also have to pay income tax in the foreign country, even if your stay is short. It is important to check the local and international tax rules. If you are subject to tax in more than one country on the same income you will need to, complete a UK tax return to claim the foreign tax paid (as a foreign tax credit) reducing your UK tax liability.

Make sure you tell your employer about the situation. The company may need to add you to a local payroll and there is a danger you may create a corporate tax presence for the company in the foreign country, especially if you work at management level.

2) Working in the UK for an overseas company. If you are stuck in the UK because of Covid, HMRC will ignore up to 40 days in a tax year under the 'exceptional circumstances' rule when assessing UK tax residency.

HMRC will assess your working pattern on a case by case basis, and only exempt your employment income if:

- it is taxed in your home country, and
- you are genuinely prevented from leaving the UK as a result of Covid measures (for example, if flights are cancelled or the NHS app asks you to self-isolate).

Again, it is vital to tell your employer about your extended stay so they can seek professional advice.

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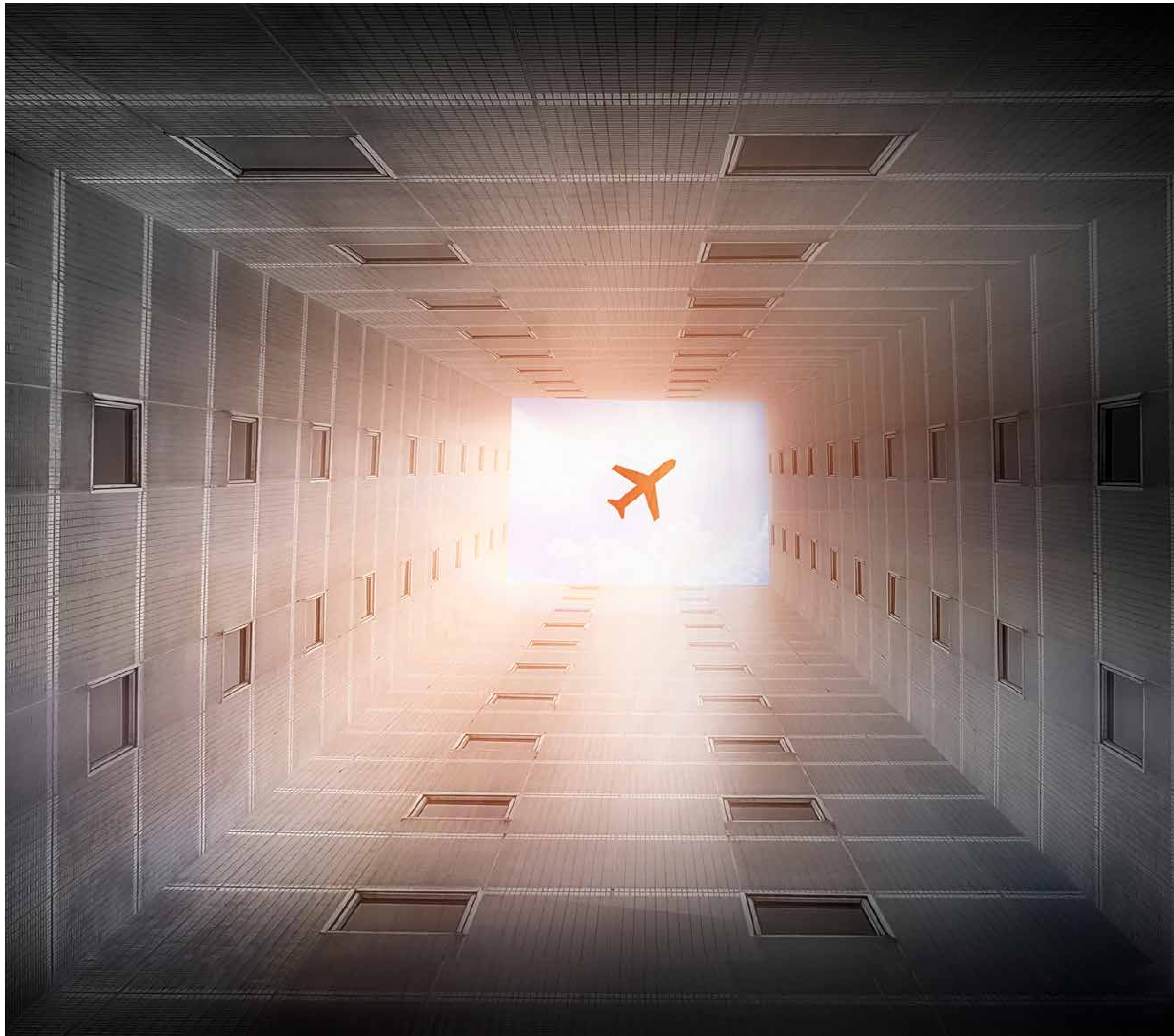

About PKF
Simplifying complexity for our clients

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

Ranked 10th in the UK in the latest Accountancy Daily rankings

£140 million annual fee income

2,030 UK partners and staff

7th 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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