Tax Investigation Service: Offshore Matters & Foreign Income

Our Tax Investigation and Dispute Resolution Team has extensive experience (including ex-Fraud Investigation Service experience) to assist you.

Whether you have received a nudge letter, are the subject of an enquiry, or are looking to make a disclosure, our team can assist.

HM Revenue and Customs (HMRC) is concerned that anyone with a connection or interest to an offshore asset, trust, LLP, and a company may not have declared all of their income and gains (irrespective of innocent error, careless or deliberate behaviour), even though the assets and structures were set up for perfectly legitimate reasons and are tax compliant.

Over the years, HMRC has operated a number of disclosure facilities with the aim of allowing people to disclose any tax errors, which have arisen from offshore assets and entities, regardless of whether the arrangements were set up to avoid or evade tax.

The requirement to correct legislation and failure to correct penalties

In September 2016, HMRC commenced the [Worldwide Disclosure Facility (WDF)] which unlike its predecessors does not offer immunity from a criminal prosecution.

Legislation has also been enacted which has been designed to charge harsher penalties where individuals, trustees, and corporates fail to disclose offshore income and gains which would be liable to income tax, capital gains tax and inheritance tax. The most punitive legislation being the Requirement to Correct Legislation (RTC) which required anyone to disclose and/or correct all irregularities that may have arisen from offshore assets, entities, structures and transfers affecting tax years up to and including 5 April 2016, by 30 September 2018.

Anyone who failed to do so could now potentially be subject to a criminal investigation, and/or be 'named and shamed', and be liable to penalties of up to 200% of the tax evaded, an asset moved penalty of up to 100% of the tax evaded, as well as an asset-based penalty.

Why has HMRC taken this approach?

HMRC has adopted a harsher approach following the automatic exchange of information commonly known as the Common Reporting Standards (CRS). So far, over 105 countries have agreed to exchange details of banks and other financial accounts held by individuals, trustees and corporates who are resident in other countries. HMRC is using this large data to undertake enquiries into the highest risk cases or issue nudge letters to taxpayers asking them to check if their tax returns are correct.

HMRC will also be receiving further information as Trusts are now required to register with HMRC, and any entities holding UK properties will also be required to register with Companies House in the UK.

What should you do?

It could be that offshore assets and/or structures which were previously, are no longer tax compliant if there has been a failure to regularly review the impact of new or impending legislation on their tax position. It is therefore important for any person who has an interest or connection to an offshore asset and/or structure to check whether they are still tax compliant or not.

Any person who has failed to disclose any overseas income, capital gains, or inheritance tax should consider making a disclosure as failure to do so, could adversely impact the penalties that HMRC may seek from you.

For more information and advice, please contact:

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