HM Revenue
& Customs

Strengthening penalties for offshore non-compliance

Who is likely to be affected?

Individuals, personal representatives and trustees with hidden income, gains or assets overseas.

General description of the measure

The measure will extend, update and complement the existing penalty regime for non-compliance which involves an offshore matter, supporting the overall offshore evasion strategy, ensuring taxpayers pay their fair share and penalising those who do not. There are four elements:

1. extending the existing offshore penalty regime to include inheritance tax (IHT);
2. extending the offshore penalty regime to offences where the proceeds of non-compliance are hidden offshore;
3. updating the territory classification system to reflect the new Common Reporting Standard (CRS); and
4. introducing a new aggravated penalty of moving hidden funds to avoid the CRS.

Policy objective

This measure makes the tax system fairer, by strengthening civil sanctions for the small minority who evade tax by hiding taxable income, gains and assets offshore, and contributes to building the deterrent effect.

Background to the measure

This measure was announced in Autumn Statement 2013. A consultation document entitled *Tackling offshore tax evasion: Strengthening civil deterrents* was published on 19 August 2014. The consultation closed on 31 October 2014.

Detailed proposal

Operative date

Following the numbering above:

1. this measure will have effect on and after 1 April 2016;
2. this measure will have effect on and after 1 April 2016;
3. this measure will have effect on and after 1 April 2016; and
4. this measure will have effect on and after the date that Finance Bill 2015 receives Royal Assent.

Current law

Under Paragraphs 4, 6 and 6 of Schedule 24 to the Finance Act (FA) 2007, Schedule 41 to the FA 2008 and Schedule 55 to FA 2009 respectively, the rate of penalty applicable for non-compliance involving “an offshore matter” (defined at Paragraphs 4A, 6A and 6A of the above Schedules) may be higher than applying to domestic matters, band is restricted to income tax and capital gains tax only.

Paragraph 21A of Schedule 24 FA 2007 details the criteria which HM Treasury must consider in order to classify a territory into one of three categories, which link the existence of and level of information exchange to the rate of the penalty applicable.

Proposed revisions

Legislation will be introduced in Finance Bill 2015 to amend FA 2007, FA 2008 and FA 2009, so that the offshore penalty regime:

1. includes IHT;
2. covers cases where the proceeds of domestic non-compliance are situated or held outside of the UK;
3. has four (instead of three) levels of penalty, where the existing lowest level will apply to territories that adopt automatic exchange of information under the CRS; territories will be re-classified in a new Statutory Instrument; and
4. includes a new type of penalty which is triggered following a movement of offshore assets to continue evading tax.

Summary of impacts

<table>
<tr><td rowspan="3">Exchequer impact (£m)</td><td>2014-15</td><td>2015-16</td><td>2016-17</td><td>2017-18</td><td>2018-19</td><td>2019-20</td></tr>
<tr><td>-</td><td>nil</td><td>negligible</td><td>negligible</td><td>negligible</td><td>negligible</td></tr>
<tr><td colspan="6">This measure is expected to have a negligible impact on the Exchequer.

This measure supports the Exchequer in its commitment to protect revenue.</td></tr>
<tr><td>Economic impact</td><td colspan="6">The measure is not expected to have any significant economic impacts.</td></tr>
<tr><td>Impact on individuals, households and families</td><td colspan="6">There are no expected impacts on tax compliant individuals and households. The measure will only affect non-compliant individuals who become liable to a penalty for carelessly or deliberately submitting inaccurate information or failing to notify HM Revenue & Customs (HMRC) about their taxable income or gains from activities and sources or assets held offshore.

Where applicable all current safeguards such as recourse to an HMRC Review, independent Tribunal, reasonable excuse and reasonable care claims will continue.

The measure is not expected to impact on family formation, stability or breakdown.</td></tr>
<tr><td>Equalities impacts</td><td colspan="6">Any affected equality groups are likely to be those over represented amongst those of above average wealth.</td></tr>
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Impact on business including civil society organisations	This measure is expected to have a negligible impact on businesses and civil society organisations.
Operational impact (£m) (HMRC or other)	HMRC will incur approximately £0.5 million in IT change costs.
Other impacts	Other impacts have been considered and none have been identified.

Monitoring and evaluation

This measure will be monitored through information collected in compliance work to ensure the legislation operates as intended.

Further advice

If you have any questions about this change, please contact Amit Puri on 03000 526801 (email: amit.puri@hmrc.gsi.gov.uk).