Doing Business in the UK: UK Compliance and Governance

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Speakers

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Agenda

1	Corporation tax anti-avoidance issues
2	Employment taxes and compliance
3	Corporation tax reporting requirements
4	Value Added Tax (VAT) and Making Tax Digital
5	Audit requirements

UK Compliance

Alexandra Bray

Director, Corporate Tax

Smith & Williamson LLP

The basics of UK compliance

FILING OBLIGATIONS

- Corporation tax return: due 12m after the year end with statutory accounts
- Withholding tax: quarterly returns (Form CT61). Advance clearance is needed for relief under tax treaties.
- Permanent establishments: complex calculations are often needed to allocate taxable profits between the branch and the company headquarters

PAYING CORPORATION TAX

- Generally 9m + 1 day after the year end
- Profits >£1.5m: quarterly instalments in months 7, 10, 13 and 16
- Profits >£20m: early quarterly instalments in months 3, 6, 9 and 12

These thresholds are divided by the number of worldwide group companies. Small subsidiaries can be treated as large companies

Instalments are based on forecast profit and interest applies to underpayments

Common compliance and anti-avoidance issues for inbound businesses

Hybrid mismatch rules

- Prevent companies from taking advantage of differences in tax rules between countries by using hybrid entities or hybrid instruments
- Apply where an expense is tax relieved in more than one jurisdiction, or no income corresponding to the expense is taxed.

Transfer pricing

- Arm's-length principle applies in the UK
- Exemption for SMEs
- Applies to cross-border and domestic transactions, and the UK PEs

Corporate Criminal Offence

- Failing to prevent the evasion of UK or foreign taxes by an employee or associated person
- Unlimited penalties
- Only defence: reasonable prevention procedures

Controlled Foreign Companies Rules

- Prevent diversion of profits outside UK
- Where a UK entity owns ≥ 25% of a foreign company, profits of the foreign company can be taxed on the UK entity
- There are several gateway tests and exemptions
- May need reporting on tax return

Diverted Profits Tax

- 25% tax on profits diverted outside the UK (compared to 19% corporation tax)
- Applies where entities/transactions lack economic substance or where a non-UK company avoids a UK taxable presence
- Exemption for SMEs
- Should not apply if TP is correctly applied

Digital Services Tax

- Effective from 1 April 2020
- Search engine, online marketplace, social media platform
- 2% on revenues attributable to UK users
- Financial thresholds

Restrictions on interest deductibility

The UK loan relationship regime

Hybrid mismatch rules:

Interest disallowed on hybrid arrangements

Corporate Interest Restriction:

Interest over £2m restricted to ≈30% EBITDA

Transfer pricing / thin cap:

Intra-group interest rates must be at arms-length

Other:

Unallowable purpose; is it a loan?

Withholding tax:

Advance clearance required for treaty relief on interest payments

Loss relief and restrictions

Carried forward trading losses

£5m allowance, then restricted to 50% of profits.

Carried forward capital losses

Included in £5m allowance, then restricted to 50% of gains. Capital losses can only shelter gains.

Change of ownership

Major change in the nature or conduct of the trade within a 5 year window → losses relief blocked across the date of ownership change

Groups

75% ownership, concurrent periods, 5y before new group members can claim group relief for pre-acquisition losses

Anti-avoidance

If the main purpose of an arrangement is to secure a tax advantage, relief will be denied

Employment Taxes

David Yewdall

Partner, Employer Solutions

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Remuneration reporting arrangements

Compensation Type	Cash	Benefits	Expenses	Equity Awards
Reporting Arrangements	Payroll	P11D / Payroll	P11D/ Payroll; or PSA	Payroll/ ERS return (see next slide)

Reporting arrangements – Equity awards

Award of shares / exercise of options:

Payroll reporting required if shares are 'Readily Convertible Assets'

6th July after tax year end:

Submission of employment-related securities (ERS) return

Reporting arrangements – globally mobile employees

GM employee payroll/ reporting arrangements

- Localised payroll for employment transfers
- Shadow payroll for assignees
- Shadow “modified” payroll for tax-equalised assignees
- ‘Appendix 4’ arrangement for ‘Short Term Business Visitors’

US – UK social security arrangements

Bilateral social security agreement

UK Reporting Requirements

Alexandra Bray

Director, Corporate Tax

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UK tax reporting requirements

UK companies/groups with annual turnover ≥ £200m and/or a balance sheet total of ≥ £2bn in the previous financial year

TAX STRATEGY

- Annual requirement to publish the company's/group's approach to UK tax
- Also applies to MNEs with > €750m global turnover
- Must be freely available on the internet
- Responsibility is on the UK company or UK group parent

SENIOR ACCOUNTING OFFICER

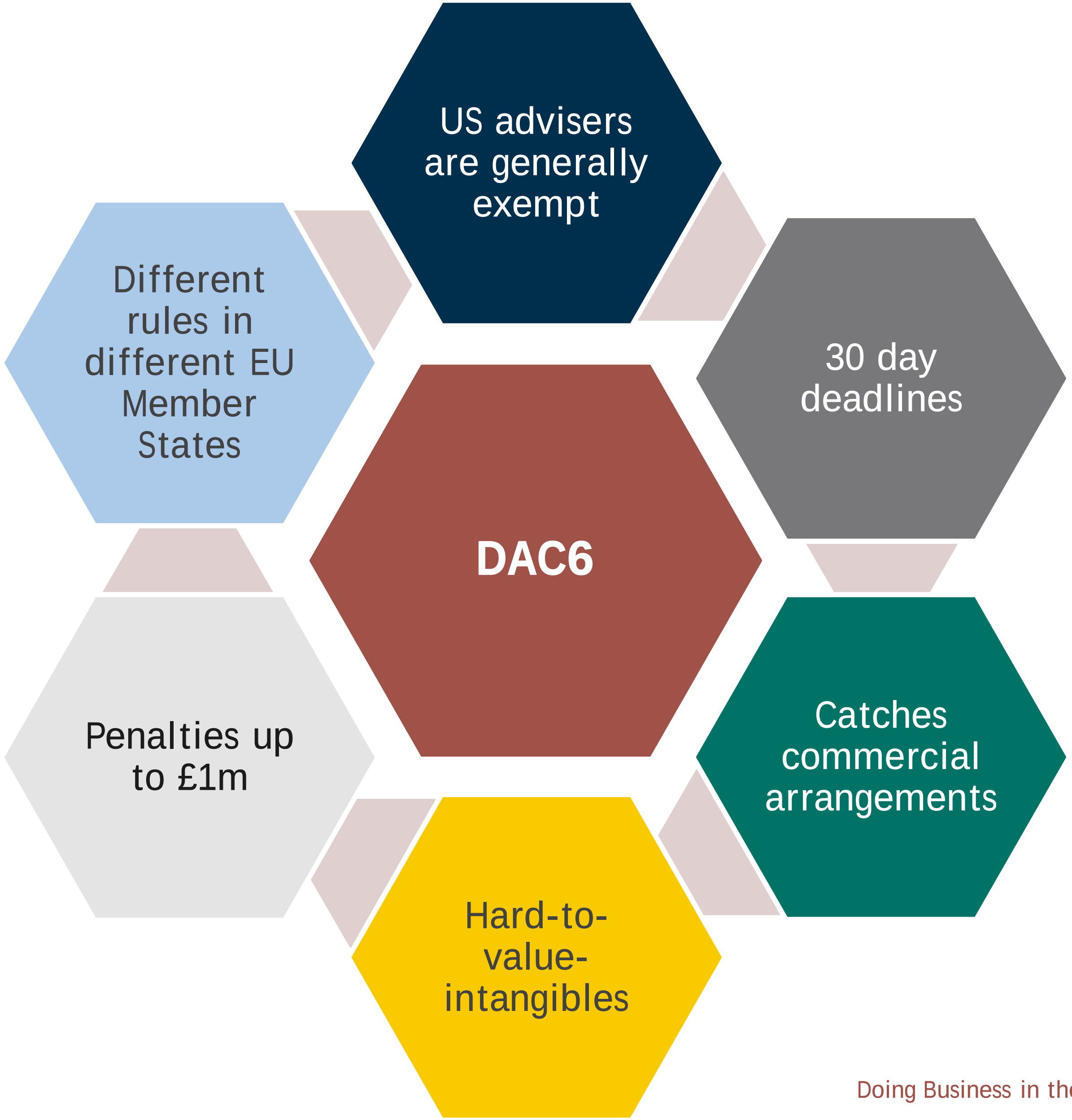
- Annual requirement to certify that the company takes reasonable steps to ensure the adequacy of its tax accounting arrangements
- Responsibility is on an individual
- Due when the accounts are due to be filed
- SAO is usually the Finance Director. Can be non-UK, cannot be outsourced

Companies/worldwide groups with turnover > EUR750m in the previous year

COUNTRY-BY-COUNTRY REPORTING

- Different currency threshold from the USA (USD850m)
- UK entity must notify HMRC annually of the parent entity that will file the CbC report
- Unlikely to require further reporting in the UK if the parent is in the USA, but something to check

EU tax reporting



Value Added Tax (VAT)

Sunil Parmar

VAT Director

Smith & Williamson LLP

UK VAT Compliance

VAT Return

- Required to be submitted by all VAT registered businesses
- Calculates VAT liability payable/reclaimable
- Filed quarterly (monthly or annually in certain circumstances)
- Submission and payment deadline 1 month and 5 working days following the end of the period

EC Sales List

- Summarises total value of sales to each EU customer in the period.
- Customer EU VAT numbers required for the return
- Filed monthly or quarterly
- No payment required
- Submission deadline is 21 days following the end of the period

Intrastat

- There are two separate declarations for EU goods dispatches and arrivals
- Dispatches threshold is £250,000 and arrivals threshold is £1,500,000 (calendar year)
- Filed monthly
- No payment required
- Submission deadline is 21 days following the end of the period

Common compliance mistakes

- Including out-of-period transactions in returns
- Not holding valid VAT invoices for input tax claims
- Not building in enough time for VAT payment to clear the bank before the deadline
- Not monitoring the requirement to submit Intrastat or EC Sales List
- Claiming input tax on blocked items e.g. client entertaining

Making Tax Digital for VAT

Digital Record Keeping

VAT transactional data must be kept in a digital format

Records do not need to be kept in one piece of software

Digital Audit Trail

VAT return preparation process must be digitally linked and maintain a digital audit trail

Deadline for the requirement has been extended to 1 April 2021

API Submission

VAT returns must be submitted using an Application Programming Interface (API)

Currently, a 9-box return is required to be submitted

Audit Requirements

Alistair Shaw

Partner, Corporate Tax

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UK Audit requirements

- Financial thresholds:

	Net (consolidated)	Gross (aggregated)
Turnover	≤ £10.2 million	≤ £12.2 million
Balance Sheet Total (Total Assets)	≤ £5.1 million	≤ £6.1 million
Number of Employees	≤ 50 employees	≤ 50 employees

- Fewer exemptions for UK subsidiaries of US parented groups
- If you have a UK branch of a US parent, the US company accounts must be published

Q&A with the speakers

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Wednesday 18 November 2020
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