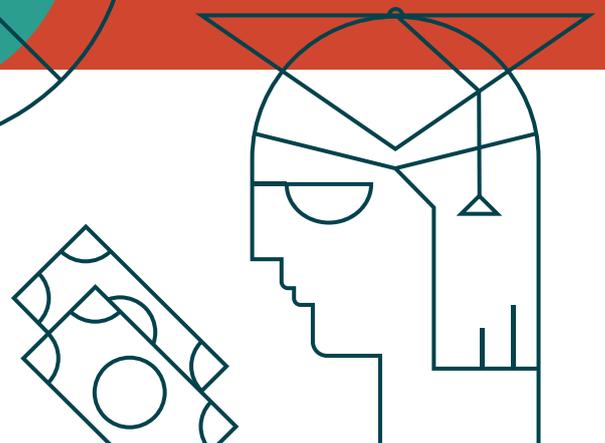
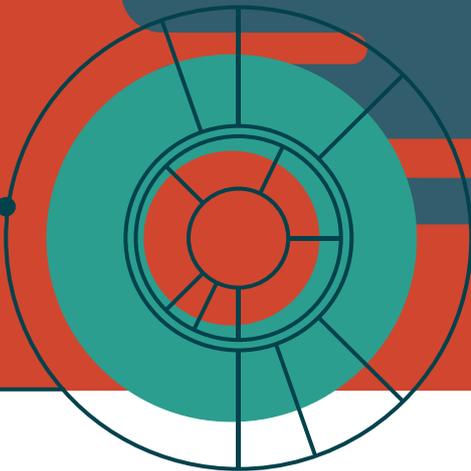
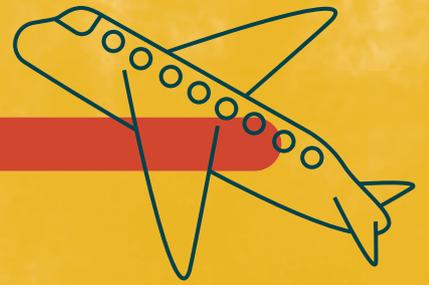
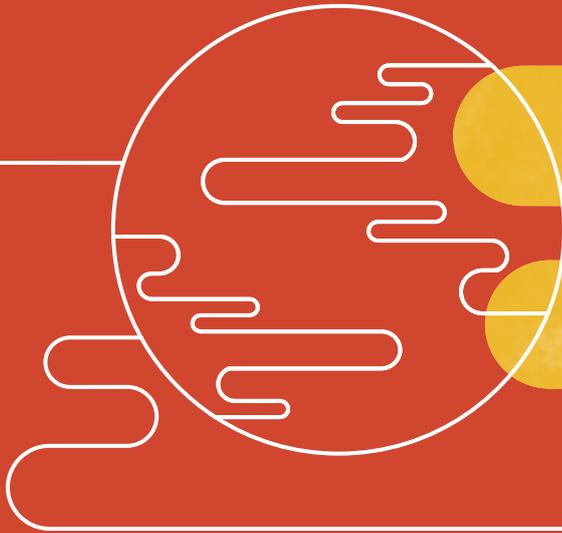
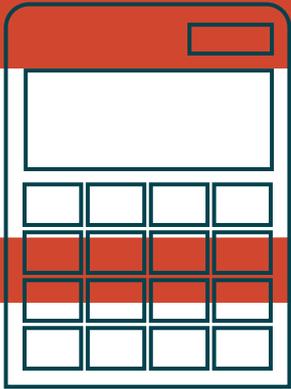
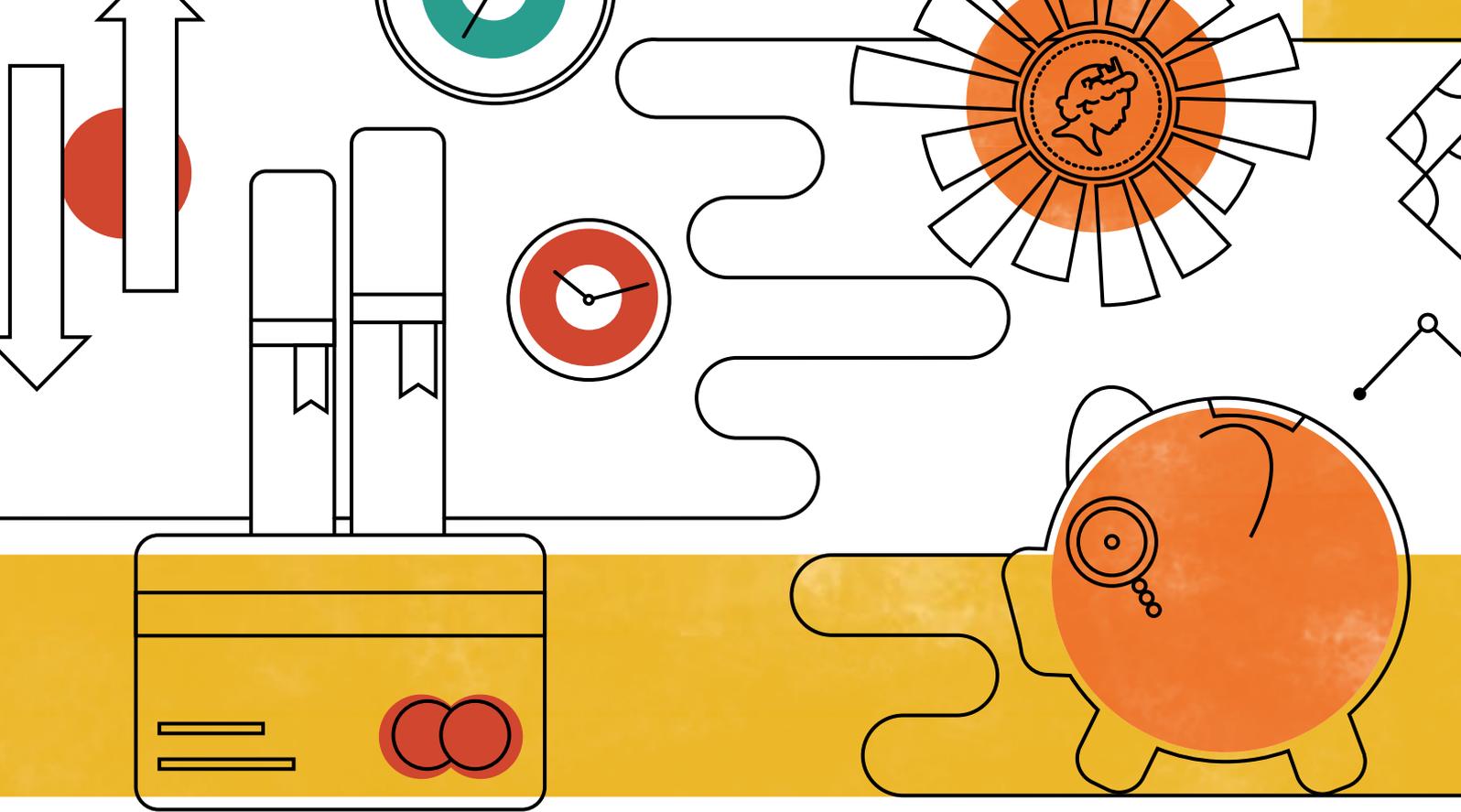


# A BUFDG Guide to UK Universities and Tax



# Contents

<b>Introduction</b> .....	<b>3</b>
Who should read this document?.....	3
So, what taxes do universities pay? .....	4
<b>Executive Summary</b> .....	<b>5</b>
<b>01 UK Taxes and Universities</b> .....	<b>7</b>
1.1 Taxes and people.....	7
Payroll taxes .....	8
Taxes on expenses and benefits .....	9
1.2 Taxes and income .....	10
VAT .....	10
Corporation Tax .....	12
1.3 Taxes and expenditure.....	13
VAT .....	13
Corporation Tax .....	15
<b>02 International Taxes and Universities</b> .....	<b>16</b>
2.1 Introduction.....	16
2.2 Creation of a permanent establishment.....	17
2.3 International taxes and people .....	17
2.4 International taxes and income.....	19
Online learning .....	19
2.5 International taxes and expenditure .....	20
<b>03 Challenges on the Horizon</b> .....	<b>21</b>
3.1 Digitalisation of tax reporting .....	21
3.2 International tax issues .....	22
3.3 Penalty regimes .....	22
3.4 Extension of the range of UK taxes .....	23
3.5 Conclusion.....	23
<b>Useful Resources</b> .....	<b>24</b>



# Introduction

This guide has been prepared by The British Universities Finance Directors Group ('BUFDG'), the representative body for higher education finance staff in the UK. You can [find out more about BUFDG here](#).

## Who should read this document?

This document provides a high-level overview of the many areas where tax impacts on UK universities. There is a myth that universities, as charities and/or public bodies, simply do not pay tax, and so tax is not an issue. Unfortunately, this is not the case as this guide will demonstrate.

So, whether you: work in academia, estates, finance, governance, HR, international development, planning, procurement, or research; have worked in the university sector for some time or are new to it; need a refresher, or; are simply curious about tax and universities, we hope that you will find this document useful.

Within this guide, we will consider the UK and international taxes that impact on universities (not subsidiaries of universities), looking at taxes relating to people, income, and expenditure.

## So, what taxes do universities pay?

The UK taxes that are paid by UK universities and tend to be significant in value include:

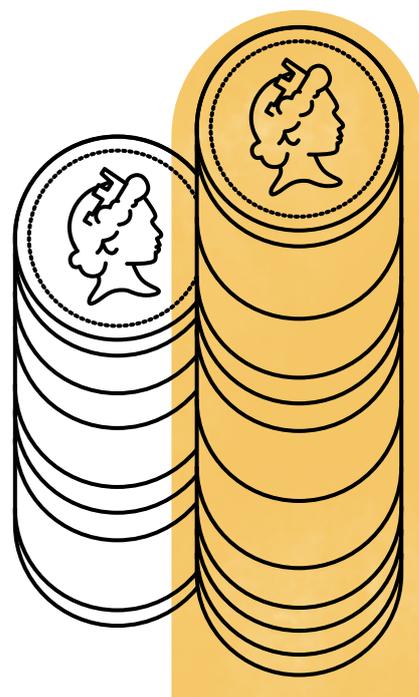
- Income tax via Pay As You Earn (PAYE);
- National Insurance Contributions (NIC); and
- VAT

Other UK taxes that may impact on universities or are paid but are of less significant amounts, include:

- Apprenticeship Levy;
- Indirect taxes, such as Insurance Premium Tax and Air Passenger Duty;
- Customs duties on the importation of goods into the UK; and
- Corporation Tax

“There is a myth that universities, as charities and/or public bodies, simply do not pay tax...this is not the case as this guide will demonstrate.”

Universities are varied and complicated organisations; some are centuries old and others a few decades or years old. But regardless of age, and despite recent changes to higher education regulation, most are still non-profit making and regarded as 'charities', with their principal regulatory bodies dependent upon the nation where they are located. (See '[Useful Resources](#)'.)



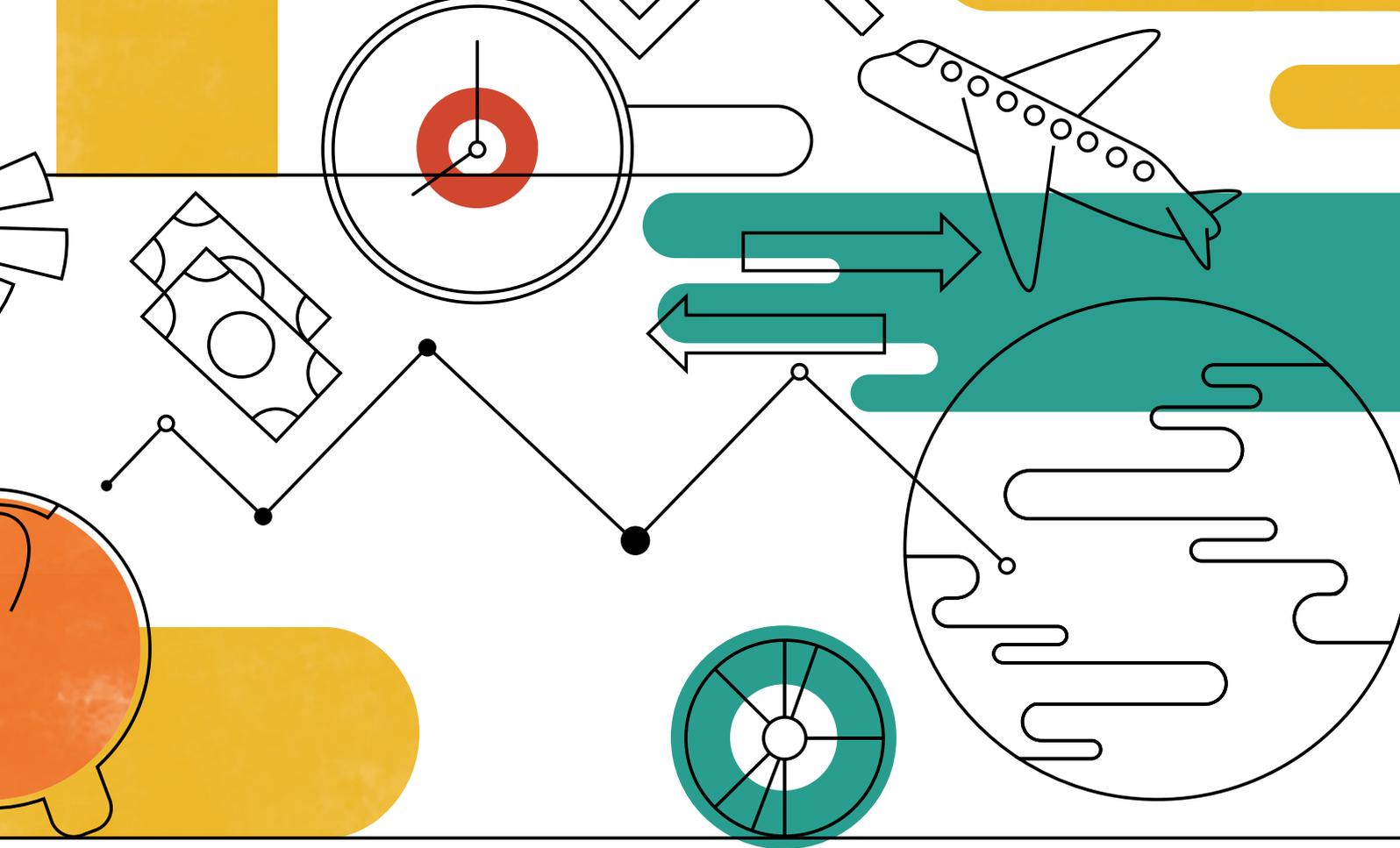


# Executive Summary

There are common areas across the sector where tax issues usually arise, set out below. More information on these areas can be found in this document:

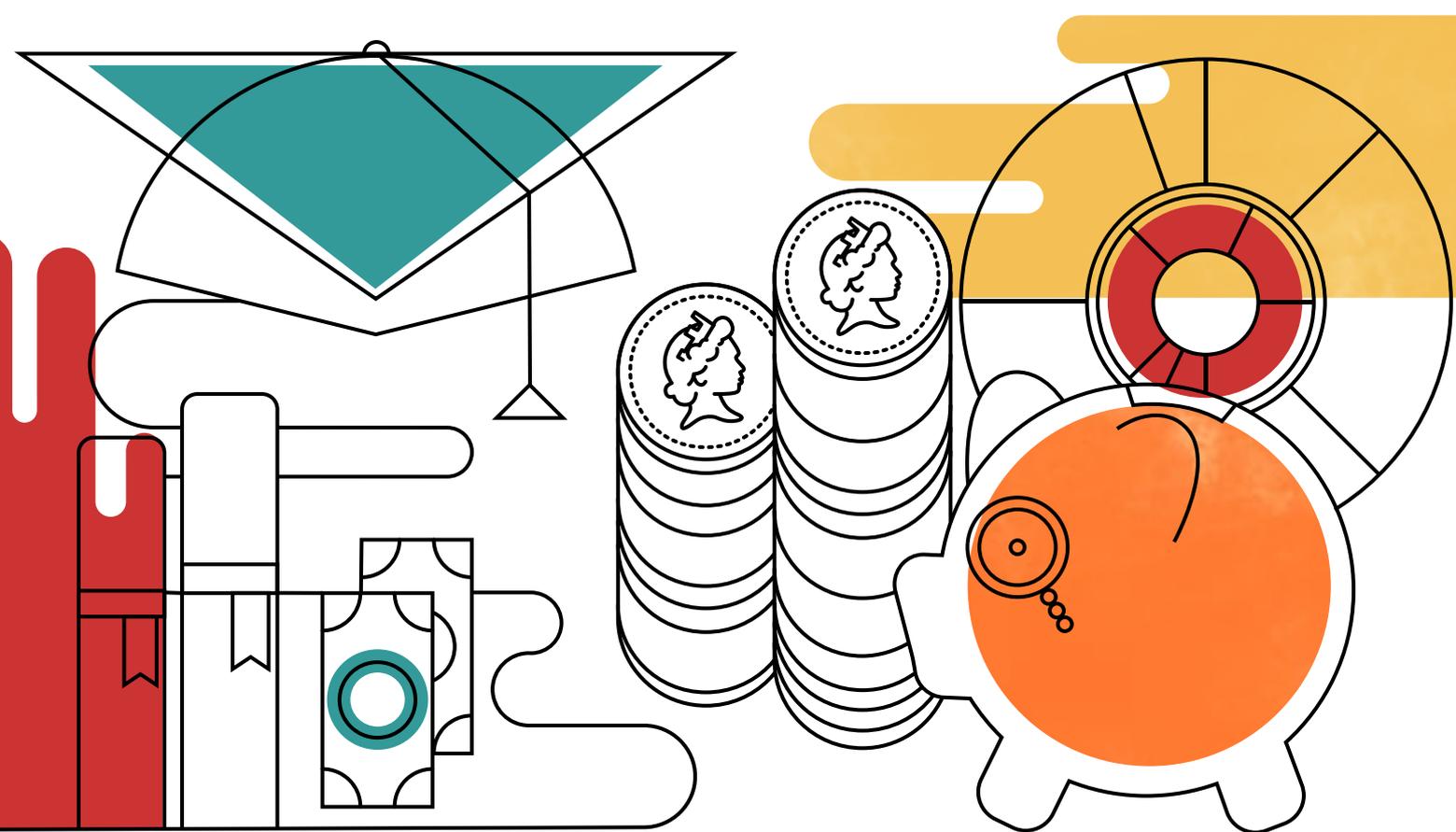
- **Income** – ensuring that this is treated correctly from both a VAT and Corporation Tax perspective. Research and miscellaneous income can be areas of uncertainty;
- **Expenditure** – ensuring that the university takes advantage of any VAT reliefs available, that it reclaims VAT that it is entitled to and that the *Partial Exemption Special Method* is fit for purpose;
- **Imports of goods** – ensuring that import taxes are paid when due but also that Import VAT and Duty reliefs are taken, where appropriate, given that tracking import details within universities can prove problematic;
- **Import of services** – ensuring that the self-charge of VAT is applied correctly to the purchase of services from overseas;
- **Property transactions** – whether new build and redevelopment of existing sites, purchase or sale of land and/or property, rental of property, or charges for use of facilities; caution is needed to ensure that the tax position is managed carefully, as a mistake can be costly;

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- **Overseas activities** – from students accessing online learning in their country of residence, to setting up an overseas branch or subsidiary, to having premises overseas; all create potential tax issues that ideally need to be considered before activities commence;
- **Employment status** – individuals (including students) carrying out work, but where the university is not carrying out an employment status check, can result in the university having PAYE/NIC obligations; and
- **Global Mobility, including overseas hybrid working** – colleagues around the university need to inform the correct departments when employees start working overseas, so that the correct tax/social security position is reached; this includes whether they are teaching at other universities, conducting research or remote working from their home country.

Please note that this list is not exhaustive and will depend upon the activities undertaken by your university.



# 01 UK Taxes and Universities

## 1.1 Taxes and people

Universities take on people in several different ways, including:

- as employees holding an employment contract working full or part time, specified hours, term time etc.;
- as temporary employees;
- as contractors either:
  - an individual; or
  - through a company; or
- through an employment agency.

It is a university's responsibility to pay and deduct the right amount of taxes relating to individuals acting as their employees. An assessment of the individual's employment status is necessary, even if they present themselves as a contractor. They will then be treated as either:

- an employee whose pay is reported through the university payroll;
- a genuine contractor who is paid in full on the provision of an invoice; or
- an agency worker where payment for the provision of the worker's service is made directly to the agency.

## Payroll taxes

When universities pay their employees, they operate as a tax collector as they are obliged to operate Pay As You Earn (PAYE) for Income Tax and National Insurance Contributions (NIC) and report under Real Time Information (RTI). Payroll costs represent a large proportion of the overall expenditure for most universities, and so the amount of PAYE is significant. However, the UK PAYE system is well established and for those employees who work solely in the UK, it works very well and so the risk of error occurring is generally small.

Risks occur where the university does not adequately assess the employment status of individuals working for them as consultants or contractors, and pays them without deducting PAYE or NIC. All universities must have policies and procedures in place to identify consultants/contractors, assess employment status and retain supporting evidence should HM Revenue & Customs (HMRC) review the arrangements.

For more information about employment status, BUFDG members can complete BUFDG's e-learning course 'Extended Workforce: Employment Status and IR35' *which can be accessed from our e-learning page.*

“...It is the university's responsibility to pay and deduct the right amount of taxes relating to individuals acting as their employees.”

## Taxes on expenses and benefits

The simple rule is that if you provide or meet the cost of anything given to your employee, it will be considered taxable unless there is an exemption or allowance to remove that tax burden.

Most expenses incurred by employees typically relate to travel and subsistence for the benefit of the university, purchase of equipment for use at the university, or other university related cost. However, there may be some circumstances where expenses are not incurred for the benefit of the university and may be taxable on the employee.

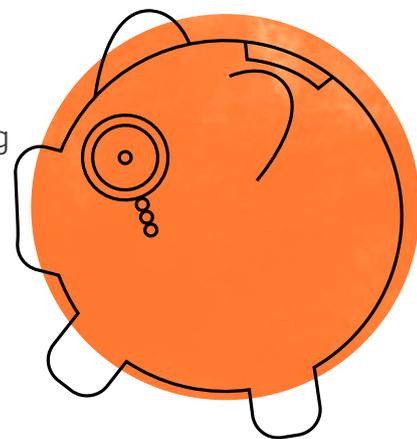
Similarly, the university may provide certain benefits to employees that will be taxable, for example, 'green' cars, on-site creche facilities, cycle to work schemes, or accommodation. Some benefits can be provided tax free, such as pensions and annual leave.

Where expenses and benefits are taxable, universities will have to inform HMRC either:

- through an agreed arrangement with HMRC to 'payroll' those benefits (this only applies to certain benefits);
- by reporting those expenses and benefits to HMRC on employees' P11D forms at the end of the tax year; or
- reporting the taxable expenses and benefits to HMRC on an employer form known as a PAYE Settlement Agreement (this only applies to certain expenses and benefits).

For more information about the provision and reporting of expenses and benefits at universities, BUFDG has a number of e-learning courses which can be accessed on [the BUFDG e-learning page](#) (more details at the end of this guide).

"...there may be some circumstances where expenses are not incurred for the benefit of the university and may be taxable on the employee."



## 1.2 Taxes and income

Most sources of university income are not subject to VAT and Corporation tax in the UK.

### VAT

#### *Education income*

UK universities and colleges of universities are regarded as **eligible bodies for the supply of education** within the UK. Supplies of education that are exempt from (or not subject to) VAT, include:

- undergraduate and postgraduate degrees;
- short courses;
- adult education;
- courses provided to commercial entities; and
- conferences and seminars.

Services that are regarded as **ancillary to the supply of education** and are supplied for the direct use of the student are also exempt from VAT. Ancillary supplies include the provision of student accommodation, student catering, student parking, and field trips.

#### *Research income*

Research is defined as '*original investigation undertaken in order to gain, advance or expand knowledge and understanding*'.

Publicly funded research, such as grants from Research Councils, Charities, and the Government is usually outside the scope of (or not subject to) VAT. This is because the funder does not receive a service in return; instead, the grant is usually given for the greater public good and the findings of the research are made freely available.

However, research income from commercial bodies located in the UK is usually subject to VAT at the standard rate. This is because, for example, the commercial funder has some intellectual property rights to the outcome of the research or is paying to receive a service, such as consultancy or product testing.

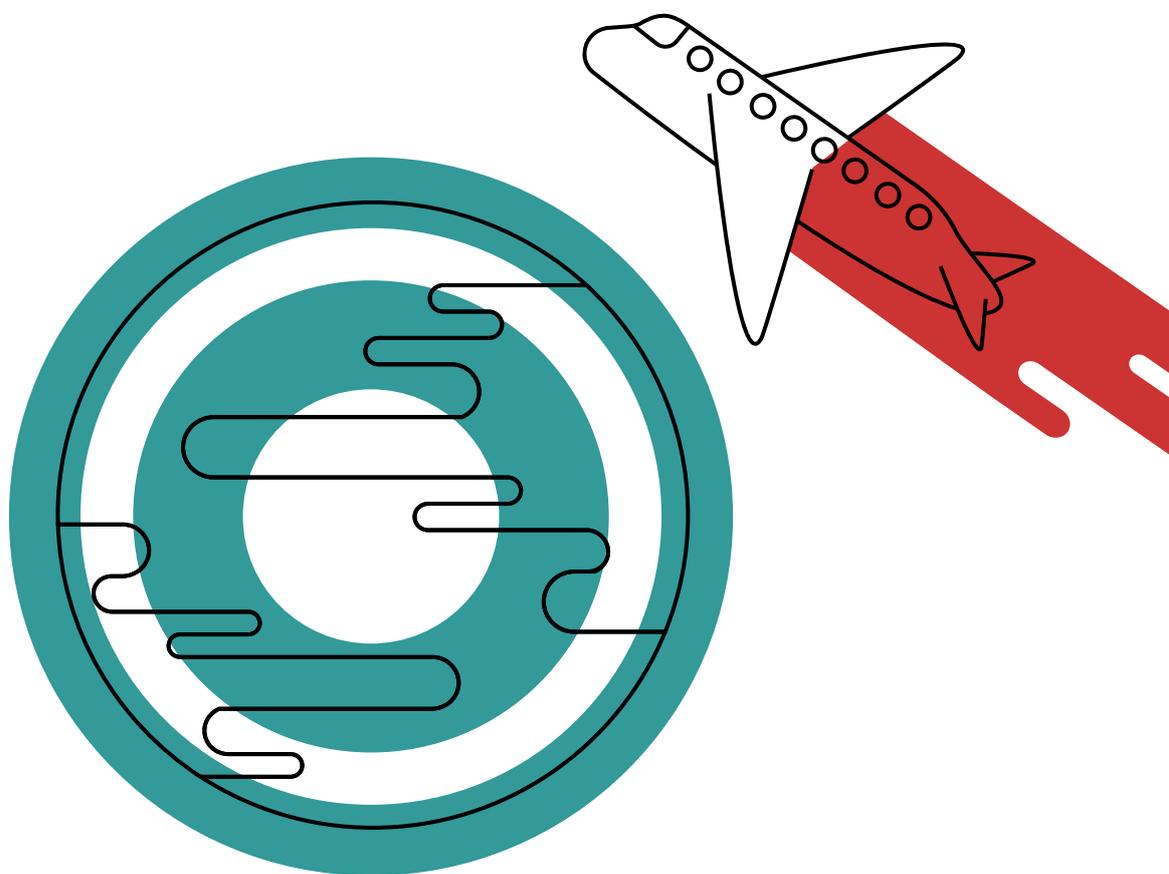
However, it's important to note that these are generalisations, and the VAT treatment will depend on the specific circumstances of the agreement and the activity, so research can be a complex area for VAT.

### **Other income**

Universities receive a wide variety of other income from, for example;

- rental of property (exempt or standard rated);
- charges for use of facilities (exempt or standard rated);
- non-student catering and parking (usually standard rated);
- consultancy (usually standard rated);
- testing of samples or goods (usually standard rated);
- sales of goods (usually zero or standard rated); and
- licence or royalty income (usually standard rated).

Such income usually follows the normal VAT rules, as it would for other businesses, although because this is VAT, there are always exceptions!

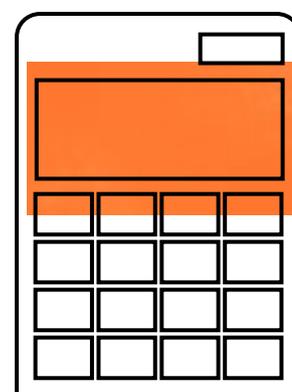


## Corporation Tax

For universities that are charities (which is most UK universities), the majority of their income is exempt from UK corporation tax. This favourable tax position derives from their charitable status.

The key corporation tax exemptions for universities cover:

- Profits of charitable trades (also known as **primary purpose trading income - 'PP'**), this includes, for example, research and teaching activities, such as:
  - Government or charity funded research;
  - commercially funded research where the public benefit test is met (i.e., where the outcome is published and/or the university retains the rights to use it in teaching or research);
  - teaching funded by individuals, government and charities or teaching funded by commercial partners (as long as they do not retain any IP); and
  - activities that are ancillary to PP trading, such as the provision of catering and residential facilities to students.
- Property income (i.e., rent of surplus space or income from investment property);
- Investment income (i.e., interest and dividends);
- Royalty and licensing income (i.e., passive income from exploiting IP); and
- Profits from fund-raising and lotteries.



**Non-primary purpose trading ('NPP')** is made up of activities that are not a PP activity nor ancillary to a PP activity, such as:

- consultancy;
- testing and analytical services, and hire of equipment or lab facilities where NOT connected to a primary purpose research activity;
- non-student lettings, such as the letting of student accommodation for non-academic conferences; and
- other 'enterprises' such as sales of wedding and other hospitality packages.

NPP income is subject to corporation tax on profits made.

As well as NPP income, income from land transactions could be subject to corporation tax if it is an 'overage' arrangement.

## 1.3 Taxes and expenditure

### VAT

As explained, VAT is not payable on the main income areas of universities. Because of this, most VAT incurred by universities is not recoverable, and so becomes a cost to the university. In practice, universities are only able to recover around 5% to 15% of VAT incurred on costs.

The underlying VAT liability of all supplies is the standard rate. The VAT legislation is drafted on the basis that there are exceptions to this general rule:

1. Some supplies will always be exempt or at the zero or lower rate of VAT (e.g., books and public transport charges are always zero-rated).
2. Others have a different VAT liability applied dependent on the use of the item by the customer (e.g., gas or electricity used in non-business activities, such as some research, or for domestic use, including in residential accommodation for students, is subject to VAT at 5%; otherwise, 20% VAT applies).
3. Others are dependent on what the specific goods or services are, the status of the customer, the intended use of the goods or services, and the issue of a certificate or statement to the supplier (see below).

4. Others, when purchased from overseas are subject to a self-charge of VAT (e.g., overseas agents' fees are subject to a self-charge of VAT via a 'reverse charge adjustment' on the university's VAT return).

A university can claim relief from VAT on certain goods and services based on the third category above because it is a charity, an educational institution, or a charity carrying out certain types of research. In order for the supplier to apply no or reduced VAT, the university must meet all of these conditions:

- the goods or services must be eligible for VAT relief or exemption;
- the university must be intending to use or consume the goods or services for a relevant purpose; and
- where required, the university has provided a certificate or statement to the supplier confirming its status and the intended use.

Here are some examples:

- A microscope purchased mainly for use by a charity in medical or veterinary research is eligible for the zero-rate of VAT (certificate/statement needs to be sent to the supplier); whereas a microscope purchased for general use in Biology is subject to VAT at the standard rate.
- Advertising by a charity on someone else's 'time or space' (e.g., newspaper, radio, or TV advertising) is zero-rated (certificate needs to be sent to the supplier).
- Certain services purchased from another university (e.g., use of student accommodation or lecture theatre) for the direct use of students, are exempt from VAT.

### ***Calculating how much VAT can be reclaimed***

Once the university has determined how much VAT should be paid on expenditure, it then needs to calculate how much of it can be recovered from HMRC. If the cost:

- has been incurred wholly in relation to a taxable supply made by the university (at the zero, reduced or standard rate) e.g., providing consultancy to a customer, VAT incurred on costs can be reclaimed in full;

- has been incurred wholly in relation to an exempt supply or non-business activity by the university, e.g. teaching, no VAT can be reclaimed;
- relates to supplies made by the university with different VAT liabilities, or the activities of the university as a whole e.g., costs incurred by the central finance or HR teams, VAT recovery can be based on an apportionment method agreed with HMRC, called the Partial Exemption Special Method ('PESM').

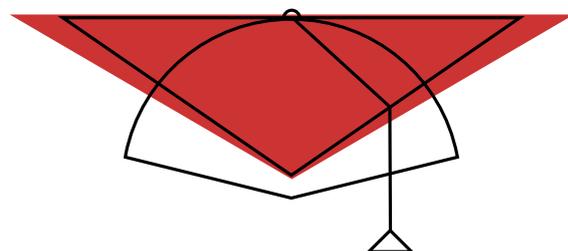
In order to reclaim all, or a proportion, of the VAT incurred on a purchase as above, it is necessary to hold a valid VAT invoice from the supplier.

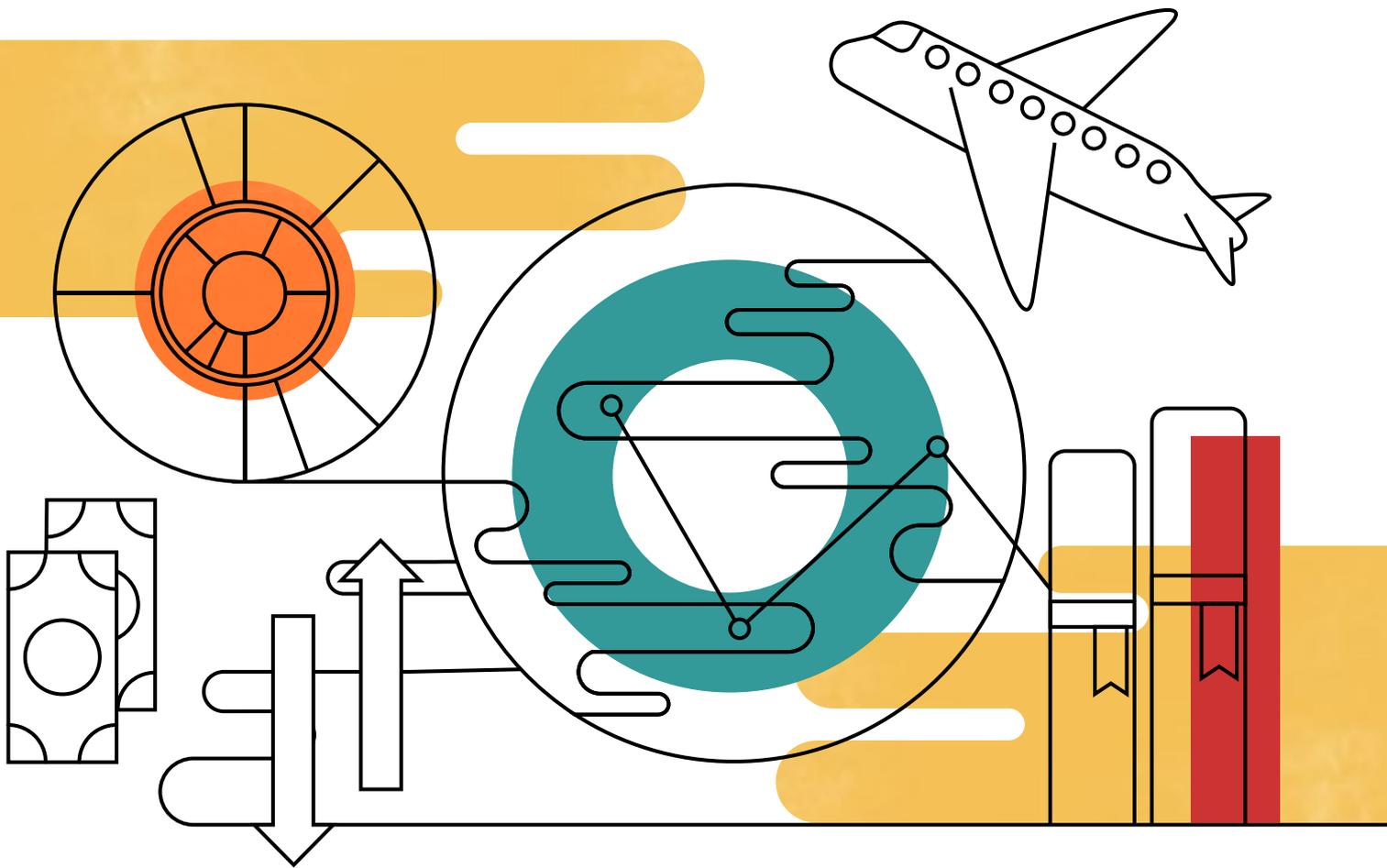
## Corporation Tax

Where funds are applied/used for non-charitable purposes, this gives rise to non-charitable expenditure. The charitable tax reliefs are all given on the proviso that the profits derived from those activities are applied for charitable purposes. Hence when a charity applies its funds for non-charitable purposes, this can create a corporation tax liability (as well as regulatory problems!).

Caution is required in relation to these areas:

- **payments to a body situated outside the UK** – the university should document how the funds will be used and carry out due diligence on the recipient of the funds, in order to demonstrate that they are being applied for charitable purposes. (This does not apply to the purchase of goods or services in the normal course of business).
- **expenditure incurred in relation to non-primary purpose trading ('NPP')** – where the university makes a loss on its NPP trading, HMRC will usually accept that the loss can be offset against non-charitable expenditure.
- **non-qualifying investments** – it is important to monitor the nature of investments to ensure that they fall into one of the *types of qualifying investments*.





# 02 International Taxes and Universities

## 2.1 Introduction

There has been an acceleration of the levying of taxes by overseas tax authorities on the activities of foreign businesses in their countries, especially during and following the pandemic. The generous tax reliefs that exist in the UK do not usually exist overseas and the activities of universities outside the UK may result in overseas direct and indirect taxes being payable.

Universities activities are often diverse, but when considering the tax requirements in a particular country, even though it may be difficult, it is crucial that **ALL** activities undertaken by the university as a whole are considered, regardless of the number of schools or departments undertaking them.

“Tax should not prevent overseas activities from taking place. However, potential tax liabilities, local compliance fees, and professional fees need to be built into costings or budgets”

Universities should ideally obtain professional advice before activities commence to ensure the most efficient structure is utilised, avoidable errors are not made, and there are no nasty surprises!

Tax should not prevent overseas activities from taking place. However, potential tax liabilities, local compliance fees, and professional fees need to be built into costings or budgets, so that a decision can be made as to whether a project is financially viable.

In some countries (for example, Canada, China, India, and the USA), not only does the university need to be aware of the **national** tax rules, but it also needs to be conscious of the tax rules in the **province** or **state** where students may be located, staff may be visiting, or a permanent establishment has been created.

## 2.2 Creation of a permanent establishment

A permanent establishment might be created because, for example:

- a university has a joint venture or partnership arrangement with an organisation in another country (such as a local university);
- university staff are visiting another country;
- the university has an overseas campus or other premises; or
- the university has chosen to set-up a local branch or non-UK resident subsidiary in another country and creates a permanent establishment due to the activities it undertakes.

## 2.3 International taxes and people

Where employees of a UK university work overseas, that overseas tax authority has the right to tax the income of the employee and ask for social security payments from the employee and employer. It is therefore imperative that universities have structured processes in place to ensure that these issues are reviewed, preferably before an employee starts to work overseas, in order to budget appropriately.

There is a myth that if an employee spends less than 183 days in a country then they will not have to pay tax there. Sadly, this is only sometimes true and so should not be used as a 'safe harbour'.

The question of whether tax and social security are due whilst an employee works overseas is often complex and will depend on a variety of factors, such as their duties or the length of time they will spend in that country. If tax and social security liabilities are triggered, the university will typically be expected to set up a payroll facility in that country to withhold and pay over appropriate tax and social security, which are often more expensive than in the UK. In some countries, the university may gain agreement that the employee and employer can continue to pay UK NIC rather than overseas social security, however, this should be agreed in advance.

Most problems with global mobility and employee movement occur because the appropriate departments in HR, finance, and payroll are not aware of employees working/living outside of the UK. Since the pandemic, universities have sought to alleviate issues for their employees, sometimes agreeing hybrid arrangements allowing employees to return to their home country but continue working remotely. However, departments are not always involving appropriate colleagues in HR, finance, and payroll, thus exposing the university to the risk of significant taxes, mandatory in-country benefits for the employee (e.g., pensions or healthcare) and fines overseas.

Frequent, open, and early communication of employee movement overseas between faculty, academics, and department heads with their payroll, finance, and HR colleagues can improve compliance, alleviate problems, and reduce costs and unwelcome surprises.

For more information on European global mobility – see [BUFDG's European Signposting document](#) and [BUFDG's Global Mobility Country Database](#).



## 2.4 International taxes and income

If the university does not have a permanent establishment in a country, the taxes that may be payable include:

- Digital taxes;
- VAT or Global Sales Tax (GST); and
- Withholding taxes – where a percentage of the amount payable by a customer is withheld/retained to pass over to the tax authorities.

Where a permanent establishment has been created, in addition to the taxes set out above, some form of tax on profits may be payable, with some countries (e.g., China) imposing an assumed profit level to calculate the tax.

### Online learning

One area that can create tax issues for universities is online learning, when international students access courses in their country of residence, or anywhere else outside the UK. The rules regarding what creates a tax liability vary from country to country. They are also changing rapidly, as countries seek to raise taxes following the economic turmoil of the pandemic.

For example:

- some countries do not tax online learning regardless of supplier;
- others do not tax online learning where the supplier has a particular status (e.g., an in-country publicly funded university); or
- others consider the proportion of live versus pre-recorded content, and how much virtual face-to-face access students have to lecturers, to decide whether tax is due.

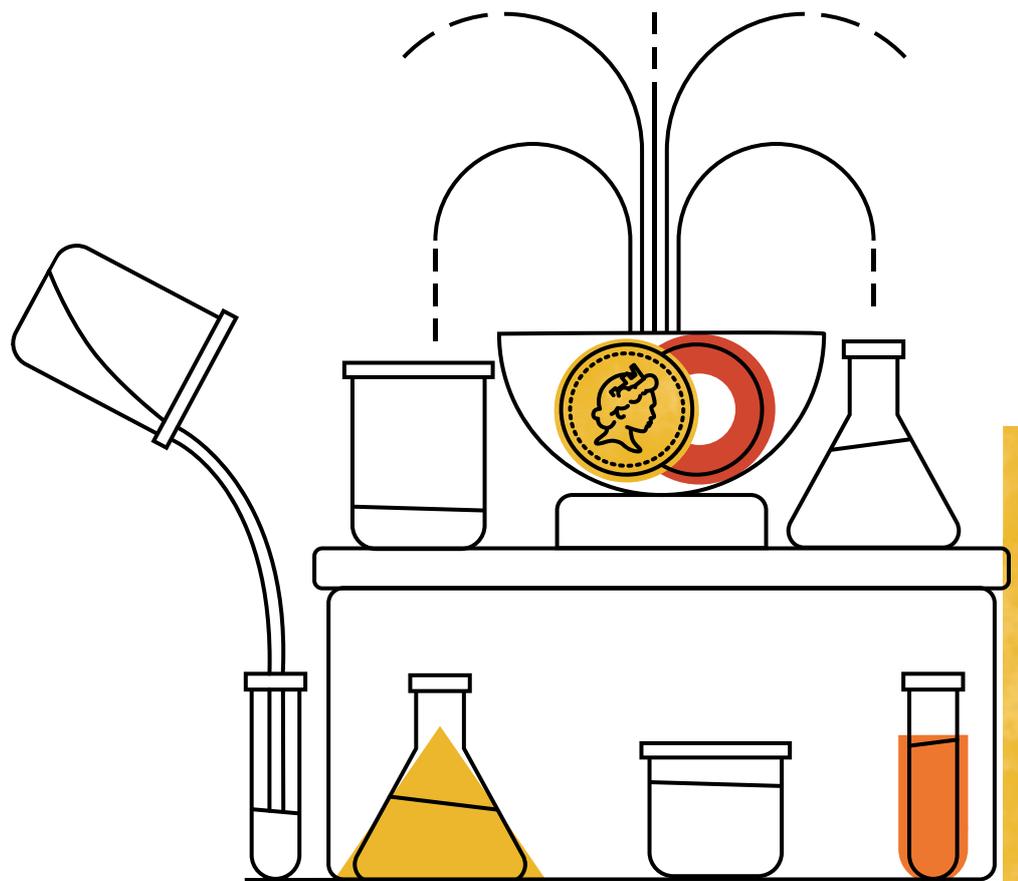
In order to be able to determine the relevant tax treatment, UK universities need to establish:

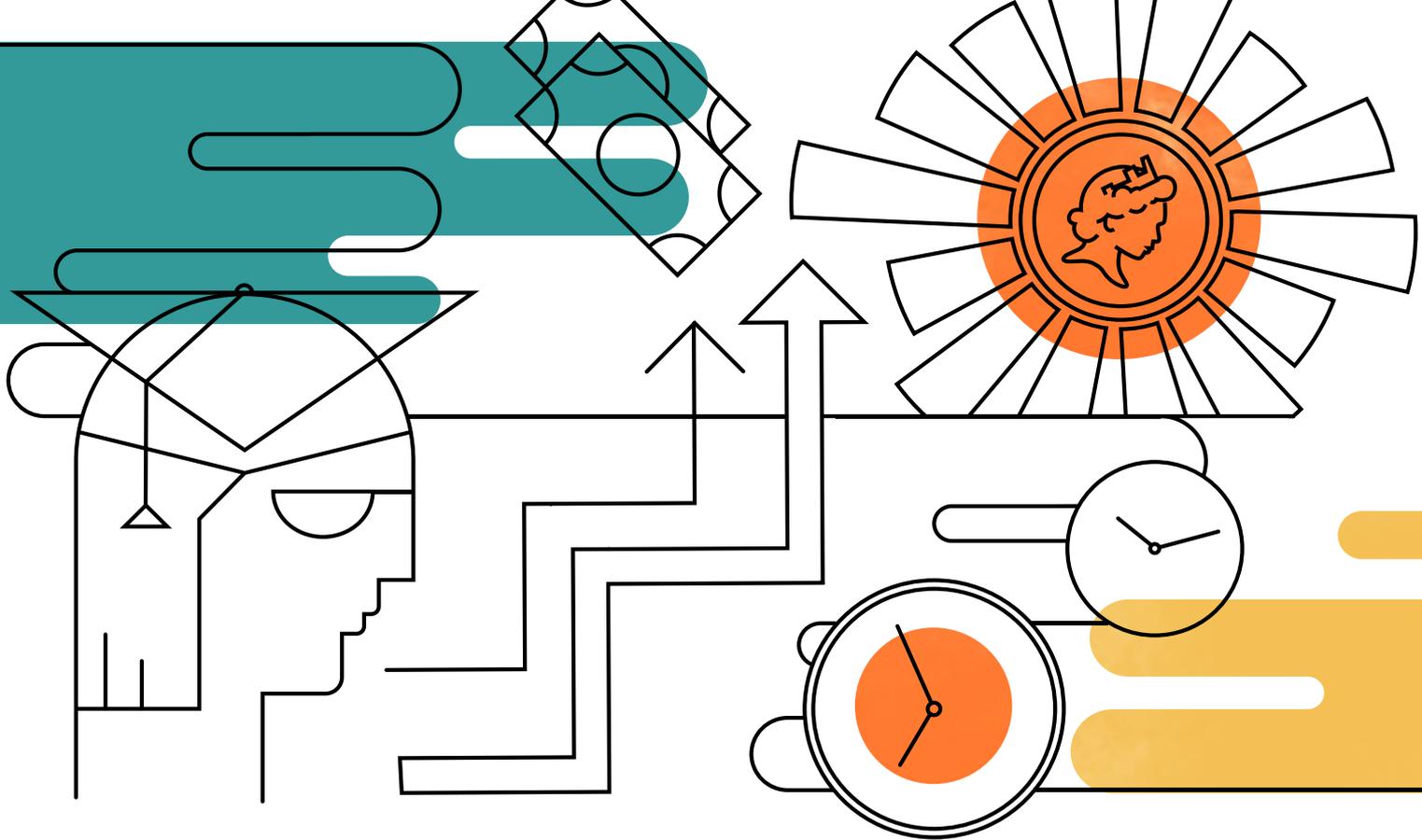
- what courses are being accessed overseas;
- where the students are accessing these courses; and
- how the course is delivered and examined, and what access the student has to lecturers.

## 2.5 International taxes and expenditure

Where international taxes are incurred, they are usually not recoverable, so need to be budgeted for as an extra cost.

Universities need to be aware of instances where double taxation can occur. For example, in some countries student recruitment exhibitions are regarded as taxable where they are carried out, whereas the UK tax authorities may (depending on the package) regard them as a marketing service, subject to the self-charge of VAT in the UK. This results in double taxation, i.e., tax paid in two countries on the same activity.



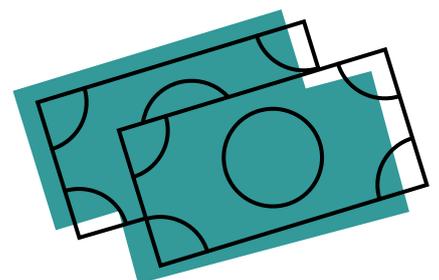


# 03 Challenges on the Horizon

## 3.1 Digitalisation of tax reporting

The UK has already introduced Real Time Information (RTI) reporting for Income Tax and National Insurance, and Making Tax Digital (MTD) reporting processes for VAT. We expect to see these requirements extended and accelerated across other taxes. For example, the introduction of MTD for Corporation Tax and submission of quarterly Corporation Tax returns (currently submitted annually) is under discussion.

Tax resources and finance systems will need to cope with the digital reporting changes that are likely to come over the next decade.



## 3.2 International tax issues

International issues are likely to only get more complicated.

The Organisation for Economic Co-operation and Development ('OECD') has already negotiated with a number of countries that tax should be paid where a service is accessed, rather than where a supplier is established.

The pandemic has changed the way we all work and how students access our services. We are likely to see more people 'working from home' and home will not necessarily be located in the same country as their employer. International students may choose to study 'at home' rather than travel to a UK campus.

And the cost and environmental implications of travel both internationally and within the UK, versus accessing learning online, is likely to become a more relevant factor as universities strive for ambitious Carbon Net Zero target dates.

Being able to react quickly, track students and staff overseas, and know what international activities your university is involved in will become increasingly important.

## 3.3 Penalty regimes

HMRC are concerned that there is a 'Tax Gap' - the difference between the amount of tax that HMRC calculate should be collected versus what is actually collected. More regimes are being introduced to encourage 'good behaviour', such as the points-based penalties system for late submission of VAT and Income Tax returns.

Having a robust finance system and audit trail, and access to sufficient internal and external tax resources, will continue to be crucial. Maintaining a tax risk register and having policies and internal guidance in place, which are demonstrably followed by staff, will help to verify compliance.

### 3.4 Extension of the range of UK taxes

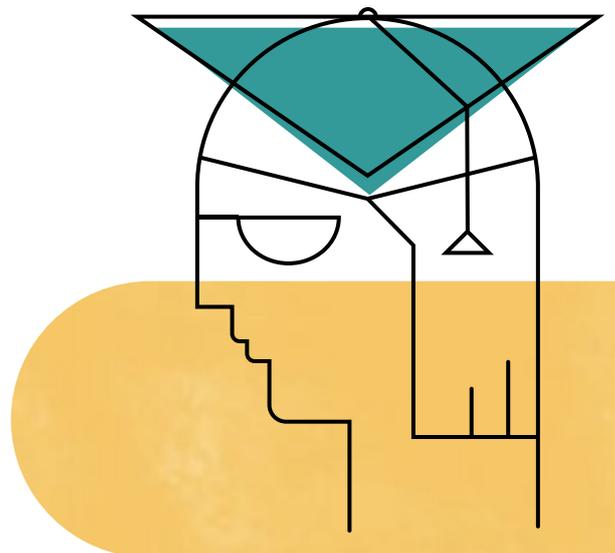
New taxes are on the horizon. For example, the Building Safety Levy and Residential Property Development Tax are being implemented to address the costs of safety issues associated with high rise residential units; the Plastic Packaging Tax will be payable by manufacturers and importers of more than 10 tonnes of plastic packing per annum to support the sustainability agenda; the Health and Social Care Levy will initially be introduced in 2022 as an increase in National Insurance (paid by both employers and employees), but from 2023 will become a tax in its own right to fund care for the UK's aging population.

Some of these taxes may simply become a cost component within a university's supply chain, whilst others may require them to collect and account for the tax. Systems will need to be flexible enough to cope with these changes.

### 3.5 Conclusion

Whatever the future brings, it's clear that tax in universities remains a complex issue!

“Having a robust finance system and audit trail and access to sufficient internal and external tax resources will continue to be crucial.”



# Useful Resources

There are a number of useful tax resources available to universities:

HMRC's guidance can be found on [GOV.UK](https://www.gov.uk)

**BUFDG** provides updates and training sessions on current tax issues. Its members also share experiences and knowledge via discussions boards. BUFDG also provides some useful e-learning courses on tax and other topics ([see BUFDG's e-learning pages for details](#)). The introductory tax courses include:

- Introducing VAT in H E
- Intro to Corporation Tax in H E
- Benefits in H E
- Expenses in H E

The professional firms have a great deal of useful information on their websites.

Principal regulatory bodies:

- **England**, the [Office for Students](#) and [The Charity Commission for England and Wales](#);
- **Northern Ireland**, the [Department for the Economy](#) and [The Charity Commission for Northern Ireland](#);
- **Scotland**, the [Scottish Funding Council](#) and the [Scottish Charity Regulator](#); and
- **Wales**, the [Higher Education Funding Council for Wales \(HEFCW\)](#) and [The Charity Commission for England and Wales](#).

