



**CLARKHOWES**

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Group

# SETTING UP A BUSINESS IN THE UK

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# WELCOME

The United Kingdom has always been one of the most sought after locations for businesses planning their international expansion.

Its strong history of global trading and international export has made the UK a natural hub and gateway to Europe, and, despite the possibility of Brexit, the UK is still a prime destination for inward investment thanks to a number of attractive tax initiatives and continued commitment to technology and innovation.

Although it's one of the top ten manufacturing nations in Europe and home to some of the largest European industries, the UK is also at the forefront of the international digital revolution.

## Expanding into the UK

The thought of setting up a business in the UK may seem daunting. But, with more than 15 years' experience Clark Howes, part of the Baldwins Group, specialise in helping businesses with their international expansion.

We work alongside business like yours to provide a fully managed outsourced accounting and administration service for companies looking to set up operations in the UK and Northern Europe.

Investing in the UK or European markets requires planning and expertise, and you need a partner with experience and an excellent track record of success.

At Clark Howes, we are with you at every step of the way, to keep you on track and fully informed. We take the time to listen. To understand what

you need - now and in the future. Many of our international team have hands on experience in US, Canadian, European and UK businesses and have significant expertise in business management, accounting and tax services.

We are proud to maintain traditional values such as trust, commitment, integrity and honesty but our contemporary approach focuses on cutting edge, innovative solutions to help you run your business more efficiently.

Promising one single point of contact, we make sure that our relationship is at the centre of the service we provide, and using the latest accounting technology, we manage all the essential functions of a 21st century business to small and medium sized companies to major international groups.

## How we can help

Our help with setting up your business in the UK goes beyond financial matters. Through our network we can help you with:

- UK employment contracts
- Immigration
- Visas
- Work permits and employment regulations

Once your UK business is up and running we can take care of your day-to-day financial needs so that you can focus on your business. You won't have to worry about the headache of recruiting and managing a finance department as we'll do it all for you. Our global outsourcing service covers things like:

- Payroll
- Bookkeeping in the accounting software you require
- Preparation of management accounts in the format you require
- Bank account opening and management
- Cash control
- Year-end accounts
- Tax planning
- VAT
- Audit and assurance
- Parent company reporting
- Transfer pricing agreements

## In this guide

This guide aims to provide you with a framework to start your international expansion plans. Focussing on the practicalities of setting up a business in the UK, this guides offers an outline of the fundamentals such as how to set up a UK company, taxation structures and what your obligations as a UK employer might be.

We can also help with expansion plans throughout Europe and the rest of the world. If you have any questions or would like to discuss your plans in more detail, please get in touch with



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# ESTABLISHING YOUR UK ENTITY

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An international business has two choices when considering the UK for investment.

- Register as a UK branch or limited company
- Register as a subsidiary

## UK establishment

When an overseas business establishes itself and operates from within the UK, it should, in general, register as a UK Establishment and this registration needs to take place within one month of trading. Unfortunately, the rules and regulations surrounding this are not always clear.

At Clark Howes, our Outsourcing team is on hand to discuss your operational activities and help you determine the type of entity your business needs to have. We can also help you through the registration process and ensure the relevant documents are submitted to Companies House. Our expert advisors understand exactly what the Registrar requires when accepting a new registration, saving your business time and money.

In choosing UK Establishment, the business is required to complete documentation providing details of its constitution, directors and shareholders and certified, translated copies of its constitutional documents. Details of the UK address from where business will be conducted also need to be provided. Clark Howes are able to act as a registered business address if required.

It is important to note that as a UK Establishment is not a separate legal entity from the parent company, it will not provide limited liability protection within the UK.

## Subsidiary

If you want your business to be a separate legal entity from the parent company, then you should consider registering it as a subsidiary company. This enables the full protection of limited liability and also liquidation, protecting the parent company if anything should go wrong.

Companies planning this route of registration only require one director. A company secretary is not required as long as one individual does not hold both positions. The business name must be different to other registered companies names and therefore, early registration is recommended. A registered address is also required and again, Clark Howes can act in this regard if required.

## Filing of accounts

If your organisation registers its entity as a UK Establishment, any documentation used for business purposes in the UK must be disclosed.

Such information includes; registry and registration number, head office location, legal form of the business, liability of the company and country of incorporation. In addition, it is a requirement for the UK Establishment to have a

sign stating the company name and UK service address clearly displayed.

Should the parent company be required to publish audited accounts, a copy must also be filed in the UK. If this is not a legal requirement for the parent company, then it must prepare its accounts in accordance with UK law and deliver them for filing. All accounts filed are made publicly available.

Because a subsidiary is a separate legal entity, it must prepare and file a copy of its accounts annually according to UK law. They must be filed within 9 months of the financial year end and must also be made available to the public.





# PAYROLL

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Instructing an experienced UK payroll provider means that you can be sure all your UK payroll requirements are being taken care of. We've worked with businesses of all sizes, so whoever you are, you know we have experience in your area.

## **Outsourced payroll means less stress and more accurate payroll management**

Our services add value to your business by taking the stress of day-to-day payroll management off your hands. You won't have to worry about forms and deadlines or penalties for non-compliance. Your staff will be receive their wages accurately and on time. And with one less thing to worry about, you are free to spend more time on the important things - like running and growing your business.

Our service covers all aspects of payroll, including:

- PAYE, national insurance, statutory sick pay, statutory maternity pay, etc
- Hourly pay, overtime, child care vouchers, salary sacrifice etc
- Payments to employees and HMRC
- Payslips and e-payslips
- Reporting under Real Time Information (RTI)
- Cost breakdowns by department
- Statutory forms and year-end returns
- Incentives, bonus schemes and commissions
- Auto-enrolment, pension deductions
- Share option transactions

**“Since the inception of the company back in 2003, Clark Howes have been our strategic partner for outsourced finance.**

**Clark Howes have always been on hand for us when we needed support. They have taken the time to understand the value of our high transactions and ensured that ‘relationship’ stays at the centre of all we achieve together.”**

J. McCobb, Director of European Operations  
Viotech

# CORPORATION TAX

All companies incorporated under UK law and/or controlled and managed within the UK are liable to pay corporation tax on their global profits.

Corporation tax is also liable for companies that may not be incorporated by UK law or managed and controlled in the UK on any trading profits originating from a UK subsidiary or branch.

Any terms of a double tax treaty in place between the UK and the country where the company is based, may amend the degree of corporation tax to be paid. Foreign based companies will also be held liable to UK tax on other sources of revenue originating in the UK - subject to the terms of that particular double tax treaty.

Corporation tax is payable on a company's revenue and any chargeable gains for each accounting period. All foreign and UK dividends are now being treated the same and if they fall within an exempt class, and anti-avoidance measures do not apply, they will be exempt from UK corporation tax.

## Taxable profits

Depending on the UK trading model adopted by the company, the level of taxable profits will vary.

The UK's transfer pricing legislation dictates that any trading that takes place between connected companies, must be delivered 'at arms-length'. This means that any international groups cannot manipulate intra-group transactions in order to manipulate the profits going to the country with the lowest tax rate.

If the UK entity has been structured to enter

into contracts with third parties and has a buy/sell arrangement, any sales to third parties must be recorded into the UK accounts. Any third party or intra-group purchases and other costs of sales will be offset against this in addition to the overheads and other third party/intra-group costs.

To understand the expected corporate tax liable from the trading company, the company's profit or loss BEFORE tax must be reviewed as shown on the statutory accounts.

All expenses that are disallowed, such as entertaining or depreciation, must be added back and any allowances, such as tax relief on fixed asset additions, should be deducted. Expenses can only be classed as deductible if they are 'wholly and exclusively incurred for the purposes of trade'.

Tax repayments or special relief for some loss making companies is available on specific expenditure relating to research and development and Clark Howes can advise on the right scheme to follow, according to your business needs. Please see the section on Research & Development for more information on R&D tax relief.

Corporation tax is also liable to companies on any chargeable gains.

## Capital allowances

In the UK, capital allowances enable a company to deduct the cost of some capital assets against the taxable income from anywhere between 8% and 100%. At present, the maximum annual

investment allowance to a single company or group of companies is £250,000.

## Calculating liability

In the UK, the financial year takes place from 1st April to 31st March in the following year. Should an accounting period end on another date, the chargeable profits will be apportioned to the appropriate financial years. From 1 April 2017 the corporation tax rate has been set at 19%. The rate will reduce to 17% from 1 April 2020.

Companies that generate £1,500,000 worth of profits each year are liable to pay corporation tax in quarterly instalments starting 6 months and 14 days from the start of the company's accounting period. This is split/apportioned by the number of companies in the group. All tax to be paid is established by the approximate calculated taxable profit for that accounting period and interest is charged for any late payments or payments outstanding.

## Corporation tax self-assessment

In the UK, companies are responsible for calculating their own tax liability through a self-assessment system. All companies are required to submit a corporation tax return for each accounting period and interest is payable or receivable on any over or underpayments of tax that has been agreed with the UK Tax Authorities.

## Corporation tax planning

Most businesses find that using an accountant is the most reliable way of calculating their

corporation tax rates. Our tax accountants draw from their specialist experience, using current UK corporation tax rates and their knowledge of tax reliefs and capital allowances to calculate the best possible corporate tax return for your business.

Your rate is based on the amount of profit made in your financial year but it is possible to influence this through the right reliefs and capital allowances. By identifying and setting these against your business, we can ensure you're paying the lowest rates, so you get the most from your profits.

# VALUE ADDED TAX (VAT)

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Whenever you purchase goods or services in the UK, a tax is added to the value of the purchase. It is only chargeable by businesses if they are generating sales above a particular level. Each country within the EU has its own level of VAT but in the UK, there are 3 main VAT rates.

## Standard rate

This is the VAT paid on most goods or services.

## Zero rate

In the UK, food, books, newspapers, children's clothes and some specialist equipment for disabled people are exempt from VAT.

## Reduced rate

In certain circumstances, a reduced rate is paid – on children's car seats, domestic fuel or electricity for example.

For businesses with a turnover below £85,000, VAT registration is not required. This means that they are not required to charge VAT on the supply of their goods or services, but also cannot claim this tax back from the government. When a business is registered for VAT, they are able to recover any VAT paid on good and services bought, back from the government within their annual tax return.

VAT is therefore only a cost to individuals and businesses that are not registered for VAT.

**“Effectively our financial controller in the UK. I don't get the same quality of service from any other supplier. They handle everything.”**

Scott Dussau  
demandware



# INNOVATION TAX INCENTIVES

## Research & Development Tax Credits

Research and development (R&D) by UK companies is being actively encouraged by Government through a range of tax incentives. The government views investment in research and development ('R&D') as a key to economic success. It is therefore committed to encouraging more smaller and medium sized ('SME') companies to claim R&D tax relief.

The incentives are only available to companies and include:

- Increased deduction for R&D revenue spending and
- A payable R&D tax credit for companies not in profit

## Tax reliefs for SME companies

A company can claim enhanced deductions against its taxable profits for expenditure which is qualifying R&D expenditure. The amount of the enhancement has increased over the years.

The rate was 125% for expenditure incurred before 31 March 2015 and has increased to 130% from 1 April 2015. This amount is in addition to the actual expenditure (ie a 230% total deduction from 1 April 2015). R&D enhanced relief represents an additional corporation tax reduction of 26% of the expenditure incurred.

If the R&D claim creates a tax loss, then the company may be able to surrender the loss for a cash repayment. This is 14.5% for expenditure incurred on or after April 2014. A surrendered loss could therefore give a repayment of up to 33.35% of the expenditure.

Where the company incurs qualifying R&D expenditure before it starts to trade, it can elect to treat 230% of that expenditure as a trading loss for that pre-trading period. The pre-trading loss created by the R&D relief can then be surrendered, as above, which could provide much needed cash flow for new companies.

Qualifying R&D capital expenditure incurred by a company would be eligible for 100% research and development allowance, we can provide more information on this is required.

## Research and Development Expenditure Credit scheme (RDEC)

R&D relief under the SME scheme is not available if the R&D project has had the benefit of a grant or subsidy. There may, however, be an alternative claim available to the company. This is known as the Research and Development Expenditure Credit scheme (RDEC).

RDEC allows the SME to claim a taxable credit of 11% of eligible expenditure. As this amount is taxable it is known as an 'above the line' credit.

The government has announced an increase in the rate of the R&D expenditure credit which applies from 11% to 12% where expenditure is incurred on or after 1 January 2018.

The credit received is used to settle corporation tax liabilities of the current, future or prior periods subject to certain limitations and calculations. Where there is no corporation tax due the amount can be used to settle other tax debts or can be repaid net of tax.

The RDEC relief is also available to an SME for expenditure incurred on R&D that is contracted to it by a large company.

## What qualifies as R&D expenditure?

R&D relief can only be claimed by companies that have incurred expenditure on qualifying R&D projects that are relevant to the company's trade.

A project should address an area of scientific or technological uncertainty and be innovative. The innovation needs to be an improvement in the overall knowledge in the relevant field of research, not just an advancement for the company. Qualifying projects could include those which:

- increase the life of a battery
- create a new type of material in an item of clothing

*Continued ...*





Continued ...

- develop new spark plugs for use in an existing engine

An important point to appreciate is that the activity does not have to create something completely new from scratch. It could include:

- developing a product that exists but where there is some technological uncertainty which can be improved
- making an improvement to a product or process eg exploring new cost effective materials which will allow a product to perform better

Companies should document the uncertainties and planned innovation at the start of a project to provide evidence to support an R&D claim.

#### **Making a claim**

Companies can claim R&D tax relief in the tax return for the period when the expenditure is charged in the accounts of the company. We can provide more in depth guidance on R&D related tax reliefs and assist you in making a claim.

#### **Patent Box**

The Patent Box provides a reduced rate of corporation tax for companies exploiting patented inventions or certain other innovations protected by particular intellectual property (IP) rights.

The reduced rate applies to a proportion of the profits derived from the licensing or sale of the patent rights or from the sale of the patented invention or products which incorporate the patented invention. Profits derived from routine manufacturing, development or exploitation of brands and marketing intangible assets are excluded.

The reduced rate of tax is given by providing an additional deduction in the corporation tax computation.

To minimise administrative costs, Patent Box profits for many claims can be calculated using a formulaic approach which is intended to identify, in most circumstances, a reasonable figure for profit derived from the patent. Companies can opt to identify the profit through a more detailed calculation, which we won't detail here.

The election allows a deduction to be made in calculating the profits of the trade period. The amount of the deduction is...

$$\text{RP} \times \frac{\text{MR} - \text{IPR}}{\text{MR}}$$

...where:

- RP is the relevant IP profits of the trade of the company
- MR is the main rate of corporation tax, and
- IPR is the special IP rate of corporation tax (10%)

#### **Conditions to qualify**

The company must be a qualifying company and own or hold a license for a UK or European patent. There are two main conditions:

- The company must have undertaken qualifying development by making a significant contribution to the creation or development of the item protected by the patent or a product incorporating this item; and,
- if the company holds a license in patent rights, the license must give it exclusivity for those rights. This must extend at least country-wide.

The Patent Box provides a reduced rate of corporation tax for companies exploiting patented inventions or certain other innovations protected by particular intellectual property (IP) rights.

There are a number of detailed conditions and qualifying criteria within the scheme. We will be happy to discuss this matter in more detail.

#### **Making a claim**

You have to make an election to benefit from the reduced rate of Corporation Tax that applies to the Patent Box. You can do this in the computations accompanying your Company Tax Return or separately in writing.

There is no special form of words for this election. You must make your election within 2 years after the end of the accounting period in which the relevant profits and income arose.

The full benefit of the regime will be phased in from 1 April 2013. You will need to apply an appropriate percentage to the profits your company earns from its patented inventions. The appropriate percentages for each financial year are:

- 1 April 2013 to 31 March 2014 - 60%
- 1 April 2014 to 31 March 2015 - 70%
- 1 April 2015 to 31 March 2016 - 80%
- 1 April 2016 to 31 March 2017 - 90%
- from April 2017 - 100%

# COMPANY SHARE OPTIONS

Many companies in the UK enjoy offering share incentive schemes to their employees as part of their remuneration package. There are a number of approved schemes in the UK that provide considerable tax advantages for employees. With most share schemes, the company also obtains a tax deduction.

## Enterprise Management Incentive Scheme (EMI)

This enables up to £250,000 of options per employee. The options must be able to be exercised within 10 years of being granted. As long as the total value of EMI options granted is less than £3m, any number of employees can be included. To qualify, the company must be trading within the UK and have assets of less than £30m and all shares need to be issued by the parent company.

### Income Tax

Subject to income tax if granted at a discount when options are exercised. PAYE (Pay As You Earn) and National Insurance contributions may apply here. If restrictions apply, further income tax charges may be applicable when shares are sold or restrictions are lifted. Otherwise, no income tax or National Insurance are payable on grant or exercise.

### Capital Gains Tax

Capital Gains Tax on any gain earned is payable when shares are sold with a deduction for any value charged to income tax. Capital gains tax is payable at 10-20% and certain disposals of business assets may also be taxed at 10%.

On 15th May 2018, the EU Commission announced that EU State Aid is still in place, meaning that EMI options will continue to attract these tax benefits. Subject to the withdrawal negotiations, this is stated to apply until the UK ceases to be a EU Member State.

## Company Share Option Plan (CSOP)

CSOP allows up to £30,000 of options granted to employees to be exercisable between 3 and 10 years from grant. This option is not available to any employees that hold 30% or more of total share capital and the company is entitled to determine which employees may participate in this scheme.

### Income Tax

PAYE and National Insurance contributed can be avoided as no income tax is charged on the full amount when the option is exercised.

### Capital Gains Tax

As above.

## Savings Related Share Option Plan (SAYE options)

Employees, in conjunction with a monthly savings contract, can make savings of between £5 and £500 per month to purchase shares on exercise of options after a 3 or 5 year period. Options can be granted with a discount of up to 20% on market value at the outset of the savings period. This particular scheme requires HMRC (Her Majesty's Revenue and Customs) approval and must be made available to all employees on similar terms.

### Income Tax

PAYE and National Insurance contributed can be avoided as no income tax is charged on the full amount when the option is exercised.

### Capital Gains Tax

As above.

## Unapproved Share Option Scheme

Within this scheme, the company has total discretion as to which employees can participate. There is no limit on the value of options granted and the options can be exercisable at any time.

### Income Tax

Can be subject to PAYE and National Insurance contributions. Although there is usually no income tax paid on grant, it will be charged when exercised and if restrictions apply, further income tax may be due when the shares are sold or restrictions are lifted.

### Capital Gains Tax

As above.

## Phantom Share Scheme

The Phantom share scheme does not actually provide shares to its employees. It is in effect a bonus paid to employees based on the increase in share value. It does not require HMRC approval and the company has complete discretion over which employees can participate.

### Income Tax

PAYE and National Insurance contributions will apply, with income tax being paid on the total amount when it is paid to the employee.

### Capital Gains Tax

Capital gains tax is not paid as no shares are received by the employee.



# NATIONAL INSURANCE

In the UK, National Insurance (internationally known as Social Security) contributions are paid by each individual and employer to cover the costs of social healthcare, social housing and benefits etc.

To be eligible to work in the UK, each foreign national needs to register for a National Insurance number and on receipt, will start to pay National Insurance contributions on the same basis as British nationals and other UK residents.

In some cases, where the UK has reciprocal agreements with other countries, if an overseas national seconded to the UK continues to pay the equivalent National Insurance in their home country, both the employee and employer will be exempt from paying contributions in the UK.

## **Inward employees from European Economic Area Countries**

Any country within the EEA. Although not in the EEA, Switzerland applies most of the same rules.

If an employee arrives in the UK with a certificate A1/E101 or E102 from any of the above countries showing they are exempt under the agreement, they will be exempt from National Insurance until the certificate expires.

## **Inward employees from non-European Economic Area Countries**

The UK has agreements about National Insurance and benefit entitlement with the following Non-EEA countries:

- Barbados**
- Bermuda**
- Canada (DCC)**
- Chile (DCC)**
- Israel**
- Jamaica**
- Japan (DCC)**
- Jersey and Guernsey**
- Korea (DCC)**
- Mauritius**
- Philippines**
- Turkey**
- USA**
- Yugoslavia (including Serbia and Montenegro, Bosnia-Herzegovina, and the former Yugoslav Republic of Macedonia)**

Exemptions can usually be obtained for a fixed period of one year. This may be extended for a further year and in certain cases up to 5 years. Agreements with each country are different and specific advice should be acquired in relation to each country.

# EMPLOYMENT REGULATIONS

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The UK is an exciting place to work and has become a highly sought after destination due to the wide cultural mix of international immigrants, fair treatment of employees and exceptional health and safety laws and regulations.

Work permits are a requirement for foreign nationals coming to the UK but there are exceptions.

1. Nationals of the European Union (There are implications here as a result of a potential Brexit, however, until clarification from the UK Government this still remains).
2. Nationals born in Gibraltar
3. Commonwealth citizens allowed to enter or remain in the UK on the basis that a grandparent was born here
4. Husbands, wives and dependent children under 18 years of people who hold work permits.

Before somebody from abroad starts working for you, you must check they have the legal right to work here which you can do using an online tool from HMRC [www.gov.uk/legal-right-work-uk](http://www.gov.uk/legal-right-work-uk).

## Appointment and dismissal of employees

The law surrounding the appointment and dismissal of employees are relatively flexible in the UK and aim to be fair to both employer and employee. All employers must offer a contract of

employment before an individual may be hired. This can be in the form of a legal contract or a simple letter.

The employer may, subject to some exceptions, terminate an employee's contract of employment for any valid reason within the 2 years. Termination of a contract of employment after this time must follow statutory disciplinary procedures and if termination is given without good reason or not following procedures, a claim may be brought by the employee for unfair dismissal and loss of earnings. It is always worth seeking legal advice prior to employee dismissal to avoid any employee litigation.

## Short term business visitor agreements (STBVA)

There are certain payroll (PAYE) rules in place regarding short business visitors to the UK. Unless you have a Short Term Business Visitor Agreement, as an employer you must operate a full UK payroll on earnings for short term business visitors who work for you. This applies to any UK organisation with 'business visitors' (employees of an overseas subsidiary, parent or group that have come to temporarily work in the UK).

Where previously, organisations were able to determine for themselves whether or not a worker should be subject to PAYE, HMRC have now withdrawn this option.

Where there is no STBVA already in place (short term business visitors agreement), PAYE must be operated for every individual visitor regardless of whether UK tax will actually be due. Any employer not operating in this way is at risk of being charged penalties for non-compliance.

It is therefore advisable to obtain agreement from HMRC to operate a relaxation of the payroll rules on an annual basis to minimise the need to operate a payroll for any potential short term business visitors.

When operating a relaxation in the payroll rules employers must maintain a reporting system to record overseas individuals working in the UK. This system will need to record each individual's days in the UK and depending on the number of days there maybe additional reporting requirements

Care must be taken when using STBV arrangements and it should not be assumed that these can be applied to all Business Visitors. If an employer has Business Visitors or think that they will receive any in the near future, they should make an application to HMRC for agreement to operate the STBV arrangements where a relaxation in these rules may be possible.

We can help you obtain the correct STBV agreement from HMRC.



# AUTOENROLMENT & WORKPLACE PENSIONS

The UK Government has introduced new mandatory Workplace Pensions where all employers will have to automatically enrol eligible employees into a qualifying pension scheme.

When the Government introduced mandatory Workplace Pensions, the minimum contribution levels began at a total of 2%, commonly split equally between the employer and employee with the minimum contribution levels to increase in phases. The first of those increases is to take place from 6th April 2018 with a further increase from 6th April 2019.

## What is automatic enrolment?

Automatic enrolment places new duties on employers to automatically enrol 'workers' into a work based pension scheme. The main duties are:

- Assess the types of workers in the business
- Provide a qualifying automatic enrolment pension scheme for the relevant workers
- Write to most of their workers explaining what automatic enrolment into a workplace pension means for them
- Automatically enrol all 'eligible jobholders' into the scheme and pay employer contributions
- Complete the declaration of compliance and keep records

## Who does automatic enrolment apply to?

The law came into force for very large employers on 1 October 2012 and has been rolled out with staggered implementation dates by reference to the number of employees. Currently auto enrolment is being rolled out to payrolls which have been set up since 1 October 2012.

From October 2017, all new employers will have automatic enrolment duties from the date they employ their first member of staff. An employer can find out more about their duties at [www.thepensionsregulator.gov.uk](http://www.thepensionsregulator.gov.uk) and we are able to assist you with identifying and implementing the right solution for your company.

## Payroll processing

Depending on which payroll software you use to pay your UK employees, you will need to ensure that it reflects the contributions detailed above, and reflects any year-on-year changes. Your payroll software provider should be able to offer guidance with that process. As part of our fully managed service, we would take care of your payroll processing responsibilities for you.

There are many advantages to having your payroll processed by a professional payroll provider, not least that you will not have to spend as much time keeping up to date with legislative changes of this nature.

Date effective	Employer minimum contribution	Employee minimum contribution	Total minimum contribution
6 April 2018 to 5 April 2019	2%	3%	5%
6 April 2019 onwards	3%	5%	8%

**“We greatly value the work relationship and we cannot thank you enough for the help you have provided us in the venture.”**

Mike Rossi, Chief Financial Officer  
Westmoreland Mechanical Testing and Research

# UK COMPANY AUDIT AND EXEMPTIONS

Building on the changes introduced in 2012, the UK Government was required to implement the EU Accounting Directive 2013/34/EU into UK law no later than for periods beginning on or after 1 January 2016. The Directive aims to simplify the accounting requirements for small companies and makes a number of other changes to the accounting and reporting requirements for companies. Amongst other things a new standard, FRS 105, deals specifically with micro-entity accounting. Micro-entity requirements are incorporated into the Small Companies and Groups Accounting Regulations.

The relevant Regulations came into force on 6 April 2015, and apply to financial years beginning on or after 1 January 2016. Earlier application for financial years beginning on or after 1 January 2015 is permitted. They do not apply to LLPs and the LLP regulations have not as yet been updated.

One of the main changes in the 2012 rules was to bring the definition of companies not requiring an audit into line with the definition of small companies. The small and medium-sized thresholds for accounting purposes have been increased as per the table.

Although the legislative changes enacted on 6 April 2015 will, as things stand, continue to link the audit exemption thresholds with the small company thresholds as shown above, the outcome of the government consultation

	Small		Medium	
	Before (gross)	After (gross)	Before (gross)	After (gross)
Turnover	<£6.5m (<£7.8m)	<£10.2m (<£12.2m)	<£25.9m (<£31.1m)	<£36m (<£43.2m)
Total assets	<£3.26m (<£3.9m)	<£5.1m (<£6.1m)	<£12.9m (<£15.5m)	<£18m (<£21.6m)
Number of employees	<50	<50	<250	<250

on audit exemption limits has not yet been announced and it is still possible that the existing limits will be retained, thus severing the link between the audit and accounting thresholds. Responses to the consultation on raising audit thresholds were mixed. Companies which early-adopt revised company law are not permitted to use the raised thresholds for audit exemption purposes for periods beginning before 1 January 2016.

The current year tests were also expanded to include a 'prior year' rule. This allowed companies to exceed two or more of the limits in a year and remain small in size so long as they met two of the limits in the previous year and qualified as small in that year.

Not quite all small companies are automatically

audit exempt. The Companies Act prohibits various types of company from taking either small company or audit exemptions. These include public companies, authorised insurance companies, banking companies and companies that carry on insurance market activity. There are a few other types of company (trade unions and employers' associations) which, although they can be small, cannot take audit exemption.

10% or more (by number of value) of a company's shareholders still have the right to request that an audit is carried out, provided the proper process is followed. A company's articles of association may prescribe that an audit should be carried out. Other specialist sectors (such as charities) may require an audit under legislation other than the Companies Act.

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## Small Groups

The 2012 rules introduced changes for group companies. Previously, if a group's aggregated turnover or balance sheet totals exceeded the limits, all member companies had to have an audit regardless of whether they individually qualified as small.

Now, if a group qualifies as small, by meeting two of the following (with a similar prior year rule as for individual companies):

- Annual turnover not more than £6.5 million net (£7.8 million gross) - these financial thresholds will rise to £10.2 million and £12.2 million respectively for financial years beginning on or after 1 January 2016.
- Balance sheet total (total assets) not more than £3.26 million net (£3.9 million gross) - these financial thresholds will rise to £5.1 million and £6.1 million respectively for financial years beginning on or after 1 January 2016.
- Not more than 50 employees

Any subsidiary qualifying as small in its own right may opt for audit exemption.

Gross figures are calculated by the simple addition of the amounts appearing in each company's accounts. Net figures are those after consolidation adjustments, such as the elimination of intra-group sales and balances. A group may qualify on the basis of either the net or gross figures.

## Other Groups

In addition to the changes for small companies and groups, subsidiaries of any size, which would previously have required an audit, can be exempt from audit as long as they meet qualifying conditions. These conditions include the requirement for the parent company to produce and file audited group accounts, and for the subsidiary to file a statement of guarantee

for each relevant financial year. This statement commits the parent company as follows:

- The parent undertaking guarantees all outstanding liabilities to which the subsidiary company is subject at the end of the financial year to which the guarantee relates, until they are satisfied in full, and
- The guarantee is enforceable against the parent undertaking by any person to whom the subsidiary company is liable in respect of those liabilities

Subsidiaries in this category and which are dormant throughout a financial year can opt not to prepare or file accounts, subject to the provision of a similar guarantee.

## Audit Exemption - EEA Parent's Subsidiaries

A subsidiary company or LLP will be able to claim audit exemption if it fulfils all of the following conditions:

- Its parent undertaking is established under the law of an EEA (European Economic Area) state
- All members must agree to the exemption in respect of the financial year in question
- The parent must give a statutory guarantee under section 479C of all the outstanding liabilities to which the subsidiary is subject at the end of the financial year
- The company or LLP must be included in the consolidated accounts drawn up by the parent undertaking, which must be prepared in accordance with the Seventh Company Law Directive or International Accounting Standards specifically drafted
- The use of the exemption by the subsidiary under Companies Act 2006 must be disclosed in the notes to the consolidated accounts drawn up by the parent
- The following documents must be filed by the directors or designated members of the subsidiary at Companies House on or before the date that they file the

subsidiary's accounts:

1. Written notice of the agreement, as outlined above
  2. A statement under section 479C by the parent that it guarantees the subsidiary's liabilities
  3. A copy of the consolidated report and accounts, as outlined above. and the auditor's report on those accounts
- The company is not quoted within s385(2) of the Companies Act ("the Act") at any time in the year
  - It is not an authorised insurance company, a banking company or LLP, an e-Money issuer, a MiFID investment firm or a UCITS management company, or carries on insurance market activity
  - It is not a trade union or an employer's association

## Statutory Guarantee of Liabilities

The statement of guarantee of a subsidiary's liabilities that is filed with Companies House must be authenticated by the parent and will have the effect of binding the parent undertaking to guarantee all the liabilities of the subsidiary that are outstanding at the end of the financial year, until they have been satisfied in full.

Any person who is a creditor of the subsidiary at the end of the financial year will be able to enforce the guarantee against the parent undertaking. A creditor who has obtained a judgement against the parent guarantor in the courts of England and Wales, Scotland or Northern Ireland will generally be able to enforce that judgement in another EEA jurisdiction without issuing separate proceedings there.

## Documents to be in English

The written notice of members' agreement to

the exemption and the parent's statement of guarantee of liabilities will need to be in English, with exemptions for certain Welsh companies. Additionally if the copy of the parent company's audited consolidated accounts is delivered in a foreign language, it will need to be accompanied by a certified translation into English to be filed at Companies House.

Obtaining a certified translation of a set of group accounts may be an expensive exercise that may reduce the attractiveness of dispensing with the audit of accounts for a subsidiary.

## Indirect Control

In the circumstances in which a UK dormant subsidiary is controlled by an EEA parent via an intermediary parent entity that is not established in an EEA state, the exemptions will still be applicable.

In such a case the EEA parent will give the required guarantee and the audited group accounts to be filed at Companies House will be those of the EEA undertaking.

# OUR GLOBAL OUTSOURCING TEAM

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Our global outsourcing team, managed by Jon Shepherd, provides a complete back-office service to enable international businesses to succeed in Europe and beyond. Our clients extend over a broad cross section of industries and sizes, ranging from small owner-managed enterprises through to the business units of international groups and listed companies.

At Clark Howes, we provide a single point of contact for each client. That way you always know who to contact to get the right answer first time. We also understand that you often work in different time zones to the UK. So we make ourselves available to suit your time, not ours.

Should you need to we can help you branch out into different countries throughout Europe and the rest of the world so you really do get a partner who can help your business expand at the pace you require.

Our fee structure is designed to be predictable, either fixed or capped in advance. That way, you don't get any unwelcome surprises and can plan your business set-up perfectly.

We know that adapting to the needs of your business is vital, which is why we can work with your current systems or perform a review to recommend the best software set up for you.



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"If you are looking for a diverse and professional accounting firm, Clark Howes is an excellent choice. Our company is based in the United States, with a wholly owned UK subsidiary. Clark Howes keeps us updated with any changes in the regulations that will affect our UK subsidiary. They offer us timely services and respond to our queries in a professional and efficient manner."

Rebecca Lawton, Controller  
Cartronics



# LETTER OF RECOMMENDATION

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It is with greatest pleasure that I write this recommendation on behalf of Glen Donald, Gary Moore and the entire Clark Howes team.

We originally contracted with the Clark Howes team to transition our very small UK team from another service provider which payroll was not their main area of practice. In the two years we have used Clark Howes I have never been disappointed or surprised in the service level provided or the responsiveness of the team. Given that we are challenged by a 9 hour time difference, the team there works with great care and accuracy each month and flawlessly processes payroll, and provides accounting and back office financial accounting services for our ever growing team.

During our time at Clark Howes our business has grown from essentially three to over 30 locations, and from approximately 20 to over 300 employees. This growth was unexpected and unprecedented for us yet the Clark Howes team handled this seamlessly. Clark Howes has continued to provide top notch service even with the influx of countless staff members joining our team each month.

I cannot begin to extol the excellence in service this team has provided to us. I highly recommend Clark Howes to any and all who might need their services.



**Jeff Longwell**

Director International & Field HR  
Kendo Brands, part of the Louis Vuitton Group  
415-284-2835

The logo for KENDO, featuring the word "KENDO" in a bold, black, sans-serif font. The letters are closely spaced, and the "O"s are particularly large and rounded.

# Get in touch to find out how Clark Howes could help you establish a business in the UK.

We're here to help, so if you'd like to talk to a member of the team about expanding your business overseas, get in touch via email, by phone or visit [www.clarkhowes.com/international](http://www.clarkhowes.com/international).



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