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Over the Channel

Welcome to our first edition of Over the Channel, an informative newsletter keeping you up to date on the recent changes and topics of interest on the UK-Europe business corridor. Whether you are a prospective or existing investor from Europe to the UK or the other way around, you will find something of interest in this newsletter.

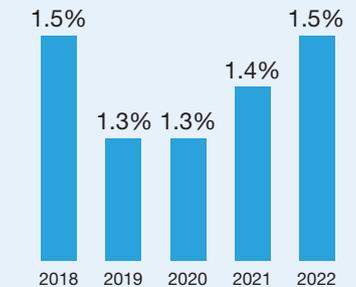
In this edition, we explore four of our key topical tips that inward investors often miss when setting up or doing business in the UK. Our HR consulting team recommends what things to consider before hiring your first UK employee. And make sure you don't miss our guest article from immigration firm Newland Chase on how the Brexit situation is influencing immigration so far.

Economy snapshot

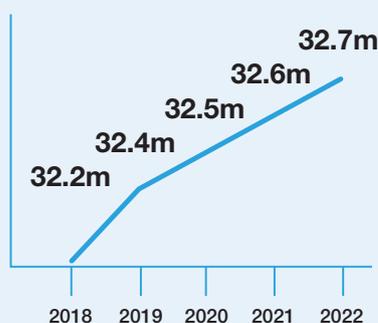
The UK economy exceeded expectations and continued to grow consecutively over the last five years, despite Brexit concerns. FDI's European Cities and Regions of the Future 2018/19 still ranks London as the number one destination for Foreign Direct Investment in Europe and 2017 saw a record year for UK tech investments. Unemployment levels are close to reaching a 40-year low as we expect a further 500,000 people to be in employment over the next five years.

1.5%

UK GDP Growth in 2018



GDP growth over the next 5 years

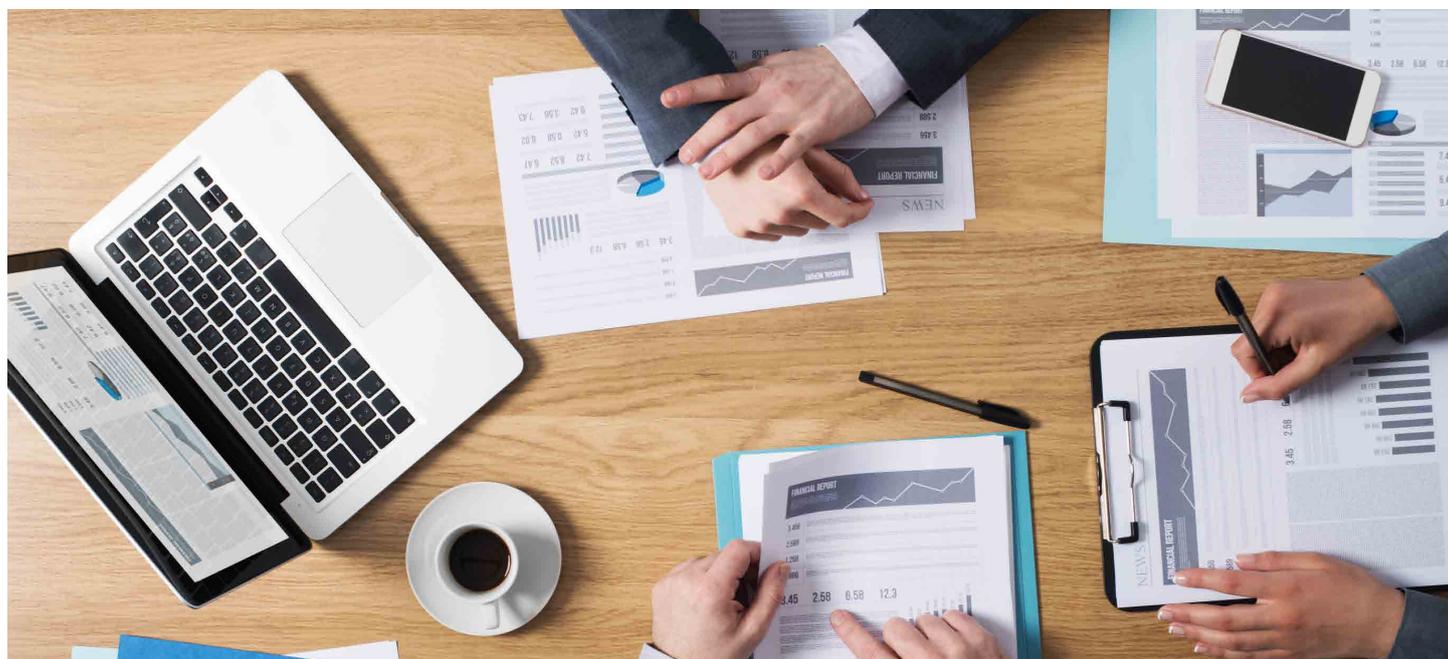


Over 500,000

more people with a job in the UK by 2022

Longest period of manufacturing growth in 50 years

Topical tips for inward investors



Topical tips for inward investors

At Kingston Smith, our experience and research indicate that inward-investing companies are still missing out on some of the most valuable opportunities. They are also overlooking certain compliance obligations when operating their business in the UK. Below are four significant points that are regularly ignored or inadvertently missed by inward investors.

- 1. Business structures:**

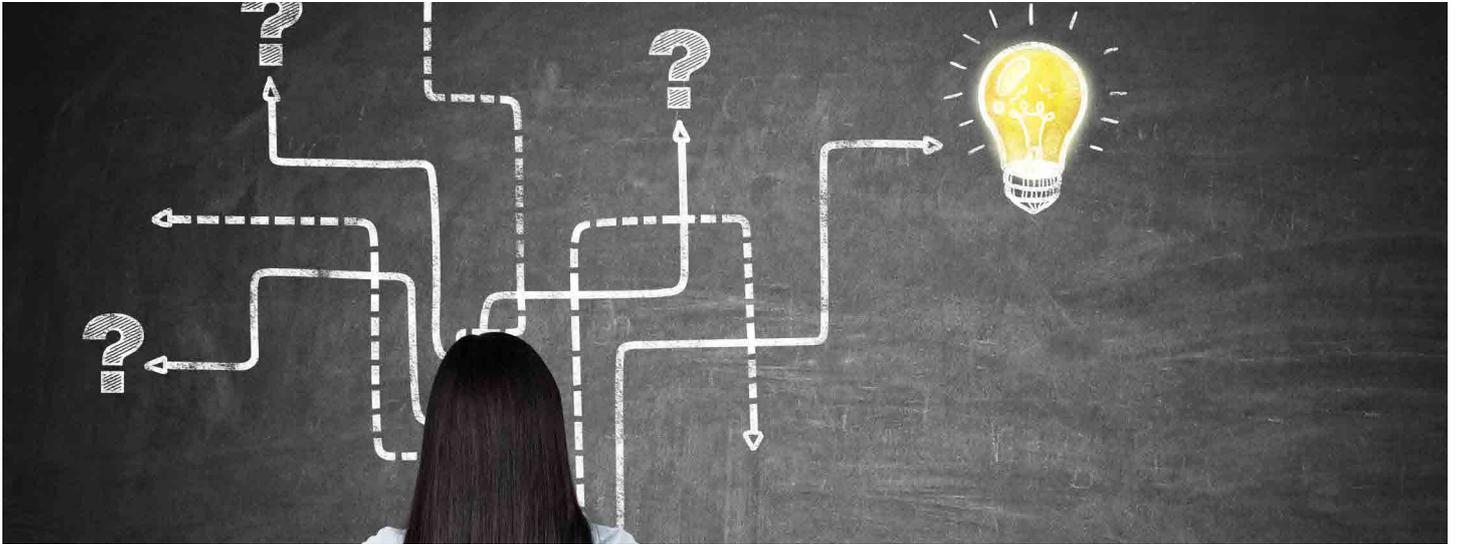
Depending on the needs of your business now and in the future, you will need to decide on a business structure. Each structure is different in terms of its set-up process, taxes, profit distribution and personal responsibility. Many UK structures are created by foreign companies without taking proper advice at the outset, with the default choice being a UK limited liability company set up as a wholly owned subsidiary. A UK company is the right choice in many circumstances, but in others, a UK branch or limited liability partnership might be more appropriate. Structures should also be kept under review, because what is suitable at the start of the UK operations may not be the best option as time passes and the business strategy and operating environment change.
- 2. Audit obligations**

If the group's annual turnover, gross assets or number of employees exceed certain thresholds, or the group contains a listed company, the UK entity's financial statements must be audited. However, many inward-investing groups still look at their UK subsidiary's results in isolation and continue to prepare unaudited accounts in error. International groups, therefore, need to be conscious of the varying audit obligations in the countries in which they operate.
- 3. Short-term visitors to the UK**

When non-UK employees visit the UK for short periods of up to six months, their salary (even if paid outside the UK) falls within the UK employment tax system unless the rules and reporting obligations around Short-Term Business Visitors are followed. The UK's HM Revenue & Customs has publicly announced it will be focusing on this, as it suspects there is widespread non-compliance.
- 4. Living allowances for secondees**

For employees on temporary secondment to the UK, there are certain tax rules which allow, subject to prior agreement of a bespoke scale rate from HM Revenue & Customs, certain living expenses to be reimbursed to them free of tax and National Insurance. Over the years, we have seen many employers miss out on the benefits of these generous rules. Other employers misunderstand the rules and include family-related expenses or non-business expenses within their expense claims which can result in large liabilities for under-paid tax.

Keep a look out for more topical tips in our next edition of Over the Channel.



Starting up in the UK – things you need to know when employing your first person

By Adam Flight,
Kingston Smith HR Consultancy

Recruitment

Recruitment can be a costly exercise, so it is worth taking your time to try to get it right first time. You should weigh up not only the cost of recruitment, but also the potential cost of getting it wrong. This can have an even bigger impact when you are thousands of miles away in a different country and time zone.

When interviewing potential employees for your office in the UK, there are questions you are not allowed to ask that you may be able to ask in your own country. These questions include: How old are you? Do you have children? Are you planning to start a family? What religion are you? More information is available on the UK government website [here](#).

If you ask for references, take them seriously and ask specific questions to ensure you find out the information you need. It is better to prevent the wrong person from starting, than take someone on who isn't right for the role or your business and have to manage them later. Finding the right person – especially in certain industries, such as media, tech and IT – can take longer than expected.

Other areas to consider are their eligibility to work in the UK if taking on non-EU nationals. Depending on the role itself, you may need to conduct certain background checks in addition to employment references.

Job description

Do you have to provide one? No, there is no legal requirement to provide one. When you start to recruit for your first position, you may not know the extent of the role until they start. The purpose of the role is always a good starting point and prevents the job description from becoming a list of tasks. You should also think about what they will be responsible for and what you want them to achieve. Having a job description works both ways, as both you and the employee will be clear about what is required from day one.

The job description is changeable but allows you to measure the success of an employee. It should also detail the person specification, including the experience, skills, qualifications and personal qualities required.

Contract of employment

Legally, a contract must be issued within two months of the start of employment. You need to think about what type of contract you want to offer a person – permanent, fixed-term, casual or self-employed/freelance. However, issuing the wrong type of contract may actually reduce the level of protection and flexibility you have as an employer. So, be aware of which contract to use when.

Do not forget to protect your business. For example, if someone invents something for your company while you have been paying them, do you want them to be able to take it with them to their next company? You may also wish to prevent them from soliciting your employees and clients when they leave. All of these restrictions can be included in the contract.

There are certain clauses which must be contained in an employment contract, such as salary, pay date, holiday entitlement, sick pay entitlement, pension, location of work and notice period.

Other things to consider putting in the contract include:

- Restricting employees taking time off during busy periods
- What time employees need to phone in if they are off sick
- Paying more than statutory sick pay
- Probationary period
- Moving to larger premises as the business grows.

Lastly, be aware of implied terms! Even if they are not written down, they could still become contractual. More information is available [here](#).



Brexit – is the UK’s forthcoming EU departure already influencing immigration?

By Antonio Lam, Newland Chase

The recent migration statistics published by the UK’s Office for National Statistics (ONS) revealed that net EU migration is at its lowest for five years.

Some 220,000 EU nationals arrived in the UK in the year to September 2017. But with the number leaving the UK over the same period standing at 130,000, is the EU referendum already influencing immigration trends, even before the UK has left the EU?

The number of EU citizens moving to the UK for work-related reasons has dropped to its lowest level in more than four years. As a result, the reduction in available EU migrant labour is pushing UK employers to cast their recruitment net wider.

Hiring from outside the European Economic Area (EEA)

However, employers have found their recent efforts to hire workers from outside the EU to be further complicated. This is specifically due to the restricted monthly allocation of Tier 2 Restricted Certificates of Sponsorship (RCoS) granted to non-EEA workers.

Demand for RCoS has exceeded supply in each of the last three months. This has seen employers looking to sponsor non-EEA migrants having their RCoS applications rejected where the salary offered is less than £55,000.

Brexit uncertainty affecting business planning

There has been a notable lack of clarity from the British government on what a post-Brexit immigration system might look like. The ONS figures suggest the uncertainty is affecting whether the UK continues to be seen as an attractive destination for EU workers.

In turn, UK employers in all sectors – specifically healthcare, technology, construction and engineering – face challenges in their strategic long-term post-Brexit business planning due to the absence of any concrete government policy.

EU nationals living in the UK

There is, however, some assurance for EU nationals to have the new ‘settled status’. This applies to those who have resided in the UK for five continuous years before the cut-off date, expected to be 31 December 2020.

The settled status will permit EU citizens who meet the criteria to continue living in the UK. They can continue accessing public funds and services and, should they wish, eventually apply for British citizenship.

British Prime Minister Theresa May has said she wants all EU citizens living lawfully in the UK to remain post-Brexit, promising a smooth registration system.

The UK government’s initial position was that the rights of EU nationals arriving after the cut-off date would be different to those already in the UK. However, a policy paper published on 28 February 2018 confirmed that EU citizens and their families will be able to work and study in the UK without any new constraints during such a transition period.

But, the European parliament’s Brexit Steering Group has said that they “cannot accept any form of discrimination between EU citizens who arrive before or after the start of any transition”. MEPs have stressed the importance of securing equal and fair treatment for EU citizens living in the UK, and for UK citizens in the EU.

Brexit negotiation cut-off

Brexit negotiations continue, with autumn 2018 seen to be a significant period. An exit deal between the UK and EU must realistically have been made by then. It must then be approved by the UK’s parliament in time to meet the 31 December 2020 deadline.

The UK Migration Advisory Committee’s important report to the government is due to be published in September 2018. It details the impact of Brexit on the UK labour market and how the UK’s immigration system should be aligned with a modern industrial strategy.

Kingston Smith Europe Group

The Europe Group at Kingston Smith has been actively involved in both assisting companies from mainland Europe to do business in the UK as well as to help UK companies with their plans to expand their presence in Europe.

This year, 10 of the top 20 countries investing in the UK were from Europe, the major ones being France, Germany, Italy, Spain, Netherlands and Ireland. Our strong presence in these countries through our Morison KSI partner firms have helped us in being a part of many of these successful inward investment cases from Europe into the UK.

We can assist European companies and their Entrepreneurs with their plans to either set up new operations in the UK or to grow inorganically through acquisitions, across different sectors.

The Kingston Smith Europe Group is a 'One Stop Shop' for individuals and businesses operating within the UK, offering professional advisory services in the following areas:

Investors in the UK

- Business structuring
- Accounting and audit
- Tax advisory and compliance
- Payroll management
- HR consultancy
- Company secretarial

Corporate finance

- M&A and JVs
- Financial due diligence
- Market listings
- Raising finance
- NRI services



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