HM Revenue
& Customs

Disclosure of Tax Avoidance Schemes regime changes

Who is likely to be affected?

Firms and individuals who engage in tax avoidance either as promoters who design and sell avoidance schemes, or those who use them.

General description of the measure

This measure strengthens the Disclosure of Tax Avoidance Schemes (DOTAS) regime by: updating the rules determining what has to be disclosed to ensure avoidance being marketed and used now is disclosed; changing the information that must be provided to HM Revenue & Customs (HMRC); enabling HMRC to publish information about promoters and disclosed schemes; and establishing a taskforce to enforce the strengthened regime.

Policy objective

While the majority of taxpayers in the UK comply in full with their tax obligations without resorting to tax avoidance schemes, a minority try to avoid tax, usually using schemes that do not deliver the tax results they promise. The Government has made clear that it will act against them and therefore wants to ensure that those who design or market tax avoidance schemes cannot side step the DOTAS rules. For this reason some features of DOTAS need updating.

Background to the measure

DOTAS was introduced in 2004 to provide early information to HMRC about tax avoidance schemes and their users. It has been amended a number of times to ensure it remains up-to-date and can identify tax avoidance schemes as the tax avoidance market changes.

The intention to strengthen DOTAS in Finance Bill 2015 was announced at Budget 2014 and was followed by a consultation which ran until 23 October 2014. A response document and draft legislation for consultation was issued 10 December 2014. Alongside this HMRC has looked into options aimed at increasing DOTAS compliance and transparency that can accompany these changes.

Detailed proposal

Operative date

Changes to primary legislation included in Finance Bill 2015 will come into force on the date of Royal Assent. Changes that will be made through secondary legislation will be made and come into force shortly after Royal Assent. Further changes to secondary legislation under existing powers will come into force at a later date.

Current Law

DOTAS is provided for in Part 7 of the Finance Act (FA) 2004. The detail of what has to be disclosed and the information that must be provided to comply with the regime is set out in regulations. The main regulations impacted by this measure are in SI2006/1543, SI2012/1836, S2011w/170 and SI2004/ 1865.

Section 98C Taxes Management Act 1970 which provides for penalties for persons who fail to comply with the regime.

Regulations currently provide for hallmarks to cover schemes involving income tax, corporation tax, capital gains tax, inheritance tax, stamp duty land tax and the annual tax on enveloped dwellings.

DOTAS also requires disclosure of certain schemes involving National Insurance contributions. Section 132A of the Social Security Administration Act 1992 provides for regulations to extend DOTAS tax legislation to National Insurance contributions.

Proposed revisions

A number of changes will be made to Part 7 of FA 2004 and in regulations to the hallmarks:

- The rules defining promoters are being changed to ensure disclosure is made by persons resident in the UK where a promoter not resident in the UK fails to disclose. This includes a power to enable HMRC to identify users of undisclosed tax avoidance schemes so that they can be pursued for disclosure.
- The penalty applicable to scheme users who fail to correctly report their use of the scheme to HMRC is increased.
- The descriptions of what has to be disclosed will be updated in regulations.
- HMRC will be able to publish information about promoters and disclosed schemes.
- An employer who enters into a scheme in relation to the employment of its employees will have to provide employees with the SRN and will have to periodically provide HMRC with information about the employees.
- The period during which HMRC may issue a scheme reference number (SRN) is increased from 30 to 90 days.
- HMRC will be able to include additional information in the form used by promoters to provide the SRN to clients and by clients to provide the SRN to others.
- People will be able to voluntarily provide information to HMRC to assist in determining whether there has been a breach of any DOTAS rules.
- The changes will be extended to schemes avoiding National Insurance contributions.

Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	-	negligible	negligible	+30	+50	+70
	These figures are set out in Table 2.1 of Autumn Statement 2014 and have been certified by the office for budget responsibility. More details can be found in the policy costings document published alongside Autumn Statement 2014.					
Economic impact	The measure is not expected to have any significant economic impacts.					
Impact on individuals, households and families	There will only be an impact on those individuals who engage in tax avoidance. It is expected that most of these to be seeking to reduce their tax liability at higher or additional rates.					

Equalities impacts	The measure will not have a disproportionate negative impact on protected groups or families. This measure seeks to ensure that taxpayers pay the tax intended by Parliament. Those engaged in, or promoting tax avoidance will be impacted.
Impact on business including civil society organisations	The measure is expected to have a negligible impact on businesses and civil society organisations. There will only be an impact on businesses if they participate in avoidance schemes. This measure will have no impact on businesses and civil society organisations undertaking normal commercial transactions.
Operational impact (£m) (HMRC or other)	Dealing with outputs from the legislative changes, such as additional scheme disclosures and reporting of reference numbers, will have a negligible impact on HMRC. The additional staff for the taskforce are expected to cost in the region of £2 million per annum.
Other impacts	Other impacts have been considered and none have been identified.

Monitoring and evaluation

HMRC monitors the information it receives from promoters and users of disclosed tax avoidance schemes. HMRC checks that information for completeness and accuracy and seeks out non-compliance through a combination of monitoring of the market, intelligence, engagement with promoters and information from HMRC's compliance work.

HMRC uses that information to inform DOTAS policy development.

Further advice

If you have any questions about this change, please contact Gary Coombs on 03000 589577 (email: gary.coombs@hmrc.gsi.gov.uk) or Alex Wakefield on 03000 589760 (email: alexander.wakefield@hmrc.gsi.gov.uk).