HM Revenue
& Customs

The International Tax Compliance (Crown Dependencies and Gibraltar) Regulations 2014

Who is likely to be affected?

Financial institutions carrying on business in the UK, this includes companies, individuals, trustees, partnerships or authorised operators of funds.

General description of the measure

In compliance with the UK's obligations under the agreements ("the Agreements") reached between the Government of the United Kingdom with the Isle of Man, Guernsey, Jersey and Gibraltar to improve international tax compliance, HM Treasury is introducing regulations creating due diligence and reporting obligations for UK businesses in relation to accounts maintained for specified persons, that is, accountholders who are tax resident in those jurisdictions.

The regulations implement the Agreements and allow UK businesses to collect and provide information on specified persons, to HM Revenue and Customs (HMRC).

Policy objective

During October and November 2013, the UK signed reciprocal agreements with Guernsey, Jersey, and the Isle of Man and Gibraltar. Under these agreements, each government has committed to an annual automatic exchange of information relating to financial accounts maintained by financial institutions in their territory which belong to the other party's tax residents.

These agreements are an important part of the UK's policy of improving fairness in the tax system and tackling offshore evasion, through increasing the effectiveness of HMRC's compliance activity as well as increasing the deterrent effect, both of which stem from the increased use of automatic tax information exchange. Greater tax transparency and the automatic exchange of information, is a key part of the Government's wider offshore evasion strategy, as outlined in the policy document *No Safe Havens* published at Budget 2013.

The agreements are consistent with the earlier agreement between the UK and the US to improve international tax compliance and implement FATCA (signed on 12 September 2012) and also include subsequent developments in the model used as the basis of that agreement. This consistency minimises costs for HMRC and businesses as reporting and exchange obligations can operate on as uniform a basis as possible. This is also important in the context of further multi-lateral work taking place in this area to develop a global standard for automatic exchange of information based on the agreements being signed with the US. There are, however, some differences from the agreements being signed with the US which reflect the differing risk profiles posed by the closer integration of the financial markets of the UK and the territories, including access to financial products by residents of one territory in the financial market of another of these territories.

Background to the measure

At Autumn Statement 2012, the government announced that it would look to negotiate intergovernmental agreements aimed at countering evasion through automatic exchange of information, similar to the agreement signed with the US in September 2012.

Soon afterwards, the Isle of Man, Guernsey and Jersey and Gibraltar all announced they would look to negotiate agreements with the UK. These agreements have now been signed.

Building on networks established in developing the agreement with the US, UK officials consulted regularly with UK businesses and representative bodies during negotiation of the agreements.

HMRC issued a discussion document based on a model agreement entitled: “Implementing the UK’s Agreements with the Crown Dependencies to Improve International Tax Compliance” on 26 June 2013. A summary of the responses was published on 12 December 2013 and is available on the HMRC website.

Draft Regulations were published on 12 December 2013 for further comment and input.

Detailed proposal

Operative date

The regulations are intended to come into force on 31 March 2014 and will have effect, for Guernsey, Jersey and Isle of Man and Gibraltar financial accounts (as defined in the legislation) maintained on or after 30 June 2014.

Current law

Current law does not allow financial institutions to pass information within the scope of the measure either directly to Guernsey, Jersey and the Isle of Man and Gibraltar or to HMRC on a voluntary basis, nor does it enable HMRC to require it in respect of these territories.

Proposed revisions

Clause 222 of Finance Bill 2013 introduced a power to allow HM Treasury to introduce regulations for the purpose of giving effect to the UK–US Agreement, and future similar arrangements. These four agreements fall within the scope of “future similar arrangements”.

The regulations define the key terms, such as financial institution and reportable account, included in the Agreements and also set out the required due diligence and reporting requirements of UK financial institutions.

The regulations also include a targeted anti-avoidance provision and provisions relating to penalties for non-compliance.

Summary of impacts

Exchequer impact (£m)	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
	+20	+160	+380	+310	+170	+95
	The Office for Budget Responsibility has included these numbers in its forecast. These figures relate to the Crown Dependencies and include both the impact of the Crown Dependency information exchange agreements as well as the disclosure facilities. The Exchequer impact of the Gibraltar agreement is included in the Exchequer impact of the Automatic exchange of information agreements with the OTs. These figures are set out in Table 2.1 of the Autumn Statement 2013 and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside the Autumn Statement					

Economic impact	The measure is not expected to have any significant macroeconomic impacts but will have a positive impact on the UK economy through the recovery of evaded UK tax.
Impact on individuals and households	No impacts are expected on tax compliant individuals or households.
Equalities impacts	There are no impacts on any group which shares a protected characteristic.
Impact on business including civil society organisations	The requirement on UK businesses to provide information to HMRC for automatic exchange under these four new agreements imposes a new and on-going administrative burden on some UK businesses. Maintaining as high a level of consistency as is practicable between these agreements and the models used with the US and the common reporting standard under development internationally will minimise these additional burdens. In terms of the additional reporting required, UK financial institutions will now have to search for accounts held by residents of Guernsey, Jersey, the Isle of Man and Gibraltar. Businesses will also then have to report the necessary information to HMRC for onward transmission. Where possible the Government has introduced requirements in a way that allows businesses to 'future proof' their systems in anticipation of the Government's policy to enter into further similar agreements. Some UK businesses will be caught by the requirements of these agreements which are not caught by the UK agreement with the US. For example there are new obligations in respect to reporting on defined insurance products in existence at the commencement date of 30 June 2014. Estimates of compliance costs are shown in the table below, including an estimate of total costs for a five year period at present value. It is estimated there will be an increase in administrative burden to businesses affected of £7-15m per annum as a result of the new information gathering and reporting requirement. One off costs relating to training and collecting information from existing accounts are estimated to be approximately £20m-£45m

	Cost	Time Period (yrs)
Compliance Costs		
One-off costs	£20m - £45m	N/A
Average annual cost	£7m - £15m	5
Total Cost (PV)	£50m - £110m	5
Compliance Benefit		
One off Benefit	£0	N/A
Average Annual Benefit	£0	N/A
Total Benefit (PV)	£0	N/A
Net Benefit (NPV)	-£50m – -£110m	N/A
Impact on Administrative Burdens (including net benefit)		
Increase	Decrease	Net Impact
£7m-£15m	£0	£7m-£15m

Operational impact (£m) (HMRC or other)	The Government has estimated the additional costs to HMRC of implementing automatic exchange of information to the Crown Dependencies and Gibraltar at between £0.375 million and £0.775 million.
Other impacts	Small and micro business assessment: financial institutions of any size are in scope of the Inter-Governmental Agreements so the reporting requirements now being introduced will place additional burdens on small financial institutions. The agreements concluded with the US provide for reduced reporting obligations for businesses with a local client base. These agreements do not include a similar provision due to the much closer integration between the markets of the territories in question and therefore the greater risk posed by tax evasion. We have however looked to take on board the concerns of small institutions and their representative bodies to ensure the requirements under the agreements minimise burdens on small firms as far as possible. This includes a number of exemptions, including threshold values which take lower value accounts out of reporting requirements. This will support small businesses, particularly those which only have lower value accounts. Other impacts have been considered and none have been identified.

Monitoring and evaluation

The measure will be monitored through information collected through the information exchange arrangements, tax returns and compliance work undertaken by HMRC.

Further advice

If you have any questions about this change, please contact Andy Beazley on 03000 586080 (email: andy.beazley@hmrc.gsi.gov.uk).

Declaration

David Gauke MP, Exchequer Secretary to the Treasury has read this Tax Information and Impact Note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.