A Requirement to Correct–HMRC consultation

Management of taxes

01 December 2016

CIOT responds to HMRC's latest consultation on tackling offshore tax evasion.

As we reported in September's Technical Newsdesk (*Offshore tax evasion – consultation on Requirement to Correct*), this is the latest in a series of consultations by HMRC which is considering changing the sanctions available for offshore tax evasion. It is proposing to introduce a 'Requirement to Correct' (RTC) obligation that aims to compel those with offshore interests who have yet to put their UK tax affairs in order to do so by September 2018 ahead of the widespread adoption of the Common Reporting Standard (CRS). Taxpayers who fail to correct their tax affairs by September 2018 will be subject to a single, tougher set of Failure to Correct (FTC) sanctions for offshore tax evasion.

The CIOT supports HMRC's efforts to tackle tax evasion and we welcome this latest initiative to encourage taxpayers to review their offshore affairs and put them back onto a compliant footing where necessary. The RTC requires taxpayers to correct their tax affairs without specific prompting from HMRC, so we believe that effective communication of the proposals is the key to their success. As HMRC recognise, there are still taxpayers who have not put their offshore affairs in order not necessarily because they are deliberately trying to evade their responsibilities, but because they may have failed to take care with their obligations or because they have not reviewed their financial affairs recently and do not realise that they are no longer compliant. These taxpayers do not tend to identify themselves with the category of 'tax evaders' and consequently it has been difficult in the past to find an effective way for HMRC's messages to reach them. Such taxpayers now need to act.

The implementation of the CRS is a sea change with over 100 countries currently committed to the standard to automatically exchange taxpayer information. The 54

early adopters begin exchanging data by 2017 with all others exchanging by 2018. The extent of the ‘game changing’ sharing of data and how HMRC will use the data must be effectively conveyed to non-compliant taxpayers so that it incentivises them to come forward. HMRC must do all they can to ensure publicity reaches all these taxpayers given the significant penalties facing those who fail to correct. We would recommend a major publicity campaign across the general media not just on the HMRC website or in tax publications which, understandably, ordinary taxpayers are very unlikely to read. The campaign would ideally pick up the whole area of CRS data, offshore evasion penalties and the RTC obligations as well as the Worldwide Disclosure Facility (WDF).

The ‘adviser letters’ (introduced by the International Tax Compliance (Client Notification) Regulations 2016, which came into force on 30 September 2016) form an important part of HMRC’s communication strategy. HMRC need to communicate these obligations quickly and effectively to advisers so that advisers are aware of their responsibilities in this area and are clear what they need to do to comply with them. Due to the fact that the regulations include several exemptions, it is quite likely that in many cases only a small number of clients will receive the letter unless an adviser decides to take a broad-brush approach and write to all their individual clients. It remains to be seen whether the measure is appropriately targeted and whether it will encourage those who do have something to disclose to come forward.

Therefore we think it would assist if HMRC were clearer with taxpayers and their advisers about what they can expect from HMRC going forward, and in particular how they intend to use the CRS data. This would help incentivise taxpayers to make disclosures during the RTC period, get their affairs in order and continue to remain compliant in the future.

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