Client Notification Letters: Results of a CIOT and ATT member survey

Management of taxes

01 April 2018

We surveyed our members during November 2017 for their views on how they approached compliance with the obligations imposed on them by the International Tax Compliance (Client Notification) Regulations 2016 and to obtain feedback on their experiences.

The regulations placed an obligation on tax advisers who provided offshore advice or services in the year to 30 September 2016 (beyond solely the preparation and delivery of tax returns) to send certain clients a notification comprising an HMRC branded document and standard wording for inclusion in a covering letter or email by 31 August 2017.

The survey asked a number of specific questions about the approach members took to complying with the exercise, the challenges they faced in complying, the costs of complying, how clients responded and whether members thought the exercise achieved its objective. The survey also gave respondents the opportunity to add their own comments. It was specifically directed at the person(s) who dealt with the notification exercise either for themselves (if practising as a sole practitioner) or for their firm. We are very grateful to the members who responded for the feedback they provided.

The results of the survey formed the basis for a report we recently published on our websites – see the CIOT website and ATT website.

Responses revealed that members did not find the exercise straightforward. The time and costs involved in complying with the notification requirement were clearly an issue, along with resentment that members felt they were doing something that they thought HMRC should have been doing.

In our report we say that, before imposing any similar requirement on tax advisers in the future, HMRC should review and evaluate the exercise to ascertain not only whether it achieved its objectives, but whether using tax advisers to communicate messages from HMRC to their clients was more effective than sending the messages themselves. Given the burden it placed on tax advisers, we think it would be unreasonable for HMRC to repeat the exercise without conducting a post-implementation review. We say that they should also undertake a comprehensive consultation with stakeholders before any similar obligations are imposed in the future.

We sent our report and the survey results to HMRC so that they are aware of members' views and said that we are happy for the results to be used in a post-implementation review.

Turning to some of the key findings of the survey; many respondents reported that it was difficult to identify the correct population of clients to whom a letter should be sent. This was due to various reasons:

- the complexity of and difficulty in interpreting the legislation;
- the quality of HMRC's guidance; and
- client databases that did not easily enable identification of the relevant clients.

It appears that many advisers took the practical decision to send the letter to every client rather than adopt either the specific or general approach. 39% of respondents sent a letter to every client.

Respondents said that they found the exercise to be costly and time-consuming, with many reporting that they had not been able to, or not felt able to, recover the costs from their clients.

A small but significant proportion (14%) of respondents reported that a client (or clients) had come forward to disclose previously undisclosed offshore income or gains as a result of receiving the letter. Specific comments revealed only insignificant disclosures by clients that advisers were aware of. It would be interesting to know if HMRC experienced a spike in people coming forward following 31 August 2017, and in what number. However, we suspect that it is too early to say with certainty whether the letter has or has not had the desired effect of increasing awareness amongst taxpayers of their obligations relating to offshore income and gains, and/or disclosures to HMRC.

There had been some concerns expressed beforehand by the agent community that the notification exercise might have a negative impact on the adviser/client relationship. It appears that these concerns were unfounded with 81% of respondents reporting that the exercise had no effect on the relationship. However, comments suggest that this must have been at least partly due to the way advisers managed the exercise and worded the letters in order to minimise any distress to clients.

Comments from members who received feedback from clients revealed that the letters caused worry and confusion for clients whose tax affairs were in general up-to-date and compliant. Respondents reported that dealing with queries from the ‘worried compliant’ was time-consuming and ultimately unnecessary. Several members reported very little, if any, response from any clients at all.