United Kingdom
Updated March 2022
1. Recent developments
   a. Overview of recent major changes to the transfer pricing regime

   Transfer pricing continues to be of public and political importance in the UK. This is reflected in an increasing number of transfer pricing enquiries including those related to the application of the diverted profits tax (DPT) rules to situations in which a UK permanent establishment has been avoided, or to transactions or entities that lack sufficient economic substance.

   In January 2019, Her Majesty’s Revenue and Customs (HMRC) launched the Profit Diversion Compliance Facility (PDCF) to encourage multinational enterprises (MNEs) using, or having used, tax arrangements linked to DPT to reconsider their transfer pricing policies and make full disclosure of the facts for all relevant accounting periods, and to determine the correct amount of tax payable to compile a settlement proposal and report based on any extra UK tax and interest. Although launched in 2019, the PDCF currently is a key part of HMRC’s transfer pricing challenges.

   On 30 November 2021, HMRC published its response to the consultation on changes to UK transfer pricing documentation. The UK government intends to introduce a formal requirement for businesses to maintain, and provide on request, master file and local file documentation, following the OECD approach. There will also be an additional “summary audit trail” requirement, which will be “a short, concise document” setting out the work undertaken in arriving at the conclusions in the local file and master file. The requirement will apply to groups subject to country-by-country (CbC) reporting requirements, e.g., multinationals with annual turnover of at least GBP 750 million. The rules are expected to apply from April 2023 and there will be a consultation on the legislation during 2022.

   The multilateral instrument (MLI) entered into force for the UK on 1 October 2018 and affects UK tax treaties.

2. General information
   a. Tax authority and law

   The national government authority is HMRC.

   The UK transfer pricing legislation is found in part 4 of the Taxation (International and Other Provisions) Act 2010 (TIOPA 2010) (section 146 et seq.). The mutual agreement procedure is set out in the TIOPA 2010 (part 2, sections 124 and 125). Advance pricing agreements (APAs) are in the TIOPA 2010 (part 5, section 218 et seq.).

   Permanent establishment rules are in the Corporation Tax Act 2010 (CTA 2010) (sections 1141 to 1144). Rules about attribution of profit to permanent establishments are in CTA 2009 (chapter 4, section 20).

   A DPT of 25% (31% as from 1 April 2023), introduced in the Finance Act (FA) 2015 and effective as from 1 April 2015, applies to arrangements designed to divert profit from the UK. These include arrangements that avoid the creation of a permanent establishment in the UK and those that involve transactions or entities that lack economic substance.

   b. Relevant transfer pricing regulations, rulings, and/or guidelines and the effective date of applicability

   UK legislation on transfer pricing incorporates the OECD model treaty, including the arm’s length principle as set out in article 9 of the treaty and the OECD transfer pricing guidelines.

   In addition to the legislation and reliance on the OECD model treaty, HMRC publishes guidance on its interpretation of transfer pricing legislation, OECD principles, and UK case law. This guidance is currently found in the International Manual at INTM410000 et seq. and includes guidance on thin capitalization.

   Guidance on advance rulings is available in Statement of Practice SP02/10, which provides details on advance pricing agreements, and Statement of Practice SP01/12, which provides details on advance thin capitalization agreements. These statements of practice provide details of the processes to enter into such agreements in the UK.

   Statement of Practice SP01/18 provides guidance on the MAP and arbitration in relation to transfer pricing matters.

   c. Nature/extent of relationship between parties to a transaction required for transfer pricing rules to apply

   Parties are related when one party directly or indirectly participates in the management, control, or capital of the other, or when the same person or
persons directly or indirectly participate in the management, control, or capital of both parties. Generally, there is a 51% test of control, but this can be reduced to 40% in joint venture situations. Persons "acting together" to exert control in relation to financing arrangements also are treated as related.

d. Is transfer pricing enforced only by the national government tax authority? Or can state and local government tax authorities also propose transfer pricing adjustments?

Transfer pricing can be enforced only by the national government authority, i.e., HMRC.

3. OECD guidelines
(All references are to the 2017 OECD transfer pricing guidelines, unless otherwise stated)

a. Extent of reliance on OECD transfer pricing guidelines, UN tax manual, or EU Joint Transfer Pricing Forum

UK legislation on transfer pricing incorporates the OECD transfer pricing guidelines. With effect for accounting periods beginning on or after 1 April 2018, this is the 2017 version of the guidelines, although the updated version of the guidelines published in January 2022 is expected to be incorporated for accounting periods starting on or after 1 April 2022.

The OECD guidance on the transfer pricing implications of the COVID-19 pandemic issued in December 2020 should apply accordingly.

HMRC has issued its own COVID-19 guidance which is at International Manual INTM261010, “HMRC Approach to UK Permanent Establishments in response to COVID-19 Pandemic.”

b. Is your jurisdiction part of the OECD/G20 Inclusive Framework on BEPS?

Yes

c. Adoption of authorized OECD approach (AOA) to permanent establishments

UK chargeable profits of a permanent establishment/branch are calculated as though the UK operations were conducted on arm’s length terms with any connected parties and the remainder of the entity of which the permanent establishment/branch is part (the "separate enterprise principle"). The profit attribution approach is consistent with the commentary on article 7 of the OECD model treaty and the OECD’s guidelines for the attribution of profits to permanent establishments.

Accordingly, the arm’s length principle and OECD transfer pricing methods are used for the attribution exercise.

d. Has the AOA been incorporated into all of your jurisdiction’s tax treaties or does it only apply to certain treaties?

The AOA has been incorporated in most UK tax treaties with some exceptions.

e. Are there low value-adding intragroup rules in place?

The rules on low value-adding intragroup services are applicable in the UK through the incorporation of the OECD guidelines.

f. Has your jurisdiction issued guidance or comments on the OECD Pillar One or Pillar Two blueprints?

The UK is supportive of the implementation of the OECD Pillar 1 blueprint and is committed to replacing the digital services tax currently in place in the UK by Pillar 1.

The UK also is supportive of the implementation of the OECD Pillar 2 blueprint.

4. Methods and comparables

a. Do your jurisdiction’s transfer pricing laws describe transfer pricing methods that are not included in the OECD transfer pricing guidelines?

No

b. Are there any transfer pricing methods described in the OECD transfer pricing guidelines that your jurisdiction’s tax authority will not accept?

No. The choice of one method over another is based "on the most appropriate method to the circumstances of the case" as prescribed in the OECD guidelines.

c. Does your jurisdiction follow the "most appropriate method" standard in the OECD transfer pricing guidelines? If not, please describe the differences.

Yes
d. What is the availability of benchmarking/comparative data?

Detailed financial information on UK registered companies is filed annually and publicly available.

e. Are foreign comparables acceptable to the local tax authority?

HMRC’s strong preference is for UK comparables if available. However, foreign (in particular European Union (EU)/European Economic Area (EEA)) comparables are acceptable in practice if appropriately comparable UK data cannot be identified, or if foreign data sufficiently meets the comparability criteria.

f. Must comparables be refreshed or a new search performed each year?

There are no specific requirements in the UK in this respect, however the prevailing practice (as recommended by the OECD transfer pricing guidelines) is that a new benchmarking analysis be undertaken every three years, with annual financial updates of comparables. Taxpayers need to assess the necessity for doing and updating a benchmarking analysis with a view to supporting their transfer pricing position in the UK.

g. Are comparability adjustments allowed in your jurisdiction?

Yes. However, in line with the OECD transfer pricing guidelines, they should be considered only if they are expected to increase the reliability of the results.

h. Can foreign associate enterprises be selected as the tested party?

Yes, if a foreign associate enterprise is a simpler party in the transaction, and this conclusion is supported by the appropriate comparability analysis.

5. Transfer pricing documentation requirements

a. Is documentation mandatory for penalty protection? Do transfer pricing provisions apply to domestic related party transactions? Are there any exemptions, and if so, what are the thresholds/criteria? Do transfer pricing regulations apply to domestic controlled transactions?

Taxpayers should keep records to support the details included in the tax return but see 7a, below. Records should be retained until for the later of:

- Six years from the end of the relevant accounting period;
- The date the enquiry into the return is completed; or
- The date on which HMRC no longer are able to open an enquiry (TIOPA 2010, part 4).

UK legislation provides for penalties of up to GBP 3,000 per tax return for failure to compile and retain transfer pricing documentation (FA 1998, schedule 18, paragraph 23(1)).

HMRC has issued guidance on documentation requirements in International Manual 483030. There is no prescribed mandatory format for such documentation, but the guidance stipulates that the taxpayer must have the following documentation available to HMRC to demonstrate that the results of transactions with related parties are determined for tax purposes according to transfer pricing rules (and, in particular, the application of the arm's length principle):

- Primary accounting records: These are the records of transactions occurring in the course of carrying on a business and entered into a taxpayer’s accounting system. These records are needed to produce a balance sheet and a statement of profit or loss and must be retained for any audit of the accounts. As described above, there are legal requirements governing the time for which such records must be retained that still would apply in the absence of any tax rules. These records include the results (in terms of value) of the relevant transactions;
- Tax adjustment records: These are the records that identify adjustments made by a taxpayer on account of tax rules to move from accounting profits to taxable profits, including the value of those adjustments, when a tax return is prepared for the relevant period. These adjustments might include the adjustment of actual results to arm’s length results on account of transfer pricing rules;
- Records of transactions with associated parties: These are the records in which a taxpayer identifies transactions to which the transfer pricing rules apply; and
- Evidence to demonstrate an arm’s length result: This is the evidence in which a taxpayer demonstrates that a result is arm’s length for the purposes of the transfer pricing rules.
b. Has your jurisdiction adopted or implemented BEPS action 13 for transfer pricing documentation in local regulations?

Although the UK has not directly implemented BEPS action 13 for transfer pricing documentation, in practice OECD style transfer pricing documentation is recommended as a UK country local file.

Specifically, given that the UK transfer pricing legislation states that the rules related to an arm’s length result should be construed in a manner that ensures consistency with the OECD transfer pricing guidelines, documentation to demonstrate an arm’s length result should therefore follow the guidance provided in the guidelines.

However, currently a master file is not required.

HMRC has consulted on proposals to directly adopt BEPS action 13 to provide more specific requirements regarding the contents and scope of transfer pricing documentation. See 1, above for developments regarding new transfer pricing documentation requirements expected to be introduced from 1 April 2023.

c. What is the acceptable language for documentation?

Documentation must be in English.

d. Are the documentation requirements annual requirements? If so, what do they involve each year?

The tax authorities can request evidence of compliance with the arm’s length principle in accordance with the record-keeping requirements detailed in International Manual INTM483030. HMRC expects the taxpayer to prepare and retain documentation that demonstrates the taxpayer’s compliance, in accordance with the UK corporation tax self-assessment regime. This means that contemporaneous transfer pricing documentation must be prepared in support of every tax return annually. This documentation must be made available at the request of the tax authorities within the time specified.

6. Tax return filings

a. Does your jurisdiction allow transfer pricing adjustments to be made before year end?

Yes, assuming they are aimed at ensuring transactional arm’s length results.

b. Must the transfer prices reflected in an income tax return be the same as those reflected in financial statements? In other words, are book/tax differences allowed?

Not necessarily, as UK taxpayers are obligated to self-assess their taxable results, which therefore requires upwards adjustments in the tax return if the results in the financial statements do not reflect an arm’s length position, such that UK taxable profits are understated or losses overstated.

The UK imposes a requirement to adjust to arm’s length prices only when this increases UK taxable profits or reduces UK losses; there is no provision for downward profit or upward loss adjustments.

There is an exception for intra-UK transactions, when an upward profit adjustment in the return of one party to a transaction can be compensated by a downward adjustment in the other party’s tax return in certain situations on the making of a claim.

7. Transfer pricing documentation and disclosure timelines

a. By when must transfer pricing documentation be prepared?

Documentation should be contemporaneous, i.e., prepared annually consistent with the tax return dates.

b. What is the deadline to submit the transfer pricing documentation and the local file?

It is generally expected that documentation should be provided to the tax authority within 30 days of the documentation request. The UK imposes no requirement to file transfer pricing documentation with tax returns.

c. What is the deadline for CbC report preparation, submission, and notification?

Twelve months after the MNE group’s financial year.

d. What is the deadline to file an income tax return?

The annual corporation tax return is required to be submitted within 12 months after the end of the period of account (if the period of account is less than 18 months).
e. **What is the deadline to file master file documentation?**

Currently, the UK does not require the preparation of master file documentation.

f. **What is the deadline to file transfer pricing disclosures and returns?**

The UK does not require filing of transfer pricing disclosures or returns. HMRC expects the taxpayer to prepare and retain documentation that demonstrates the taxpayer’s compliance, in accordance with the UK corporation tax self-assessment regime under which taxpayers also have to self-assess their transfer pricing position.

g. **What is the deadline to file any other statutory forms?**

Not applicable

h. **Does preparation of transfer pricing documentation before the deadline protect the taxpayer from a penalty perspective?**

HMRC will not charge a penalty on transfer pricing adjustments if the taxpayer has taken “reasonable care” but still made an error. Penalties may be avoided by taking reasonable care to provide correct returns and documents. This includes keeping adequate records to enable the taxpayer to provide complete and accurate returns and documents, requesting advice from a tax advisor, and disclosure on submission of the return or document.

i. **Are there additional requirements under local tax law that must be satisfied to obtain penalty protection?**

For tax adjustments, including transfer pricing adjustments, penalties are linked to the behavior that gives rise to the error:

- If a penalty arises because of a lack of reasonable care, the penalty will be between 0% and 30% of the extra tax due;
- If the error is deliberate, the penalty will be between 20% and 70% of the extra tax due; and
- If the error is deliberate and concealed, the penalty will be between 30% and 100% of the extra tax due

The penalty can be reduced if the taxpayer or their agent notifies HMRC of the error.

8. **Tax authority audit adjustments and amended returns**

a. **What are the limitations on assessment for transfer pricing adjustments imposed by statute?**

**General enquiry**

When a tax return is received by HMRC on or before the relevant filing deadline (i.e., 12 months after the end of the period), the enquiry window is open for 12 months from the date the tax return was due.

Where the return is delivered after the filing date, notice of enquiry may be given at any time up to and including the quarter date (31 January, 30 April, 31 July, or 31 October) next following the first anniversary of the date on which the return was delivered.

The company can amend its return at any time up to 12 months from the statutory filing date. Notice of enquiry into the amended return can be given at any time up to 31 January, 30 April, 31 July, or 31 October following the first anniversary of the date on which the amendment was made.

**Discovery assessments**

HMRC can make a discovery assessment to make good any loss of tax if it discovers an amount which ought to have been assessed to tax has not been assessed, an assessment to tax is or has become insufficient, or relief has been given which is or has become excessive.

A discovery assessment can be made:

- Four years from the end of the accounting period in which the further liability to tax arises, where the loss of tax is not due to careless or deliberate behavior;
- Six years from the end of the accounting period in which the further liability to tax arises, where the loss of tax is due to careless behavior of the taxpayer or its agent; or
- 20 years from the end of the accounting period in which the further liability to tax arises, where the loss of tax is due to (among others) deliberate behavior or failure to notify by the taxpayer or agent.
b. May a taxpayer file an amended tax return to report transfer pricing adjustments to increase and decrease income? Are there any special procedures that need to be followed?

The UK imposes a requirement to adjust to arm’s length prices only when this increases UK taxable profits or reduces UK losses; there is no provision for downward profit or upward loss adjustments.

There is an exception for intra-UK transactions, when an upward profit adjustment in the return of one party to a transaction can be compensated by a downward adjustment in the other party’s tax return in certain situations on the making of a claim.

c. Are taxpayer setoffs for other related party transactions allowed?

The UK follows the OECD transfer pricing guidelines on separate consideration of transactions and when aggregation is permitted. In the case of any setoffs for other related party transactions, potential VAT implications and requirements also should be considered.

d. Does the tax authority use the information gathered through exchange of information during audits?

HMRC may seek information exchange for the purposes of transfer pricing (or other tax) enquiries or joint audits with other tax authorities for multinationals subject to international information exchange agreements in place. HMRC also is the customs authority in the UK and can conduct joint tax and customs audits.

e. Has the tax authority in your jurisdiction used BEPS action 13-related information in audits?

HMRC may use such information for a transfer pricing risk assessment or audit purposes, and it increasingly forms a core part of the risk assessment process.

f. Does the tax authority in your jurisdiction use secret comparables in transfer pricing audits?

No. However, HMRC may use its own benchmarking analysis performed based on publicly available data, and will disclose the basis on which the analysis has been carried out to the taxpayer.

g. Are there joint audits, e.g., with the customs authority or with foreign tax authorities?

HMRC may seek joint audits with other tax authorities for multinationals subject to international information exchange agreements in place. HMRC also is the customs authority in the UK and can conduct joint tax and customs audits.

h. Does the customs authority accept transfer pricing as the basis for the valuation of imports?

Not directly but may consider transfer pricing valuations for customs assessment purposes.

9. Intangibles

a. Is there specific legislation or guidance regarding the pricing of controlled transactions involving intangibles?

No, for transfer pricing purposes the OECD transfer pricing guidelines should be used.

Additional tax regulations on market valuation of intangibles need to be considered alongside the transfer pricing rules.

b. How often does the tax authority make an intangible adjustment?

The UK follows the OECD transfer pricing guidelines when assessing the arm’s length nature of intangible transactions.

c. Will the tax authority respect an intercompany agreement providing for a rate royalty?

Yes. In line with the OECD transfer pricing guidelines, an intercompany agreement will constitute a starting point for HMRC’s assessment of whether a royalty rate is arm’s length. Should the royalty rate not be arm’s length, or if the agreement has not been followed, HMRC may then adjust to the arm’s length level if the adjustment leads to increasing the taxable basis or reducing a tax loss in the UK.

d. Does the tax authority follow the OECD hard to value intangible guidance? If not, does the jurisdiction have transfer pricing rules that have a similar effect?

The UK follows the OECD transfer pricing guidelines when assessing the arm’s length nature of intangible transactions.
10. **Intragroup services (IGS)**

a. **Does the local jurisdiction follow the intercompany service transactions guidance described in the OECD transfer pricing guidelines? Are there any material differences?**

   The UK follows the OECD transfer pricing guidelines when assessing the arm’s length nature of service (and other) transactions.

b. **Does the need and benefit test need to be satisfied in respect of any IGS payment?**

   Purchases of intercompany services need to meet the benefit test as prescribed in Chapter VII of the OECD transfer pricing guidelines. In particular, the taxpayer needs to be in a position that the services were actually provided, an independent company would pay for the services, and the service excludes shareholder activities (if the UK entity is not a shareholder benefiting from the services).

c. **What is the extent of the required documentary evidence?**

   The scope of a potential request for evidence will depend on the circumstances of each case.

11. **Financing transactions**

a. **List any relevant regulations, rulings, and guidelines with respect to thin capitalization or debt capacity in your jurisdiction**

   **Thin capitalization/debt capacity**

   The UK approach to thin capitalization is to apply the arm’s length principle (in a manner that best ensures consistency with the OECD transfer pricing guidelines) to lending and borrowing transactions, treating parties to a transaction as if they were independent of each other.

   In simple terms, a UK company is thinly capitalized when it has more debt than it either could or would borrow on its own, and acting in its own interests, taking into account all the terms and conditions and other factors affecting the borrowing, including the amount of debt, the interest rate, repayment terms, etc.

   If a company is thinly capitalized, such that a disallowance of interest is considered appropriate, to the extent other group companies have “debt capacity,” they may be able to claim a “compensating adjustment” to treat some of the debt as their own and claim some or all of the otherwise disallowed amounts. This is only the case where guarantees (informal or formal) exist between the companies.

   There are no safe harbor provisions.

   **Debt pricing**

   Interest rates need to be set in line with the arm’s length principle.

   There are no minimum/maximum interest rates.

   In a UK context, implicit support is not to be taken into account in pricing a financial transaction to the extent that it constitutes a guarantee (as specifically defined in the TIOPA, sections 152 to 154). In practice, consideration would have to be given as to what implicit support may exist as part of an arrangement, what its actual value may be, and whether this meets the UK definition of a “guarantee,” in order to determine whether it may be taken into account as part of the pricing analysis.

12. **Interest and penalties**

a. **What is the deadline for additional assessment payments?**

   See 8, above.

b. **What is the penalty on transfer pricing assessments?**

   See 7i, above.

c. **Are there any penalties resulting from failure to submit, late submissions, or wrong disclosures?**

   UK legislation provides for penalties of up to GBP 3,000 per tax return for failure to compile and retain transfer pricing documentation (FA 1998, schedule 18, paragraph 23(1))

d. **Is interest charged on penalties?**

   No.

e. **Is interest payable when a refund is due to the taxpayer?**

   Yes. Interest is paid by HMRC on both early payments and overpayments at a commercial rate. Credit interest runs from the date on which the overpayment arose to the earlier of the date when the overpayment is repaid or the date on which tax was originally due (FA 2009, schedule 54).
f. Has there been a reduction in transfer pricing penalties?
   Not applicable. See 7h, above.

g. Are there any secondary adjustment provisions?
   No

13. Permanent establishments, safe harbors, exit tax, and litigation

a. Do the local transfer pricing rules or tax authority allow the use of transfer pricing analyses to calculate profits attributable to a permanent establishment or branch?
   Yes. The AOA has been incorporated in most of the UK’s tax treaties, with some exceptions.

b. What, if any, unilateral safe harbors exist in your country?
   None

c. Is there a formal “exit tax” regime or similar provisions in law?
   Chapter IX of the OECD transfer pricing guidelines applies.

Irrespective of the requirement to apply transfer pricing rules as outlined above, in the case of a cross-border transfer of an intangible asset to a related party, the UK corporation tax valuation rules must be applied. In such a case, the market value of the asset must be used, as required by section 845 of the Corporation Tax Act 2009 (CTA 2009). This is considered to be “the price that the asset might reasonably be expected to fetch on sale in the open market” (“market value”). A willing buyer and seller are hypothesized. Where the market value differs from the arm’s length price defined under the transfer pricing rules, CTA 2009, section 846 determines that the higher amount is recognized for tax purposes. Further changes were made to corporation tax exit charges in July 2018.

d. List any recent court decisions
   Not applicable

14. Advance pricing agreements (APAs)

a. Are APAs available?
   Yes, as per TIOPA 2010, part 5. HMRC has published a Statement of Practice (SP2/10), that sets out best practices on APAs.

b. What kind of APAs are available?
   Both bilateral and multilateral APAs are available.

Unilateral APAs are possible, but in practice only in very limited circumstances.

c. Is rollback available? If so, what is the period covered?
   Generally, five years forward and up to three years back; either the taxpayer or HMRC may seek rollback for a similar period.

d. What is the APA filing fee?
   There is no APA filing fee.

e. What are the APA terms of agreement?
   The terms will be covered in the critical assumptions of each individual agreement but are outlined in SP2/10.

f. When is the deadline for submitting an APA request?
   According to SP2/10, where, following HMRC’s indication that it is willing to consider the APA proposal, the business wishes to proceed, it should submit a formal written application within six months or such longer period explicitly agreed at the prefiling meeting.

15. Mutual agreement procedure (MAP)

a. Has there been any MAP-related guidance?
   Statement of Practice SP01/18 provides guidance on MAP and arbitration in relation to transfer pricing matters. It should be read together with HMRC International Manual INTM423000.

b. Does your jurisdiction provide a period within which a MAP application can be filed by the taxpayer?
   Yes. TIOPA 2010, section 125(3) requires that a case must be presented before the expiration of six years following the end of the chargeable period to which the case relates or such longer period as may be specified in the tax treaty. However, the period may be shorter if stipulated under a given tax treaty. Most UK tax treaties include the three-year rule (i.e., three years from the first notification of the action that leads to taxation not in accordance with the treaty). Where a covered tax agreement does not contain the three-year rule, it will be updated by the MLI to include the provision.
c. Does requesting the MAP suspend tax collections?
   The payment of tax due on any assessments raised or determinations made may be suspended during
   the normal appeals process until the MAP is resolved on request.

d. Are there requirements under local law that can negatively affect a taxpayer’s ability to request
   access to the MAP or to implement a MAP settlement?
   HMRC confirms in Statement of Practice SP02/10 that there are no administrative or statutory dispute resolution processes in the UK that limit access to the MAP. However, taxpayers should check whether entering into statutory or administrative dispute resolution processes with other tax authorities will prevent bilateral MAP discussions and consider whether doing so is likely to increase the risk of double taxation.

e. Does your jurisdiction stipulate the time to resolve the MAP?
   No

f. When may taxpayers submit tax adjustments to the competent authority (CA)?
   The taxpayer may submit a claim within the time limits referred to in 15b, above. The CA will give effect to the adjustments once a resolution is reached with the other state, which may involve a request for an amended return from the taxpayer.

g. Can the CA develop new settlement positions?
   The CA is authorized to negotiate an agreement with its counterparty that is in line with the arm’s length position. This may lead to relief being given entirely by HMRC, entirely by the overseas fiscal authority, or a combination of both. Any agreement will need to be ratified by internal governance but the UK CA is not tied to a UK audit adjustment.

h. Can taxpayers go to the CA before paying tax?
   Yes

i. Is your jurisdiction a signatory to the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports (MCAA)?
   Yes

16. Other noteworthy information

a. Does the local tax authority follow the OECD COVID-19 guidance?
   The UK follows the OECD transfer pricing guidelines. HMRC has issued its own COVID-19 guidance at International Manual INTM261010 “HMRC Approach to UK Permanent Establishments in response to COVID-19 Pandemic,” that is in line with the OECD guidance.

b. Are management fees deductible?
   Yes, if meeting the benefit test and the quantum is arm’s length.

c. Are intercompany services transactions that satisfy the requirements of the OECD transfer pricing guidelines subject to audit adjustments under other provisions of the local tax laws?
   No

d. Are management fees subject to withholding?
   No

e. May stock option costs be included in the cost base for intercompany service charges?
   Historically, UK transfer pricing legislation did not include specific guidance on the treatment of stock options as part of a cost-plus arrangement. HMRC has published guidance that indicates it would like to see the cost of stock options added to a company’s cost base and recharged with a mark-up. In September 2010, HMRC released updated guidance in their International Manual (currently INTM 440210) that confirms HMRC will accept the spread on vesting or spread on exercise as pricing methods for share options at the relevant time. This development provides greater flexibility to MNEs in deriving arm’s length share option charges. However, HMRC has explicitly stated the importance of applying the chosen method consistently over the full length of the arrangement, and for all employees to achieve a result that equates with what might be expected in an arm’s length situation.
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