Offshore tax compliance and international tax debt: CIOT and LITRG responses

Management of taxes | Personal tax

30 July 2021

The CIOT and LITRG have recently responded to two related HMRC discussion documents in which HMRC asked for views on how best to improve offshore tax compliance and prevent mistakes occurring, and on how best to prevent international tax debt occurring and how best to collect it when it does occur.

Helping taxpayers get offshore tax right

In its response to this discussion document, the CIOT says that it supports HMRC's efforts to improve compliance in the complex area of offshore taxation and that we strongly agree that the best way to tackle non-compliance is to prevent it happening in the first place. In general, we agree with HMRC's analysis of why offshore non-compliance can happen and support the suggestions in the discussion document to try to help taxpayers get their offshore tax right first time; however, we think that the role that simple mistakes and misunderstanding of the rules plays in producing inaccurate tax outcomes could be being underestimated. We also note that while some of the rules on offshore taxation remain as complicated as they are at present, it seems inevitable that mistakes and misunderstandings will continue.

We suggest that HMRC provide more information about the sorts of errors with offshore tax which they see being commonly made by taxpayers. Efforts could then be focused in the first instance on identifying solutions to the most common errors.

We also suggest that it would help improve compliance and reduce errors and omissions in tax returns if HMRC were prepared to share more of the offshore data they have about taxpayers (for example, from exchange of information with other

jurisdictions) with the taxpayers concerned and their agents.

We note that there are several practical problems with registering with HMRC and contacting HMRC from overseas, and solutions to these problems should be explored.

We suggest that consultation be carried out to explore whether changing the UK's tax year from 5 April to 31 December would help with international data sharing and improve compliance. However, changing the tax year would have implications for the whole UK tax system so we suggest that HMRC should consider consulting on changing the UK tax year as part of the current Tax Administration Framework Review, also noting that the Office of Tax Simplification has recently published a scoping document on the subject.

We think the terminology around offshore tax is confusing for taxpayers and agree that it does lead to misunderstandings and errors. In particular, the term 'offshore' is ambiguous. We suggest the consistent use of the term 'non-UK' instead of 'offshore', 'overseas' or 'foreign'. Terms like 'non-compliance' and 'inaccuracy' do not mean much to the general public so perhaps using simpler language like 'mistakes' or 'errors' would be better. There is also the risk that people associate the term 'offshore tax non-compliance' with tax evasion and assume that messages about it are not relevant to them even though they might be.

Information about offshore tax is not particularly easy to find on GOV.UK so improving accessibility of this information and putting it all in one place may help to improve compliance, especially for unrepresented taxpayers. However, we note that this will not be sufficient on its own to raise awareness and increase knowledge, so we make various suggestions about further communication mediums which could be investigated.

LITRG's response focuses on unrepresented taxpayers who have not disclosed their offshore income because they did not realise it was taxable in the UK – a common and understandable mistake when the income is already being taxed and reported offshore. LITRG agrees that HMRC's suggested use of prompts to this group of taxpayers could be useful, but says that it must be accompanied by links to accessible guidance to avoid under-reporting becoming over-reporting if, for example, double taxation relief is not applied correctly.

The CIOT's response can be found at: www.tax.org.uk/ref776 LITRG's response can be found at: www.litrg.org.uk/ref2493

Preventing and collecting international tax debt

In its response to this discussion document, the CIOT says that it supports HMRC's aims in seeking to prevent the creation of international tax debt and to improve its collection. However, without having a much fuller breakdown of the composition of international tax debt and how it might have arisen, it has been difficult to identify targeted solutions to tackle it. Consequently, many of the observations and comments we make are at a necessarily high level.

We recommend that HMRC start copying letters pursuing international tax debts to a person's authorised UK tax agent (if they have one) at the same time as they are sent to the individual concerned. The agent may be in a better position to communicate with the individual, explain the position and help them to navigate HMRC's systems and arrange payment of the outstanding tax due sooner.

We think there must be potential for greater use of cooperation with other overseas jurisdictions in the collection of international tax debts. Greater international cooperation in fiscal matters has been a feature of the last few decades, e.g. in the areas of tax avoidance and exchange of information, but it is less clear in the area of overdue tax collection, as far as we can tell.

We recommend that there should be more consultation before any changes to the rate of tax withheld from payments to non-UK resident entertainers and sports professionals are considered because it is not clear from the discussion document how large a problem this is in general or in relation to the overall size of the UK's international tax debt. There should be greater analysis undertaken by HMRC to establish the size of the problem before any further consultation is carried out.

Information about HMRC's powers in this area is not particularly easy to find on GOV.UK so we suggest that improving accessibility of this information and putting it all in one place may help to improve compliance. Since many taxpayers with international tax debt may not speak English as a first language, we recommend that HMRC consider providing communications and guidance in languages other than English.

LITRG’s response echoes this, also highlighting that much of the ‘debt’ attributable to unrepresented taxpayers might be reduced once it is checked to be accurate and in time to assess. Similarly, Self Assessment records for repatriating migrants are often not closed down properly, leading to significant late filing penalties against their name which could be appealed with a simple phone call.

LITRG goes on to suggest that the departure notification process needs review, as the purpose and function of P85 can be unclear. This could help HMRC get better data on taxpayers to help in the collection of international tax debt, as well as assist in ensuring that taxpayers get refunds for the tax year of departure.

The CIOT’s response can be found at: www.tax.org.uk/ref777 LITRG’s response can be found at: www.litrg.org.uk/ref2493 The CIOT would also like to thank volunteers who attended the workshops which HMRC ran during May 2021 to explore the issues raised in both discussion documents.