



HM Revenue
& Customs

Tax administration: regulations to implement the UK's automatic exchange of information agreements

Who is likely to be affected?

- Financial institutions carrying on business in the UK. 'Financial institution' is a defined term and can include companies, trusts, or partnerships, but not individuals
- Holders of financial accounts

General description of the measure

In compliance with the UK's obligations under the European Union (EU) Revised Directive on Administrative Cooperation (Council Directive 2014/107/EU) (the DAC) to improve international tax compliance, and the UK's obligations under Competent Authority Agreements with non-EU jurisdictions for the Common Reporting Standard (the CRS), HM Treasury is introducing regulations creating due diligence and reporting obligations for UK financial institutions.

The obligations require financial institutions to:

- identify accounts maintained for specified persons, that is, account holders who are tax resident in jurisdictions with which the UK has entered into an agreement to exchange information about a wide range of financial accounts and investments to help tackle tax evasion
- collect and report information in a specified manner on specified persons to HM Revenue and Customs (HMRC)

The regulations also revoke and replace the current implementing regulations for the UK's exchange of information agreement with the United States of America (US), known as FATCA (Foreign Account Tax Compliance Act - automatic exchange of financial account information on US citizens and residents). This consolidates the requirements on automatic exchange of information and corrects minor errors in the current FATCA regulations.

Policy objective

The UK has been an international leader in implementing automatic exchange of information agreements, including through its G8 Presidency. The agreements are a key part of the government's wider offshore evasion strategy. They will increase the effectiveness of HMRC's compliance activity as well as increasing the deterrent effect for those who attempt to evade UK tax by holding financial assets outside of the UK.

The DAC implements the CRS on automatic exchange of information within the EU.

Background to the measure

In September 2012 the UK became the first jurisdiction to sign an enhanced automatic tax information exchange agreement with the US to implement the reporting required under US FATCA legislation. In 2013 the UK signed automatic tax information agreements with its Crown Dependencies (Isle of Man, Jersey and Guernsey) and Overseas Territories (Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Gibraltar, Montserrat and the Turks and Caicos Islands).

The US agreement and the agreements with the Crown Dependencies and Gibraltar are reciprocal. They impose obligations on UK financial institutions to report financial account information to HMRC for onward transmission to those territories. HMRC will in turn receive information about UK tax residents with accounts in those territories. The agreements with the remaining Overseas Territories are non-reciprocal since those Territories do not have income taxes. So while the UK will receive information no information will be provided.

In April 2013 the UK announced an initiative for multilateral exchange based on FATCA with France, Germany, Italy and Spain (the G5). The UK also worked closely with the Organisation for Economic Cooperation and Development (OECD) on the development of a new global standard on automatic exchange of financial account information (known as the "Common Reporting Standard" or "CRS"). The CRS is designed to provide maximum consistency with US FATCA in order to minimise the additional costs and burdens to business from the increased reporting requirements. To date, following on from the G5 initiative, over 90 countries have committed to exchange information under the CRS with first reporting in 2017 or 2018.

HMRC published a discussion document setting out its plans for implementing the CRS together with draft regulations in July 2014. A summary of the responses will be published around the time the regulations are laid.

The DAC implements the CRS within the EU. The UK and other Member States are required to implement the DAC via domestic legislation by 31 December 2015.

Detailed proposal

Operative date

The regulations will have effect on and after:

- 1 January 2016 in relation to the DAC and the CRS Competent Authority Agreements and
- 21 days from the date these regulations are laid in relation to the FATCA agreement.

Current law

Current law to implement the FATCA agreement is contained in The International Tax Compliance (United States of America) Regulations 2014 (Statutory Instrument 2014/1506).

There are no current provisions relating to the DAC or CRS.

Proposed revisions

These regulations implement the DAC and the CRS. They define relevant terms, including "reporting financial institution" and "reportable account", and set out obligations placed on reporting financial institutions, including due diligence and reporting requirements. The regulations contain penalty provisions where there is a breach of these obligations, and an anti-avoidance provision that applies in the event that a person enters into arrangements to avoid the obligations. They also set out 'excluded accounts' for DAC and CRS purposes, that is accounts that need not be reported.

The new FATCA provisions correct previous minor errors and, more significantly, remove holding companies and relevant treasury companies from the definition of reporting financial institution consistent with the terms of the UK / US IGA.

Summary of impacts

Exchequer impact (£m)	2015-16	2016-17	2017-18	2018-19	2019-20
	-5	+90	+270	+75	+130
	nil	nil	nil	nil	nil
	The first row represents the Exchequer impact of 'Evasion: common reporting standard'. These figures are set out in Table 2.1 of Budget 2015 and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside Budget 2015.				
	The second row represents the Exchequer impact of the regulations to implement the UK's automatic exchange of information agreements, which is not expected to have an Exchequer impact.				
Economic impact	The measure is not expected to have any significant macroeconomic impacts but will have a positive impact on the efficiency of the tax system through the recovery of evaded UK tax.				
Impact on individuals, households and families	This measure is not expected to impact upon tax compliant individuals, households, or family formation or stability.				
Equalities impacts	There are no impacts on any groups which share a protected characteristic.				

<p>Impact on business including civil society organisations</p>	<p>Both the DAC and CRS were negotiated with the aim of minimising additional burdens and, where possible, reducing existing burdens.</p> <p>It is expected that the new obligations will increase the volume of reporting for some Financial Institutions. Also, around 1,000 entities not in scope for FATCA and CDOT agreements are in scope for CRS. For example there are new obligations in respect to reporting on shares in regularly traded investment trusts.</p> <p>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 £2 million - £4 million per annum as a result of these new obligations.</p> <table border="1" data-bbox="432 734 1390 1227"> <thead> <tr> <th></th> <th>Cost</th> <th>Time Period (yrs)</th> </tr> </thead> <tbody> <tr> <td colspan="3">Compliance Costs</td> </tr> <tr> <td>One-off costs</td> <td>£70m - £209m</td> <td>N/A</td> </tr> <tr> <td>Average annual cost</td> <td>£2m - £4m</td> <td>5</td> </tr> <tr> <td>Total Cost (PV)</td> <td>£80m - £227m</td> <td>N/A</td> </tr> <tr> <td colspan="3">Compliance Benefit</td> </tr> <tr> <td>One off Benefit</td> <td>N/A</td> <td>N/A</td> </tr> <tr> <td>Average Annual Benefit</td> <td>N/A</td> <td>N/A</td> </tr> <tr> <td>Total Benefit (PV)</td> <td>N/A</td> <td>N/A</td> </tr> <tr> <td>Net Benefit (NPV)</td> <td>-£227m – -£80m</td> <td>N/A</td> </tr> <tr> <td colspan="3">Impact on Administrative Burdens (including net benefit)</td> </tr> <tr> <td>Increase</td> <td>Decrease</td> <td>Net Impact</td> </tr> <tr> <td>£2m-£4m</td> <td>£0</td> <td>£2m-£4m</td> </tr> </tbody> </table> <p>This measure will have no impact on civil society organisations.</p>		Cost	Time Period (yrs)	Compliance Costs			One-off costs	£70m - £209m	N/A	Average annual cost	£2m - £4m	5	Total Cost (PV)	£80m - £227m	N/A	Compliance Benefit			One off Benefit	N/A	N/A	Average Annual Benefit	N/A	N/A	Total Benefit (PV)	N/A	N/A	Net Benefit (NPV)	-£227m – -£80m	N/A	Impact on Administrative Burdens (including net benefit)			Increase	Decrease	Net Impact	£2m-£4m	£0	£2m-£4m
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<p>Operational impact (£m) (HMRC or other)</p>	<p>There will be additional costs for HMRC in developing IT systems to facilitate reporting, and store and analyse data, estimated at £2 million.</p>																																							
<p>Other impacts</p>	<p><u>Small and micro business assessment</u>: financial institutions are likely to be impacted irrespective of their size, due to the increased reporting requirements.</p> <p>Other impacts have been considered and none have been identified.</p>																																							

Monitoring and evaluation

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

Further advice

If you have any questions about this change, please contact Chris Orchard on 03000 514117 (email: chris.orchard@hmrc.gsi.gov.uk) or Wayne Strangwood on 03000 585493 (email: wayne.a.strangwood@hmrc.gsi.gov.uk).