Disclosure of tax avoidance schemes (DOTAS) – revised form AAG6 and new form AAG7

Management of taxes

01 October 2015

CIOT comments on the draft forms published by HMRC

The CIOT has commented on two DOTAS forms that HMRC recently published in draft. They are revised form AAG6 (Notification of Scheme Reference Number (SRN) – 'you are involved in a DOTAS scheme') and new form AAG7 (Notification of SRN – 'you are involved in a DOTAS scheme implemented by your employer').

We have said that we think that the revised form AAG6, with modified wording as suggested below, is the right approach for providing taxpayers with an SRN so that they have the information to add into their tax returns, as they are obliged to do.

However, we have reservations about AAG7 and do not think it should be issued. It is likely that employees who receive it will be concerned by it. We would question whether employees should be put in such a position. We particularly question whether this is right if a scheme gives rise to PAYE or NIC liabilities that will fall on an employer.

We do not understand the reference on AAG7 to a more general scrutiny of an employee's affairs, and question whether this is a reflection of HMRC's proposed approach now to all users of avoidance schemes.

We note that both forms are given over mainly to warnings about the consequences of engaging in tax avoidance schemes. Our concerns are:

1. Broadly, we question whether these forms are the appropriate medium to deliver such material to taxpayers. We appreciate HMRC's desire to ensure

taxpayers understand the consequences of entering into avoidance transactions but, given that arrangements HMRC would regard as vanilla are likely to be caught by the DOTAS regime, a more targeted approach would be preferable.

2. The approach here reflects the broader concern we have expressed previously that HMRC now view the DOTAS regime as a signifier that taxpayers are engaged in unacceptable conduct rather than an information-gathering mechanism. We have made the point previously that this risks undermining engagement with it. If HMRC are to repurpose the regime in this way, we believe there is a need fundamentally to revisit the hallmark system.
3. The language used in the forms is highly emotive, such as the use of the term ‘tax dodger’. Although we broadly agree that taxpayers should be made aware of the accelerated payment regime, the risk of HMRC challenge and litigation and that DOTAS arrangements are not ‘Revenue approved’, we believe this could be more professionally expressed.

The full text of the CIOT’s response can be found on the CIOT website.