PKF

Tax Talk

Simplifying the complexities of Tax

September 2021

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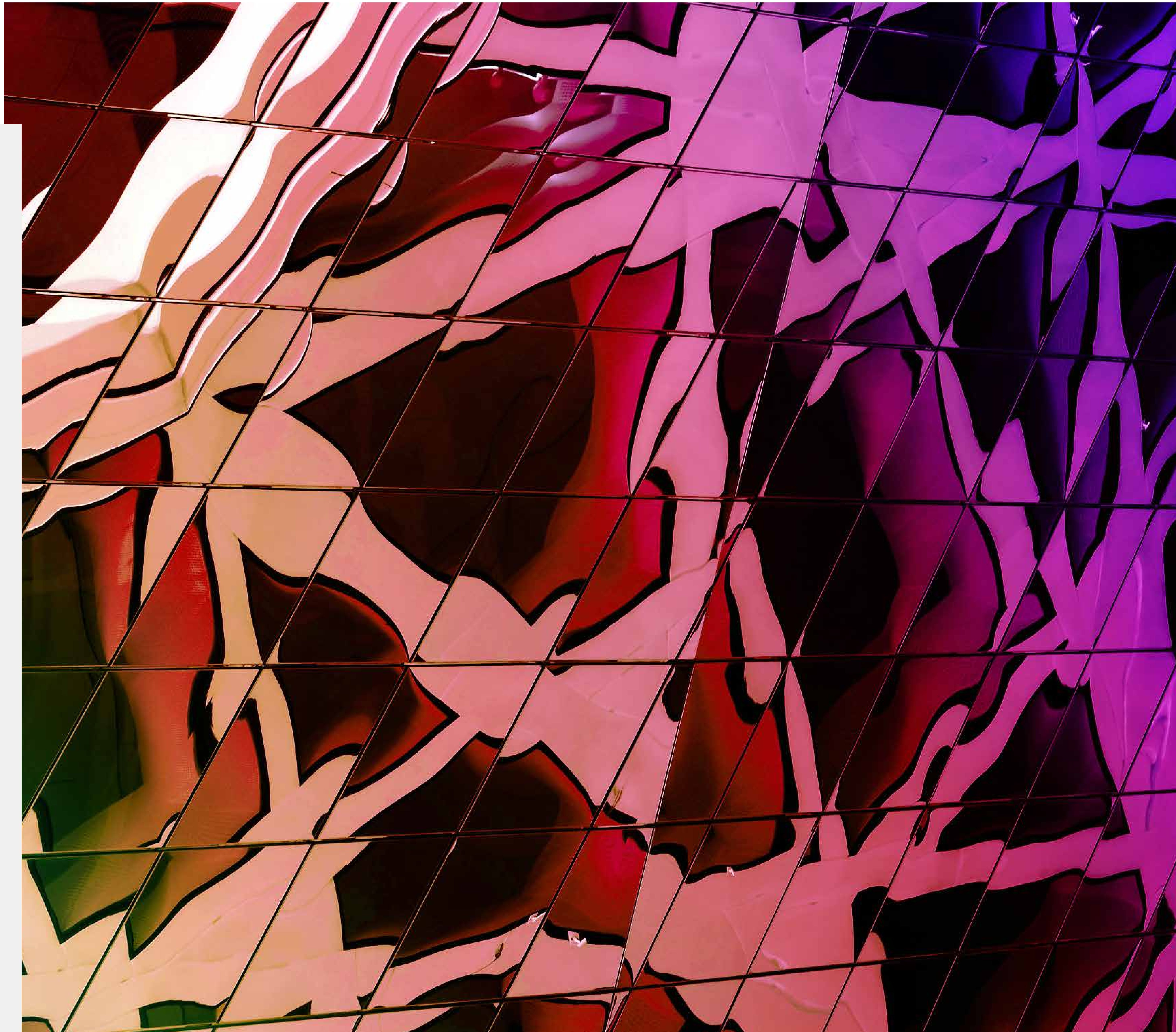
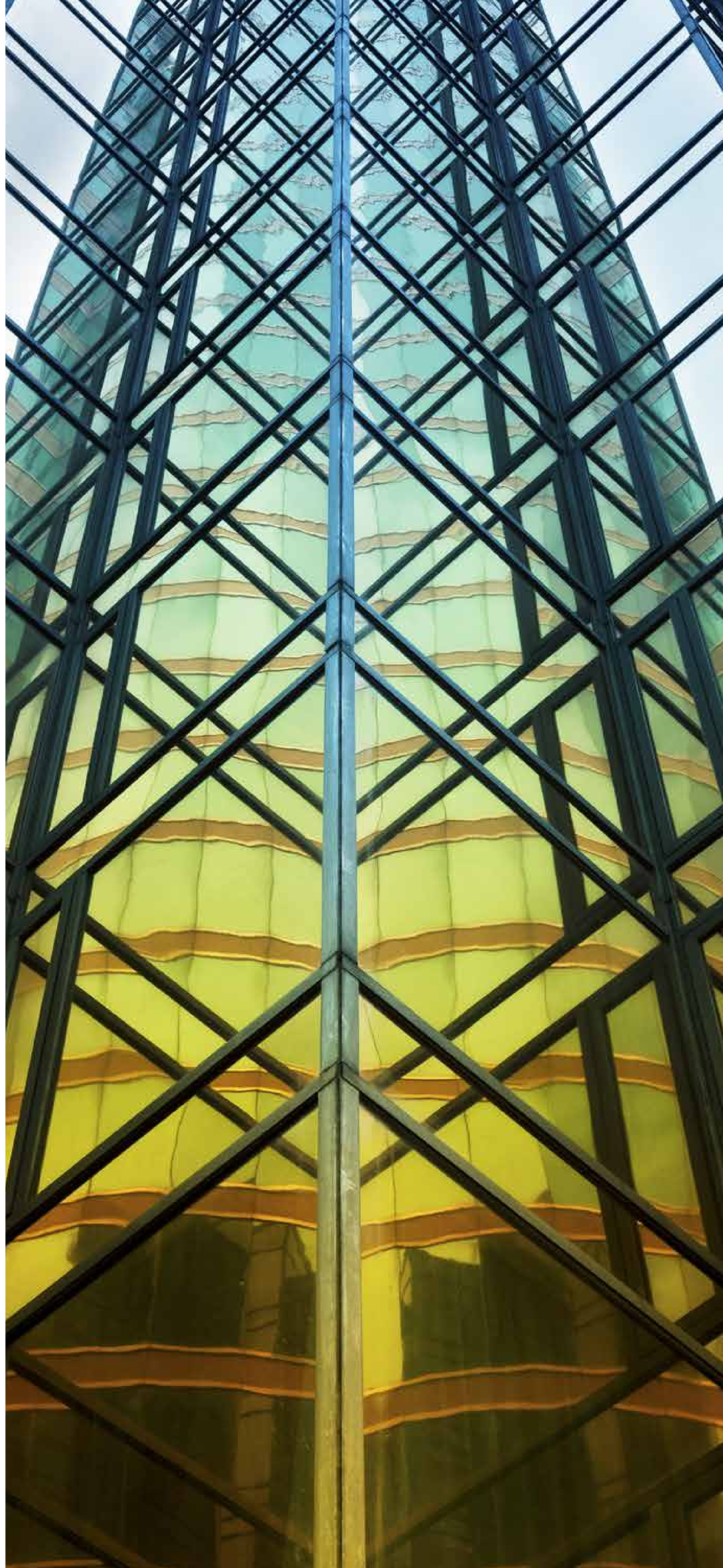
Tax Talk: September



Changes to basis period: what they mean for you



Many businesses will be affected by an HMRC proposal to bring basis periods in line with the tax year.

HMRC has published draft legislation and a consultation on the reform of 'basis periods' for the taxation of trading income. It will affect sole traders, partnerships and all unincorporated businesses. The proposed reform aims to simplify the reporting of business profits to HMRC under the Making Tax Digital rules which come into effect in the tax year 2023/24.

Generally, businesses draw up annual accounts to the same date each year, called the 'accounting year end date'. Currently, a business profit or loss for a tax year is the profit or loss for the year to the accounting date falling in the tax year, called the 'current year basis period'. Specific rules apply to determine the basis period for early years of trading (where there is a change of accounting year end date) and in the year of cessation.

The proposal means that, for all such businesses, the taxable profit will instead be based on the actual profits for the tax year. HMRC are promoting this change as a simplification, which for people starting out in business in the future is likely to be the case, removing the situation where the profits in the opening years are in effect taxed twice, with relief only available when the business ceases.

The new rules begin from the tax year 2023/24, though there will be a transition to the new rules for the tax year 2022/23 - which is only seven months away.

Who will be affected?

The proposed changes will affect individuals, partnerships and trusts with trading income, including income from a profession or vocation.

For those with an accounting date of 31 March or 5 April, the new rules will have no significant impact, as this will be treated as equivalent to the tax year. But businesses with other accounting year end dates will be affected, some more than others.

The proposed reform

Businesses with accounting year ends other than 31 March or 5 April, will have their taxable profits determined according to the accounting periods covering the tax year. For example, for a business with a 31 December year end, its profit for the tax year 2023/24 will be 9/12 of the profit for the year ending 31 December 2023 plus 3/12 of the profit for the year ending 31 December 2024.

Businesses with accounting dates later in the year may not have the second set of accounts prepared by the tax return filing date for that tax year. That means they may need to estimate the taxable profits in the tax return, and confirm or amend the overall taxable profit at a later date.

Changes to basis period: what they mean for you

The proposed tax year basis should simplify the reporting of quarterly updates for trading income under the Making Tax Digital rules which begin from the tax year 2023/24.

Transition period

The tax year 2022/23 will be a transition period and, depending on the business' accounting year end, may have a significant effect on the taxable profits for that year.

The profit for tax year 2022/23 will be made up of two parts. Firstly, the accounting year ending in the tax year 2022/23 (the old current year basis period) and, secondly, the actual profits from the end of the accounting period used in the first part - up to 5 April 2023. Here is an example:

For a business with a 30 April year end the taxable profit will comprise two components:

- Profit for the year ended 30 April 2022 – the standard/current year component
- Profit from 1 May 2022 to 5 April 2023 – the transitional component.

Here, profits for a 23-month period will be taxable in the year 2022/23. To compensate for this concentration of taxable profits, any 'overlap profits' carried forward from earlier years of trade must be deducted from the profits of the transitional year.

However, in many cases it is likely to be the case that relief for overlap profits in early years will be far lower than the additional months' profits that are subject to tax in 2022/23. Therefore, where profits in the transitional tax year are higher than if calculated on the current basis, the Government proposes an election to spread any 'excess profit' over a period of up to five tax years.

Begin tax planning now

The time scale for this standardisation of the tax year basis is extremely short and, for many businesses, the impact on cash flow will be significant. It may be beneficial to consider changing the accounting year end date before the new rules come into effect, and to plan carefully for the cash flow impact on increased tax payments and ongoing Making Tax Digital reporting.

Some of the advantages of operating a business under the partnership model will be diminished under the new rules. Businesses may consider incorporating to a 'limited company' falling under the corporation tax regime.

These are fundamental changes to the basis period for charging tax. For many they will mean having to pay tax on trade profits earlier than before. Businesses should seek comprehensive tax advice to make sure they fully understand the proposed reform and its' real impact, so that they are in the best position to operate under the new rules.

Tilak Lamsal
Assistant Manager

+44 (0)20 7516 2364
tlamsal@pkf-l.com

Cryptocurrency: plan for when you're no longer around

Investing in crypto-assets is increasingly popular. But your executors and administrators could be left with a major puzzle if you don't think ahead, Phil Clayton explains why.

According to the FCA, more than two million people in the UK have invested in some type of cryptocurrency. In our profession, very few client conversations can completely avoid the topic of death. And there's no doubt that all cryptocurrency investors should carefully consider the effect of holding these assets at their death and how they could affect their estate.

Identifying cryptocurrency holdings

Many people choose to invest through so-called 'hosted wallets' with a third-party service (such as Coinbase or Binance). This method means that when the owner passes away, the investment can usually be tracked back to them and accessed. Some of these services allow the owner to appoint the beneficiary or beneficiaries in the event of death.

On the other hand, some of the original investors purchased and hold their cryptocurrencies in 'hot wallets' (where a private 'key' is kept online to access), or in 'cold wallets' (where a private 'key' is kept as a paper record, stored on a USB stick or another computer). These investments can therefore be harder to track and identify.

Nightmare scenario

You will all have read the story of the man who, in 2013, threw away the computer hard drive which held his Bitcoin wallet details. Since then he has been battling with the council to allow him to search the landfill to find that hard drive – which is reportedly worth around £275 million.

In this case, the man is alive, aware of the issue, and trying in vain to be reunited with his fortune. Now imagine if he had died shortly afterwards: would we have any knowledge of this misfortune? Or, even worse, if he had not thrown away the hard drive himself but died unexpectedly, only for his family to dispose of it during the clear out of his property – never knowing the extent of the loss?

Shocking losses

Cryptocurrency data firm Chainalysis estimates that around 20% of the 18.5 million Bitcoin in existence are 'lost' online, either through death or missing details to a wallet. It is therefore vital not to leave your personal representatives (PRs) in a similar position when you die.

All owners of digital assets must keep a secure record of all of their holdings, login details, wallet keys, and so on. It could be kept in 'cold' storage, such as a USB stick unconnected to the internet to avoid potential hacking, or even on paper in a safe place. This would enable the PRs to identify these assets in the event of death.

If PRs know that digital assets were held by the deceased, they can hire experts to access their computer or other devices to search for any wallets or accounts showing evidence of holdings - although success is not guaranteed.

Claiming cryptocurrencies and assets

If the crypto-assets are held through a third-party broker, the process of claiming them should be similar to other investment assets. Most brokers will require evidence of both a death certificate and grant of probate before giving access to the deceased's accounts and assets.

On the other hand, if they are held through a hot or cold wallet, a grant of probate might not be needed to access them. Once accessed, it may be in the

Cryptocurrency: plan for when you're no longer around

interest of the PRs to move the assets into a new wallet or new account for increased security.

Then when the assets are available, it is the PRs' responsibility to enact the deceased's Will as they would with any other asset. In your Will you may wish to include specific instructions as to how the estate administers your digital assets, but it's important not to include the access details for wallets in your Will, as this will become public record.

Inheritance tax implications

Firstly, note that HMRC has said that while an individual is resident in the UK, it will treat any cryptocurrencies or assets as in the UK for tax purposes. This can affect non-UK domiciled individuals who are resident in the UK and currently assume their cryptocurrencies held offshore may be outside the scope of UK inheritance tax (IHT). In these circumstances, we suggest requesting specific tax advice on personal UK IHT exposure.

Cryptocurrencies and assets will be treated the same as many other investment assets (such as shares) for IHT purposes. The value will be included in the individual's estate and be liable to IHT as normal. The value included in the estate will be the market value at date of death in pounds, as with other assets in the estate.

Unstable values

With the market value of cryptocurrencies fluctuating significantly every day, it would not be a surprise for the probate value liable to IHT to differ substantially from the disposal proceeds, or from the amounts received by the beneficiaries on distribution.

Some assets, such as quoted shares, land and buildings, qualify for post-mortem relief (providing certain conditions are met) should the value fall from the taxable probate value. But so far this relief does not seem to apply to cryptocurrencies and assets. This means that if there is a fall in value from the date of death to the disposal of the assets, it may not be possible to reclaim the IHT.

HMRC may update the rules in the future as it regularly reviews its position on cryptocurrencies and assets.

Tax after death

PRs should be aware that the income and gains in respect of cryptocurrencies and assets will still be taxable within the estate as normal. There may be gains or losses in the estate should these be disposed of in the administration, so they may be liable for tax.

Please see our previous article for more information about the tax implications of holding and selling cryptocurrencies and assets.

Phil Clayton
Senior Manager

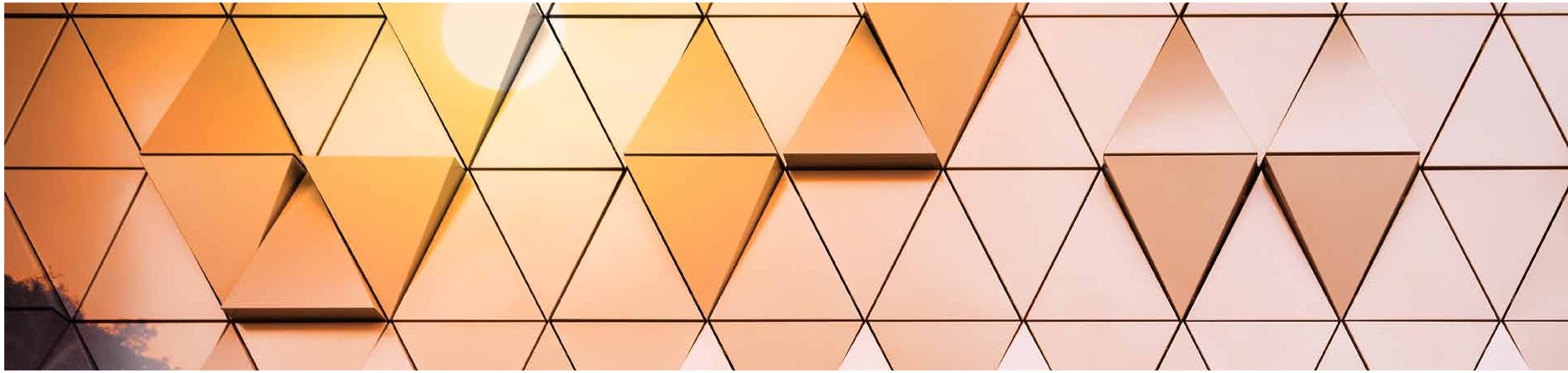
+44 (0)20 7516 2412
pclayton@pkf-l.com

When holding cryptocurrencies and assets, it is important to take time to plan for when you die.

- Will your family be aware of these assets?
- How will your family access these accounts?
- Have you identified your wishes in respect of these specific digital assets?
- How will the value of these assets affect your overall estate?

Why your 'permanent' workplace makes a difference

'Hybrid working' may be the new normal, but the tax implications are giving employers a new headache.



With almost all Covid-related restrictions lifted across the UK, many employers are embracing the concept of home working to which most employees have become accustomed. Despite the option to return to the traditional office-based workforce in unrestricted numbers, more and more employers are adopting 'hybrid working'. Many believe this will become the new normal for employees.

What is hybrid working?

It's an informal working arrangement that combines employees working some days in the office and some from home each week. How much time an employee can work from home depends on business and personal needs. This flexible arrangement seeks to yield the benefits that home working has delivered to many during the pandemic, whilst maintaining the collaborative team interactions an office provides.

A hybrid working arrangement is usually governed by company policy. It does not involve a change in an employee's contractual terms in the same way that a flexible working arrangement would. This is important when considering the tax implications of hybrid working, especially on the key question of 'where is an employee's permanent workplace?'

Whether a location is considered to be a permanent or temporary workplace directly impacts whether any travel expenses (reimbursed or not) are subject to tax relief. However distinguishing between a permanent and a temporary workplace can be more complicated than you might think.

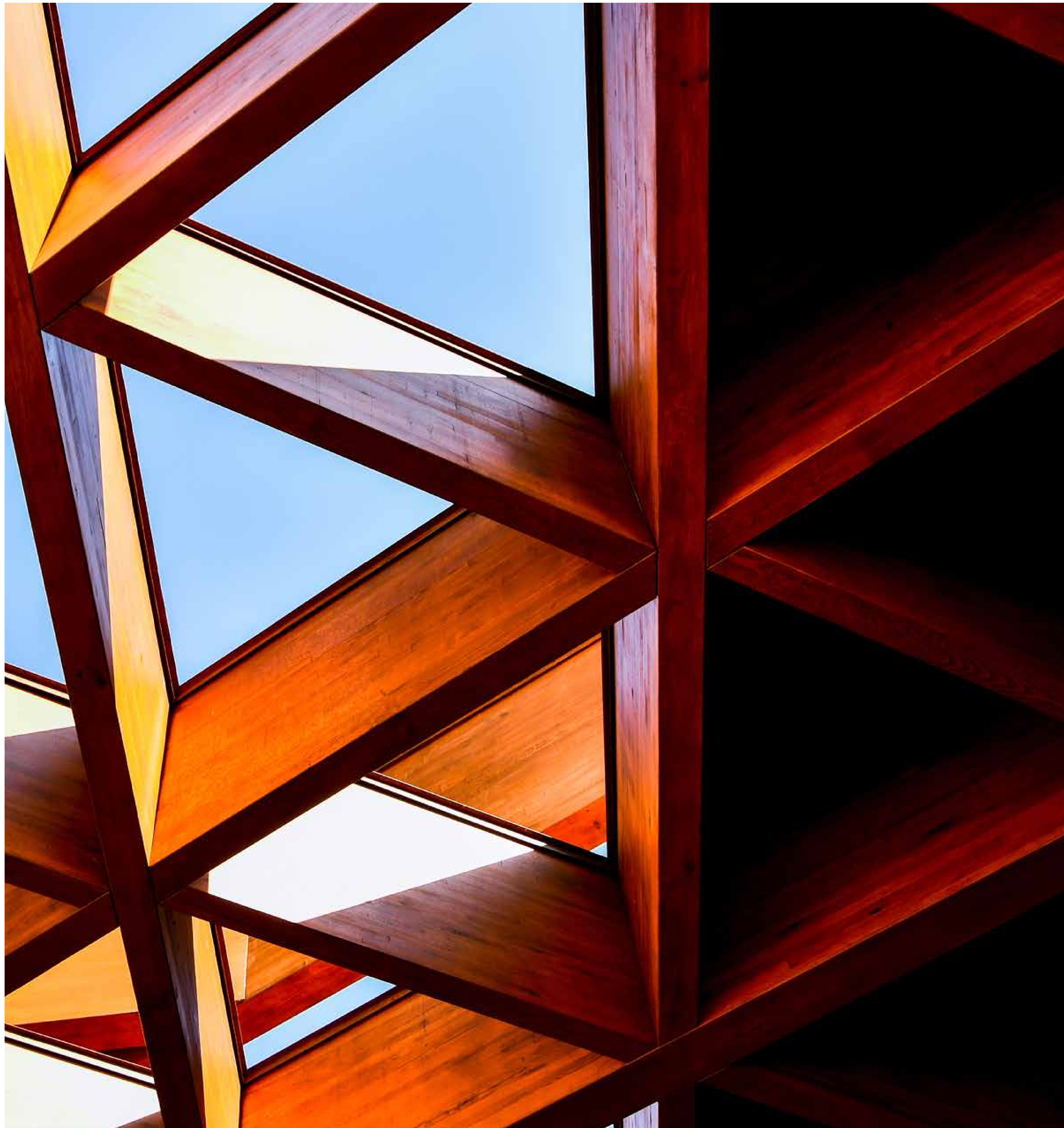
Permanent vs temporary

A workplace is considered 'permanent' if the employee attends it regularly in order to perform the duties of their employment, and if the workplace itself is not 'temporary'. Employees can have more than one permanent workplace if their employment requires them to attend more than one location often – and if there is a pattern to their attendance (for example, Monday to Thursday they work at location A, but on Friday they work at location B).

A workplace is considered to be temporary if the employee's attendance there is only to perform a task of limited duration (no more than 24 months) or for a temporary purpose (for example, the site manager at location A is required to work at site B for six months to provide cover while the usual manager is on sabbatical).

Travel between an employee's home and permanent workplace is considered as ordinary commuting and the employee should bear that cost personally. If an employer reimburses or pays for that commute, the amount would be taxable.

Why your ‘permanent’ workplace makes a difference



The effect on travel expenses

Hybrid working arrangements potentially blur the line for many employees as to where their permanent workplace is on a given day of the week. If it is home, travel costs to the office could be tax relieved. If it’s the office, there is no tax relief on the commute.

The key point is whether, regardless of any policy on working arrangements, the reason for an employee’s attendance at the office is temporary – or for the normal performance of their role.

Employees who work in a hybrid manner may do fixed days at home and in the office and these may change from week to week as required. Any attendance at the office in this instance would be ‘in the performance of their duties of the employment’, so not considered ‘temporary’. So the office would be a ‘permanent’ workplace for the employee and there would be no tax relief on travel expenses between home and the office on any day.

The contracted home-worker

Contrast this with someone who is contracted to work from home by their employer. They are only required to attend the office occasionally for team or client meetings, but there is no fixed pattern to their attendance. In this example, the office would be viewed as a temporary workplace. They are not needed in the office regularly to perform the duties of their employment as the employer has contracted for them to work from home. The home to office travel expenses would in this case receive tax relief – either claimable by the employee themselves or applied to reimbursement from the employer.

The issue of ‘temporary’ versus ‘permanent’ workplace has been under review by HMRC and the Office for Tax Simplification for some time. However they have made little progress on how to remove the ambiguity for employers. Hybrid working arrangements will make this more complicated for employers, and increase the risk that any reimbursed home to office travel expenses are considered taxable by HMRC.

Daniel Kelly
Senior Manager

+44 (0)20 7516 2461
dkelly@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 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

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

£150 million annual fee income

2,030 UK partners and staff

6th ranked auditor of listed companies in the UK

Our tax services
At a glance

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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:

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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

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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.

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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

PKF Littlejohn LLP,
15 Westferry Circus,
Canary Wharf,
London E14 4HD

Tel: +44 (0)20 7516 2200
www.pkf-l.com