

A Pocket Guide to Conducting Business in the UK



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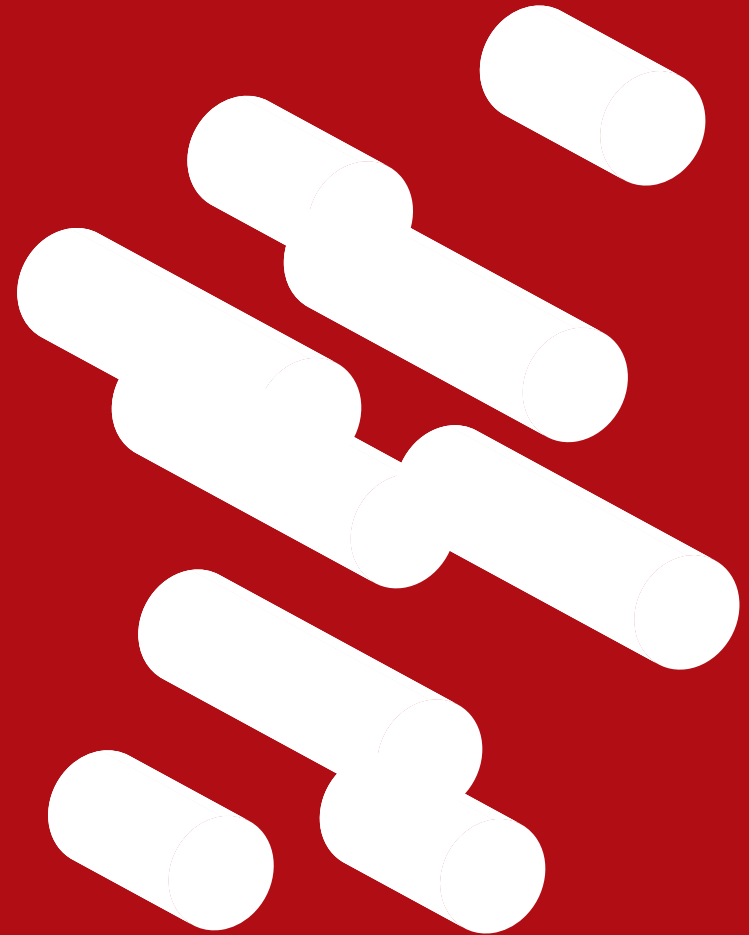
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Think...

Give yourself plenty
of time

Visas & Immigration

Employment Issues

Audit & Accounts

Corporation Tax

VAT & Sales Tax

Import & Export

This Guide

This pocket guide highlights common issues that businesses face when moving to the UK. It is not intended to be comprehensive.

Things to note

Give Yourself Plenty of Time

There are many things to consider when expanding your business to the UK. Getting proper, local, professional advice early is crucial.

Structure

There are a number of business structures available in the UK to consider, however the preferred option is often a limited liability corporate structure.

More information

Depending on your business model, sector and structure there will be aspects that you will need to focus on. Our quick guides at www.ouryclark.com will give you a good introduction to topics which may prove key such as Visas, Employment Law, Tax and Intellectual Property.

Common bureaucratic issues encountered at an early stage include:

- Generally visas must be applied for before the person arrives in the UK and each visa type will have a process time that will need to be considered, early application is advisable to ensure you stick to your timetables.
- Opening a UK bank account can be a lengthy process. We can advise you on the paperwork required and put you in touch with people at UK banks who specialise in helping businesses setup in the UK from abroad.
- If you require a VAT registration (and you will need advice to decide this) the application can take six weeks or more.

Visas & Immigration

There are a number of visa options to explore for sending employees (or yourself) to the UK.

The most common options for new businesses bringing employees from outside the EU are:

Sole Representative of Overseas Firms

This visa allows a business to send a single employee to the UK in order to set up a UK establishment or subsidiary and currently falls outside of the Tier System (see below). The individual needs to have been in the employment of the overseas operation for at least six months and must not hold a majority stake in the overseas business. This can be used for overseas companies to explore the UK market.

Tier 2 – Skilled Workers

Applicants for this visa must have a job offer from an employer that is licensed as a sponsor by the UK Border Agency. Only with a sponsor employer will the job offer be considered, so the employer will need to apply for this in advance. The employee must then obtain prior entry clearance based on a points based system.

Common Error – Business Visitor Visa

It is imperative to understand that this visa does not entitle an employee to work in the UK. There are limited tasks allowed such as attending meetings and training but there are some key restrictions. Do not take the warnings lightly – if you come to the UK regularly and breach entry conditions you are at risk of a ten year ban.

Strategise

As not all visa types will be suitable for all employees it is important to consider the order in which employees are sent to the UK.

N.B. The rules in this area are subject to a great a deal of change so obtaining accurate advice at the time is key to devising a strategy.

Employment Issues

The UK has employment law provisions that can be complicated and is an area that is often handled incorrectly.

Insurance

An employer is required by law to have employer's liability insurance. Whilst the insurance policy is generally quite inexpensive the penalties for non-compliance with this rule are substantial and carry a risk of criminal prosecution.

Duties

All employees are entitled to a statement of their terms and conditions of employment within two months of commencing that employment. There is a minimum holiday entitlement of 28 working days per year for employees, although public holidays may be taken to count towards this entitlement. Part time employees are entitled to a pro-rata holiday entitlement. Benefits (such as healthcare and living allowances) are offered at the employer's discretion and would be taxable, unless covered by the secondment exemptions below.

Pension

If a business employs five or more employees (including directors), it is legally obliged to set up a stakeholder pension scheme. There is no requirement to make contributions at present, but these will be phased in from 2012 for very large businesses. From 2014 most other businesses will have to be compliant – the five employee threshold will also fall away. Failure to have a pension in place, if required, could lead to a fine of up to £50,000.

Incentivising

Share options are a popular way of remunerating and rewarding key staff. Businesses looking to offer such incentives should seek pre-approval from HMRC for the scheme as they may otherwise potentially fall subject to UK income tax at the grant date and/or the exercise date. It is important to note that this applies even where the options are in the foreign operations. There are also annual reporting requirements for any such schemes.

Employing People Not From The UK

Secondment

There are a number of tax efficient options available to an employee seconded from foreign operations to the UK. The options available depend on how long the employee intends to stay in the UK and how the business remunerates him/her.

Up to six months

The default position is for the employee to be paid through the UK payroll and therefore be subject to UK taxes. The employee however does not fall within the tax jurisdiction of the UK if he/she is present here less than six months in any given fiscal year (which runs to the 5 April each year). It is therefore possible to continue paying the employee from the foreign operation and not bring him/her within the UK tax system. If the intention changes and the employee stays here longer then all income will become taxable in the UK.

Up to two years

The intention to stay for less than two years in the UK can afford generous benefits to the employee on a formal secondment from their home country. The employer can provide the employee with reasonable housing and living allowances without them falling subject to UK tax. If the intention to stay is extended beyond the two years then such benefits become taxable from the point that the decision to extend is taken.

Strategy

There is always a balance to strike between recruiting locally in the UK and seconding staff. Often this is a business decision where local market knowledge and experience may be crucial or alternatively product knowledge may be the key to driving growth.

People represent the highest cost to most businesses and carry the highest risk so it is important to get this aspect of your UK operations correct from the outset.

Don't forget that getting a VISA for your employees isn't necessarily simple or even possible. See page 2.

Annual Reporting for the business

Whilst the tax year in the UK runs until the 5 April each year (31 March for companies) you can follow any accounting year of your choice. There are special rules for unincorporated entities regarding the tax position where a different year end is used, but beyond this your tax filings are the only formal requirement each year.

Where a Company is formed to carry on the business, statutory accounts will need to be drawn up to the end of each accounting period (as selected). These may be drawn up to comply with International Financial Reporting Standards or UK GAAP in sterling or in euros.

Once drawn up, all companies are required to file their financial statements with the Registrar of Companies at Companies House. These will then be publically available. The disclosure requirements vary depending on the size of the Company, but the public nature of the financials is often a departure from the home rules for businesses moving to the UK.

Audit

Whether a Company is required to have a statutory audit is decided by the size of the Company or, if a holding company, the group of which it is the parent. This can mean in some circumstances that the UK Company may require an audit when the local rules do not require the same of the overseas parent Company.

If any of the following apply, the UK Company will require an audit:

- Group aggregate turnover is greater than £6.5m (net of inter-group sales) or £7.8m (gross);
- Group aggregate gross assets are more than £3.26m (net of inter-group balances) or £3.9m (gross);
- The Company does not qualify as a small Company as defined by the Companies Act 2006.

Corporation Tax

UK Limited Companies are required to pay corporation tax on the taxable profits arising in the business. Taxable profits include trading profits, investment profits and capital gains. Unlike other taxes in the UK, the deadline to pay your corporation tax is before the deadline to file the relevant return. Generally (unless you are a 'large' Company) payment is due nine months and one day after the accounting period end and the tax return itself follows three months later – twelve months after the end of the Company's accounting period.

The rate of tax payable by a Company is determined by central government and based on the level of taxable profits achieved. There is no profit related tax levied by local government. The current corporation tax rates are:

- Small profits rate (Profits <£300,000) – 21%
- Main rate (Profits >£1,500,000) – 28%

Each of these rates is due to fall by 1% in the fiscal year 2011/12 (to 20% and 27% respectively) with the main rate falling year on year to 2014 (reaching 24%). The rate between the two thresholds is smoothed so that at £1.5m the main rate is applied to the whole taxable profit.

Where there is more than one trading Company in a group or under common ownership, the thresholds will be divided by the total number of relevant companies and therefore the main rate will be reached much sooner.

Dividends are payable from post tax profits and do not carry credit for the tax suffered in the Company. There is a tax credit attached of 10% to any dividends received but whether this is relevant will be a matter to be explored with your foreign professional advisors. There is no tax withheld on dividends paid abroad.

Permanent Establishment

Just because you do not register a UK business, does not mean that you do not have a taxable entity in the UK if you are trading goods or services here in some form.

You are allowed to have a warehouse to supply distributors, a showroom (which can display but not sell goods) and/or an independent agent representing your business, acting in the normal course of their trade in the UK without creating a taxable entity; however, anything more than this will.

If you have an effective management team, an office, a physical place of business you will have created an establishment in the UK whether or not you have registered this officially, eg. By establishing a Limited Liability Company. You are required to file a tax return and pay tax on the activities of your business in the UK.

Sales Tax

Sales tax or Value Added Tax (VAT) is charged on most goods and services in the UK. A VAT-registered business will levy VAT on any supply of goods or services where VAT is applicable (see below) at the appropriate rate. Businesses that are VAT registered can generally reclaim the VAT they are charged by their suppliers.

There are three rates of VAT, determined by the nature of the goods or services provided. The current rates are:

- Standard – 20%
- Reduced – 5%
- Zero – 0%

There are also some goods and services that are exempt from VAT or fall outside the scope of VAT legislation altogether. You must seek professional advice as to whether your particular supply is subject to VAT and whether registration is possible or compulsory.

The current level at which you are required to register for VAT is £70,000. This is measured by reference to your relevant VAT supplies.

Recent changes in legislation mean that charges from abroad (such as management charges for instance) are to be included under Reverse Charge rules for VAT and a registration may therefore be forced on the basis of this, even where there is no requirement to register from a UK perspective.

Where able, businesses often opt to register early for VAT as non-registration is a clear indicator of your turnover to potential customers and suppliers.

If your customer base is only business, your UK VAT registration will be sufficient to enable trade with the rest of Europe with some additional reporting to be filed. If you are dealing with non-business customers in the rest of Europe from the UK then additional local registrations may be required. We can advise if there are structural or administrative considerations to aid this.



Import & Export

This can often be the first operational problem encountered as the emphasis is on sales. With a little preparation and advice we can help things run a lot smoother.

In order to import goods to the UK, registration is required. Often (but not always) linked to your VAT number, registration under the Economic Operator Registration and Identification (EORI) scheme is compulsory if you intend to bring goods to, or ship goods from the UK.

EORI registration enables the Customs Officers to issue a C79 Excise Certificate detailing any VAT suffered at the border and enabling the reclaim of any such tax.

Customs warehouses (formerly bonded warehouses) are regularly referred to as an option to limit exposure to VAT cash outflows but are rarely economic in use for all but the largest quantity or highest value goods.

Oury Clark 'Group'

We see the whole picture

Professional services in the UK

For many organisations international business expansion is a must. The UK offers one of the world's best and most popular business destinations.

Oury Clark has dedicated considerable time and resources since 1935 to build a unique package that pushes the boundaries of professional practice and makes it easier and more cost effective for international businesses setting up operations in the UK.

Oury Clark offers a depth and breadth of services mixed with a commercial understanding rarely found amongst UK professionals.

