A Pocket Guide to Conducting Business in the UK

Oury Clark

Better Together

Think...

Give yourself plenty of time

Visas & Immigration

Employment Issues

Audit & Accounts

Corporation Tax

VAT & Sales Tax

Import & Export

Give Yourself Plenty of Time

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

There are alternate business structures to consider, however, we find for most overseas companies a limited liability corporate structure is the preferred option.

Depending on your business model, and sector, there will be various specific aspects to consider. Please see our quick guides at www.ouryclark.com for specialist topics including Intellectual Property, Visas, Taxation etc.

This guide highlights the common areas that most companies face when moving to the UK market and information to assist in this process. It is not intended to be comprehensive.:

Common bureaucracy problems in the early stages include:

Almost all work visas must be applied for before the person arrives in the UK and all have lead times to consider.

Opening a UK bank account can be a lengthy process. With forward preparation and discussions with our team we can ensure you are aware of all the paperwork and information required.

You will also need to think about registering for VAT which can take 6 weeks or more.

Visas & Immigration

There are various Visa options to explore when looking to send employees to the UK.

The most common options for companies or individuals looking to enter the UK for work purposes are:

Sole Representative of Overseas Firms:

This visa allows companies to send a single employee to the UK in order to set up a branch or subsidiary and is currently outside the Tier system. The individual needs to have been employed by the overseas operation for at least 6 months and not have a majority shareholding in the overseas company. This visa can be used for overseas companies to explore the UK market.

Tier 1 – Entrepreneur

If you are an individual with £200,000 to invest in a UK business (existing or establishing new) then this visa might be an option. There are additional requirements which you would need to seek advice on.

Tier 2 – Skilled Workers

Applicants for this Visa must have a job offer and a sponsor licensed by the UK Border Agency to support this job offer. The employer must apply for a licence which must be approved by the UK Border Agency. The applicant will also need to obtain prior entry clearance based on the points system.

It is important to consider the order in which you send your employees to the UK when deciding which visas to apply for. The rules in this area are subject to a great deal of change so obtaining accurate advice and devising a strategy is crucial.

It is also important to understand that a Business Visitor Visa does not entitle you to work in the UK. You can attend meetings, do training, but there are activities which are restricted. Do not take the warnings lightly – if you come in and out of the UK regularly and breach your entry conditions you are at risk of a 10 year ban.

Employment Issues

The UK does not have employment at will. UK Employment law is complicated and is often an area that is handled incorrectly.

Any employer is required by law to have Employer's liability insurance. There are substantial daily fines for non-compliance and the risk of criminal prosecution whereas the insurance is comparatively inexpensive.

All employees in the UK are entitled to a statement setting out their terms and conditions of employment within 2 months of commencing employment. 28 working days holiday per year must be provided as a legal minimum. The employer is not obliged to provide any benefits such as living allowances or private health care. If they chose to provide such benefits they will all be taxable, unless covered by the secondment exemptions detailed below.

Share options are a popular method of remuneration of employees by US companies. In the UK, if the share option schemes offered to your staff are not specifically approved by our tax authority HMRC, they will be subject to UK payroll taxes, potentially at both the grant date and/or date of exercise. It is important to highlight that this applies even if the options are in the parent company rather than the UK subsidiary. There are also annual reporting requirements in relation to share option schemes.

Pension Schemes

From October 2012 you must automatically enrol certain members of your workforce into a pension scheme and as an employer; you will need to make a contribution towards it.

The law will come into force first for large employers and smaller employers will follow.

You will have to automatically enrol your eligible jobholders into a qualifying pension scheme and make an employer contribution towards it.

The main things you must do are:

- provide a qualifying scheme for your workers;
- automatically enrol all eligible jobholders into the scheme;
- pay employer contributions for eligible jobholders to the scheme;
- tell all eligible jobholders that they have been automatically enrolled and that they have the right to opt out if they want to do so.

You will need to register with the Pensions Regulator and give them details of your qualifying scheme and the number of people that you have automatically enrolled. There are stiff penalties for non-compliance.

Secondment

There are various tax efficient options available to seconded employees depending on the period they intend on staying in the UK.

Up to 6 Months:
The default position is for the employee to be paid through the UK payroll and therefore subject to UK payroll taxes. However, if the employee intends to stay less than 6 months in any fiscal year (which runs to the 5 April each year), this can be declared to HMRC and the employee will remain on the foreign company's payroll. Neither the employer nor the employee will pay any UK payroll taxes, as long as the UK Company does not bear any of the costs.

If at any point the employee intends to stay longer than six months the wages paid to date and any wages paid going forward will be subject to UK taxes.

Up to 2 Years:
There are generous provisions for staff on secondment to the UK. The employer can provide the employee reasonable housing and living allowances, without these being subject to UK tax, providing the employee does not intend to stay in the UK for longer than 2 years. If the intention changes, such that the expectation is that the employee will stay beyond the 2 year allowance, the housing benefit will become immediately taxable from that day forward.

Social Security

Both the employee and employer can receive exemptions from contribution to the UK social security system. The rules differ depending on where the employee is being seconded from. Secondment from the EU. An employee from the EU will need to complete an A1 form, which will result in them receiving exemption from contribution to the UK social security system for one year. The employee will continue to pay social security to the country they have been seconded from.

Secondment from the US. The UK has a social security agreement with the US whereby if the employee is seconded to the UK for a period of 5 years or less the employee can continue to contribute to the US social security system and receive exemption from UK social security.

Secondment from elsewhere. If an employee is seconded from the rest of the world, they receive a 52 week exemption on contributions to the UK social security system.

Accounts & audit

The UK tax year runs from 1 April – 31 March, however, this does not mean your accounting year has to follow suit. Companies in the UK can choose their accounting year end in order to best suit their business operations. Many of our US clients elect for a 31 December year end in order to best fit with the US tax system. UK corporation tax follows the accounting date for a limited company.

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 the UK GAAP in sterling or in euros. The financial reporting requirements do not allow for the preparation of accounts in line with US GAAP, however we are familiar with the differences and can provide commentary and quantifications of the differences where necessary.

Once drawn up, all companies are required to file their financial statements with the Registrar of Companies at Companies House. These will then be publicly 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.

Whether a Company is required to have a statutory audit is decided by the size of the company or the group of which it is a part. 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.

Audit exemption is not available if the company does not qualify as a small company as defined by the Companies Act 2006.

The qualifying conditions are met by a company in a year in which it satisfies two or more of the following requirements for two consecutive years:

- Group aggregate turnover is not more than £6.5m (net) or £7.8m (gross)
- Group aggregate gross assets is not more than £3.26m (net) or £3.9m (gross)
- Not more than 50 employees

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) – 20%
- Main rate (Profits >£1,500,000) – 23%

The full rate of corporation tax is set to reduce to 21% by 2014. 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.

For US Companies

Details of your US subsidiary will need to be disclosed on your US corporate income tax return.

The US treasury also requires any United States person or entity that has a financial interest in or authority over any financial account in a foreign country, so long as the aggregate value of these accounts exceeds $10,000 at any time during the calendar year, to complete form number TD 90-22.1. The report is due by June 30 of the year following the year that the account holder meets the $10,000 threshold. Failure to file the report may result in civil penalties, criminal penalties or both.

VAT & sales tax

VAT is an indirect tax that is charged on most goods and services in the UK. VAT is charged when a VAT-registered business sells to either another business or to a non-business customer. When VAT-registered businesses buy goods or services they can generally reclaim the VAT they have paid. There are three rates of VAT, depending on the goods or services the business provides.

The rates are currently:
- standard - 20%
- reduced – 5%
- zero – 0%

There are also some goods and services that are:
- exempt from VAT
- outside the UK VAT system altogether

The current registration threshold for VAT is sales and reverse charge amounts of £79,000 per year.

As a result of this, charging management charges from the US to the UK may force a registration even where there is no requirement from a UK sales perspective.

Import & export

This can often be the first operational problem encountered, but with a little preparation the process can run a lot smoother.

You will need to be registered as an importer to get goods into the UK and will need to collect the C79 Excise certificate to reclaim any VAT suffered upon import.

Customs warehouses (formerly bonded warehouses) are only practical and economic for large quantity or high value goods.

If you use the UK as a base to sell goods to end users (non-business customers) in the rest of Europe you will need to carefully consider the level of sales to any particular country, as local VAT registration may be required in other EU states.

You will also need to obtain an EORI if you intend on sellin0g or purchasing goods across Europe.

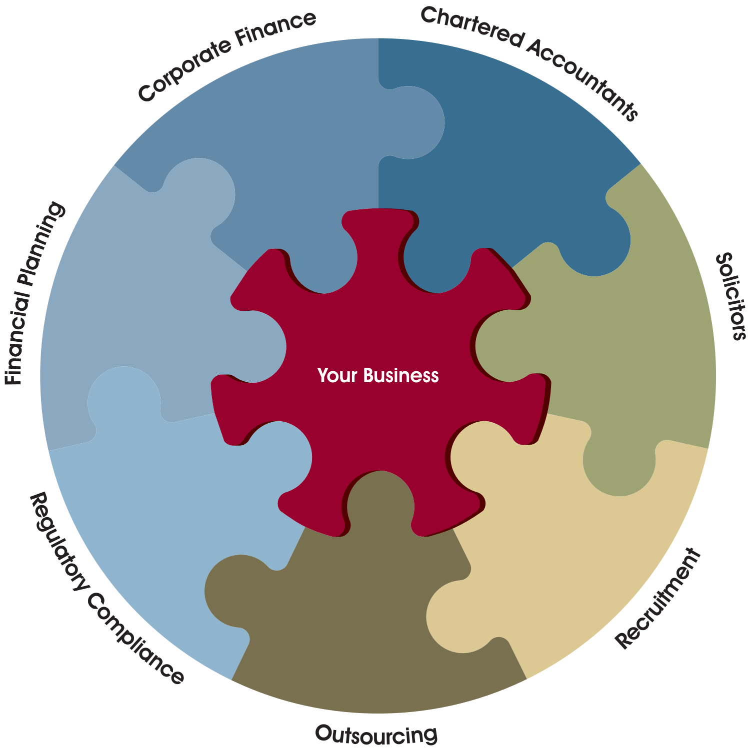
If you only sell to businesses, your UK VAT registration will cover you for trade with the rest of Europe although there will be additional reporting requirements.

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.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