

Your potential, our expertise

Across the Pond

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Welcome to our summer 2019 edition of Across the Pond, an informative newsletter keeping you up to date with recent changes and topics of interest for transatlantic businesses.

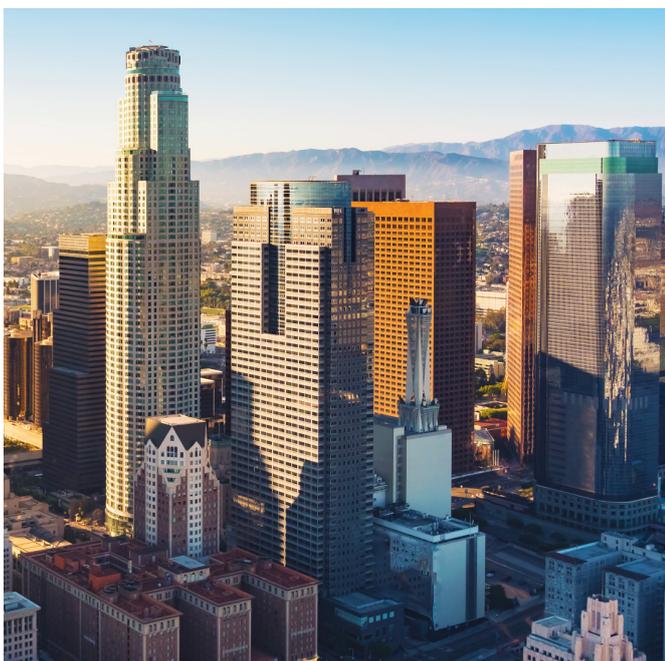
Whether you are a prospective or existing investor from the US looking to invest in the UK or the other way around, you will find something of interest in this newsletter.

In this edition, our friends at Aprio in Atlanta discuss the difference between UK and US research and development tax credits and how, by working together, Aprio and Kingston Smith can ensure you are maximising those available to you. We explore six key topical tips that US companies in the UK should not overlook when setting up or doing business. In addition, we get an update on immigration from our friends at Pennington Manches.

Kingston Smith joins Moore Stephens International Limited Network

We are delighted to announce that on 1 May Kingston Smith joined the Moore Stephens International (MSIL) network.

MSIL is one of the world's major accounting and consulting networks covering over 600 locations in 112 countries. This move will help us enhance our ability to meet the needs of clients with international interests and aspirations.



Research and development tax credits: US and UK benefits

By Carli McDonald, Aprio

Time zones and spelling aside, there are some differences between the UK and US that can work to make your business stronger. One of the best examples of this can be seen in the combined power of the UK and US research and development (R&D) tax credits. Each country's version of R&D credit boasts some individual but complementary benefits that all business owners should be aware of, especially if you're considering international expansion. Whether you're a UK-based company with a presence in the US or a US-based company with a UK branch, it's possible to leverage both to fully maximise your benefit.

Mutually beneficial

At the most basic level, the UK and US R&D tax credits share the same goal: to incentivise domestic investment in scientific or technological innovation. Both credits consider common research-related expenses as they correspond to qualifying projects, such as employee wages, contractor costs and other resource expenses. Additionally, both credits include special considerations if you have a small business, acknowledging that sometimes most innovation occurs at the start-up level and with the fewest resources. However, within each country's

individual tax regimes are specific interpretations that define the specific benefits available to your business.

Uniquely UK

One benefit of the UK credit is flexibility as to where your company is performing R&D. If your company is paying UK corporation taxes, then your R&D activity can occur anywhere in the world. This applies to sub-contractors, salary costs and externally provided workers, as long as the work they're doing is directly related to a qualifying R&D project. The US credit does not make the same allowances; rather, the US credit considers any R&D activity occurring outside its borders ineligible for the credit. This is an important distinction to remember as you consider expanding your business internationally.

All American

One of the benefits of the US R&D credit is that the country comprises of 50 individual states that each boasts individual tax regimes. While the US has a blanket federal R&D credit that anyone in the country can claim, many states also supplement the federal credit with an additional credit for R&D performed within that state. This is true for 36 of the 50 states, but each local government sets their own

guidelines. This means the benefit can vary depending on whether you're claiming R&D in Florida or California, or anywhere in-between. If you're exploring the idea of expanding your business to the US, this is an important factor to consider when deciding which states to do business in. These examples are just a surface-level glimpse into the benefits of the R&D credit in the UK and US, as well as the possible ways they can complement one another for a greater benefit to you. If you are considering expansion across the pond or you have already made the step, it is worth a deeper look into how both countries' R&D qualifications can serve you – and often that kind of analysis is best left to the professionals. Aprio works closely with Kingston Smith and collectively we have diverse and growing teams solely focused on R&D, with extensive experience calculating credits for both UK and US clients. Make sure you're maximising the credits available to you!

If you would like to discuss how Kingston Smith and Aprio can support you with R&D tax reliefs both in the UK and US please email Mike Hayes or Carli McDonald.

Topical tips for US companies investing in the UK



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

1. Share options and similar equity incentives

The taxation and online reporting of share options and awards, such as restricted stock units (RSUs), is complex and often misunderstood. Since the changes in 2015, every option granted to employees who have a period of working in the UK during the vesting period will potentially give rise to tax, national insurance and reporting obligations.

2. UK pensions

Inward investing businesses often fail to understand what “ordinarily working in the UK” means for the purposes of the auto-enrolment pension rules. They can end up failing to automatically enrol their employees or enrolling employees and making contributions unnecessarily.

3. Overseas directors

Some inward-investing companies

tend to appoint only non-UK based individuals as directors of the UK subsidiary. This is permitted under UK company law but can cause problems where claims are made under UK tax treaties because the UK company, if managed and controlled abroad, may not be treated as UK resident for treaty purposes. This means the company won't be able to rely on the benefits of the UK tax treaty network. US issues can also arise

if the UK subsidiary is viewed as being tax resident in the US.

4. Apprenticeship levy

This levy is payable by all UK employers and is equal to 0.5% of the payroll costs with an exemption of £15,000 for each employer towards the levy. The levy is not payable on salaries that are eligible for national insurance exemptions. Once paid, the levy can be used to reduce training costs.

5. Compliance reporting

The UK has introduced a number of regimes where information must be published on your website. These can include

slavery and human trafficking statement and publication of your tax strategy. Subsidiaries of very large multinational groups also need to comply with their country-by-country reporting requirements. Failure to understand your obligations and report in accordance with the law can lead to penalties and negative PR.

6. General Data Protection Regulation (GDPR)

If you are looking to do business in the UK, it is important you are aware of the GDPR which came into effect on 25 May 2018. It now means any organisation that does business with EU citizens must

comply with the GDPR's stringent data protection rules. It affects how organisations communicate with their audiences, how they process personal data and who they share it with. It will operate alongside the existing law called Privacy and Electronic Communications Regulations (PECR), which governs how organisations handle, specifically, their electronic communications.

If you need guidance on any of these topics, please feel free to contact us. We are happy to help.



New Start-up and innovator visas welcome entrepreneurs to the UK

By Pat Sani,
Pennington Manches

The UK government has launched two new visa routes for entrepreneurs. These routes, which opened to applications on 29 March 2019, are aimed at those looking to set up business in the UK.

The Start-up visa

This category is for those seeking to establish a business in the UK for the first time. Applicants will have an innovative, viable and scalable business idea which is supported by an endorsing body. The Start-up visa is an expanded version of the tier 1 graduate entrepreneur visa, which allowed universities to endorse

international students.

A list of the endorsing bodies can be found [here](#).

The endorsing body assesses each application against the UK start-up visa requirements. These include:

Innovation

The applicant has a genuine original business plan that meets new or existing market needs and/or creates a competitive advantage.

Viability

The applicant has, or is actively developing, the necessary skills, knowledge, experience and market awareness to successfully run the business.

Scalability

There is evidence of structured planning and of potential for job

creation and growth into national markets.

First-time entrepreneur

Whereby the individual confirms that they have not previously established a business in the UK, unless applying to switch from the tier 1 (graduate entrepreneur) category.

In addition to obtaining an endorsement, an applicant will need to meet the minimum English language requirements before applying for the Start-up visa.

Under the Start-up visa category:

- a visa will be granted for two years
- those applying can bring family members
- applicants will be required to maintain regular contact with their endorsing body at 6, 12 and 24 month intervals



- those with an endorsement can take employment whilst working on their business idea.

The innovator visa

This category is for more experienced entrepreneurs seeking to establish a business in the UK. Applicants will have an innovative, viable and scalable business idea which is supported by an endorsing body.

A list of the endorsing bodies can be found [here](#):

For those applying under this route for the first time and have not previously held a Start-up visa with the same business idea, they will need to apply to be endorsed under the 'new business criteria'.

The endorsing body will assess each application against the following criteria:

Innovation

The applicant has a genuine, original business plan that meets new or existing market needs and/or creates a competitive advantage.

Viability

The applicant has the necessary skills, knowledge, experience and market awareness to successfully run the business.

Scalability

There is evidence of structured planning and of potential for job creation and growth into national and international markets.

Working on business ventures

The endorsing body will need to be reasonably satisfied that the applicant will spend their entire working time in the UK on developing business ventures.

Investment funds

The endorsing body will need to confirm that at least £50,000 funds are available to either invest or have been invested.

The rules differ for those who have for example held a Start-up visa and looking to move on to the Innovator visa using the same business idea.

In addition to obtaining an endorsement, an applicant will need to meet the minimum

English language requirements before applying for the Innovator visa.

Under the Innovator visa category:

- a visa will be granted for three years
- those applying can bring family members
- applicants will be required to maintain regular contact with their endorsing body at 6, 12 and 24 month intervals.
- those with an endorsement can only work on their own business idea
- applicants may qualify for settlement after three years.

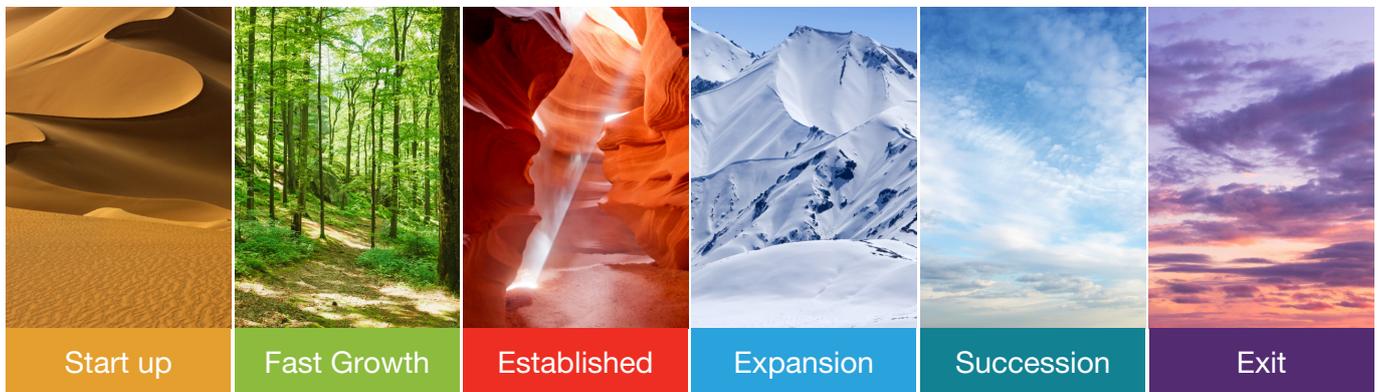
The immigration team at Penningtons Manches has an excellent track record of working with start-ups as well as established entrepreneurs. The introduction of these two new visa routes will go a long way to ensuring that the UK remains a world-leading destination for pioneering entrepreneurs and innovators.

North America Group

Kingston Smith has over four decades of experience working with international companies looking to expand and grow globally. Whether you are a UK company planning to expand to North America, or a business from the US looking to enter the UK market, the Kingston Smith North America Group can provide a seamless transatlantic service, ably assisted by our associate firms in many locations including Silicon Valley, San Francisco, New York, Atlanta and Toronto.

Updates:

Our North America group members have visited some key locations across the US over the last few months. Mike Hayes travelled to New York to meet with companies and contacts and attended the ACG Capital Connection conference in Atlanta in February. Darren Jordan also stopped by New York en route to Toronto where he attended the Collision conference and spoke at an event hosted by the British Canadian Chamber of Trade and Commerce. Tom Moore attended LendIt in San Francisco, whilst also stopping in Los Angeles and San Diego. Darren Jordan and Graham Tyler travelled to Chicago for our first Moore Stephens North America conference.



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