



HM Treasury



HM Revenue  
& Customs

# Tackling tax evasion and avoidance

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# Tackling tax evasion and avoidance

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Presented to Parliament by  
the Chief Secretary to the Treasury  
by Command of Her Majesty

March 2015

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# Foreword

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Most individuals and businesses in the UK pay the tax that is due and do not try to bend or break the rules to avoid it. But for too long, for a minority, artificial tax avoidance schemes were seen as normal and tax evasion was not considered the crime it is. Paying the tax you owe is not an optional extra – it's a legal requirement.

That is why this government has been relentless in its crackdown on tax evasion and avoidance. We remain determined to reduce incentives and increase penalties for those who do not pay the tax they should. In every year of this Parliament, we have made legislative changes making it harder for people to avoid and evade their taxes than ever before.

Since 2010, we have invested more than £1 billion in HMRC to strengthen their powers in tackling avoidance and evasion – including championing ground-breaking new international standards on transparency which will soon give HMRC much more information to find offshore tax evaders and bring them to book. We have changed the economics of tax avoidance by reducing incentives and increasing the downsides for entering into avoidance schemes. We have introduced a General Anti-Abuse Rule, a major development in UK tax law. We have been at the forefront of driving forward reform of the international tax rules. And alongside this, we have strengthened our domestic defences, countering aggressive tax planning by multinational companies that divert profits from the UK with a new tax at 25% from April 2015.

During this Parliament, as a result of actions taken to tackle evasion, avoidance and non-compliance, HMRC will have secured £100 billion in additional compliance revenue. This includes more than £31 billion from big businesses, and £1.2 billion extra from the UK's 6,000 richest people, who each have a net worth of £20 million or more.

But we want to go further. So at Budget 2015, we announced a range of new measures targeting those who persistently enter into tax avoidance schemes. And we are now also asking the regulatory bodies who police professional standards to maximise their role in setting and enforcing clear professional standards around the facilitation and promotion of avoidance.

On evasion, this government has played a leading role in the transformation of international tax transparency. We have established agreements to exchange information on financial accounts automatically with over 90 countries. Under these agreements HMRC will receive information annually on the accounts, interest, and balances of UK tax residents' offshore accounts. And for those who continue to evade, we are now introducing a tough new package of measures, including new criminal offences and greater financial penalties:

- for offshore evaders, we will consult on introducing a new strict liability criminal offence. It will no longer be possible to evade large sums of tax and plead ignorance in an attempt to avoid criminal prosecution. We will also be increasing financial penalties, including a new penalty linked to the underlying asset
- for those who enable evasion, we will create a new offence of corporate failure to prevent tax evasion or the facilitation of tax evasion. This will complement the existing criminal offences for individuals. We will also introduce new civil penalties, exposing those who enable evasion to the same level of financial penalty as the tax evaded by the evaders themselves

- and for both evaders and enablers of evasion, we will extend the scope for HMRC to publish their names, exposing them to public scrutiny

We are hitting tax avoidance and tax evasion harder than ever before. Our message is simple – come forward and settle your affairs, play by the rules, or be caught and face the consequences. This document sets out what we are doing to keep up the pressure.



George Osborne  
Chancellor of the Exchequer

March 2015



Danny Alexander  
Chief Secretary to the Treasury

March 2015



# 1 Introduction

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**1.1** Since 2010, this government has been relentless in its crackdown on tax avoidance and evasion and it is determined to reduce the incentives and increase the penalties for engaging in this kind of behaviour. It has made changes in every year of this Parliament and it is as a result of this government's actions that it is now harder for people to avoid and evade their taxes.

**1.2** The vast majority of individuals and businesses in the UK pay the tax that is due. The government recognises the need to make tax easier for the honest majority to understand and to pay. However, there are a minority who do not pay their fair share.

**1.3** HMRC's published estimate of the tax gap is the difference between the amounts of tax that should, in theory be collected by HMRC, against what is actually collected. The current tax gap estimate for 2012-13 is £34 billion or 6.8% of theoretical liabilities. While the UK tax gap compares well to that found in other countries the Government is determined to reduce it further.

**1.4** This government has cracked down on those determined to break or bend the rules with radical initiatives. It has changed the economics of tax avoidance by introducing ground-breaking measures that reduce the incentives for entering into avoidance schemes and worked to ensure that HMRC have the tools and powers they need to address evasion and avoidance. Many more evaders have been found by HMRC or have come forward to put their tax affairs in order. And many avoiders have sought to pay up or decided not to engage in further schemes.

**1.5** But there is more to be done. The Budget set out new measures to take action against tax avoidance. **Today, the government announces further action to tackle tax evasion.** This document sets out the government's plans to find and punish more evaders, deter more avoiders and reassure the vast majority of taxpayers who already pay what they owe.

## **Box 1.A: Clarifying tax terminology**

**Tax evasion** is always illegal. It is when people or businesses deliberately do not declare and account for the taxes that they owe. It includes the hidden economy, where people conceal their presence or taxable sources of income.

**Tax avoidance** involves bending the rules of the tax system to gain a tax advantage that Parliament never intended. It often involves contrived, artificial transactions that serve little or no purpose other than to produce this advantage. It involves operating within the letter – but not the spirit – of the law. Most tax avoidance schemes simply do not work, and those who engage in it can find they pay more than the tax they attempted to save once HMRC has successfully challenged them.

**Tax planning** involves using tax reliefs for the purpose for which they were intended, for example, claiming tax relief on capital investment, or saving via ISAs or for retirement by making contributions to a pension scheme. However, tax reliefs can be used excessively or aggressively, by others than those intended to benefit from them or in ways that clearly go beyond the intention of Parliament. Where this is the case it is right to take action, because it is important that the tax system is fair and perceived to be so.



# Tackling tax evasion and avoidance in this Parliament

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## 2

### What the government has done

**2.1** This government has taken effective action against those who break the rules. It is determined to chase down the tax that is owed and make sure that those who avoid or evade change their behaviour.

**2.2** The government has invested in HMRC - more than £1 billion in HMRC's compliance activities since 2010 to tackle non-compliance including evasion and avoidance.

**2.3** The amount brought in is increasing every year – from £17 billion in 2010 to an expected £26 billion in 2014-15. During this Parliament, HMRC will have secured £100 billion in additional compliance revenue as a result of actions taken to tackle evasion, avoidance and non-compliance.

**2.4** This includes more than £31 billion as a result of interventions with big businesses since 2010. And the High Net Worth Unit has collected £1.2 billion in extra compliance yield from the UK's 6,000 richest people, who each have a net worth of £20 million or more. And for other wealthy individuals, the Affluent Unit formed in 2011 and later expanded has collected around £250 million in additional compliance revenues to 2013-14.

**2.5** Criminal investigations have protected £4.1 billion since 2011 with a fivefold increase in criminal prosecutions for mass market or "volume crime" (investigations across trade sectors intended to produce deterrent prosecutions). Since 2010 HMRC has secured more than 2,650 criminal prosecutions and 2,718 years of prison sentences for tax offences.

**2.6** To make it easier to find offshore evasion in the future, the government has led the agreement of an unprecedented step change in international tax transparency. Over 90 countries are committed to share information on bank and other financial accounts, starting in 2017. Over £2 billion has been collected from offshore evasion, mainly through the UK Swiss Agreement - where UK residents either paid a withholding tax on funds held in Switzerland or disclosed to HMRC - and from the Liechtenstein Disclosure Facility (LDF), through which people can make disclosures to HMRC about offshore accounts and clear up their past wrongdoings.

**2.7** The government has taken ground-breaking action against avoidance – ensuring HMRC has the powers they need and changing the economics of avoidance with measures such as Accelerated Payments, which gives HMRC the power to collect disputed tax bills up front, and introduced the UK's first General Anti-Abuse rule, which tackles the worst tax avoidance arrangements. The measures this government has taken to tackle avoidance are forecast to raise more than £12 billion over the lifetime of this Parliament. Internationally the UK has led efforts within the G20 group of countries to reform the international corporate tax rules through the Organisation for Economic Co-operation and Development's (OECD) Base Erosion and Profit Shifting (BEPS) project, to make it harder for companies to avoid tax by hiding profits abroad.

## Tackling tax evasion

**2.8** This government has made significant investments in HMRC to tackle evasion. HMRC is cracking down on evasion both domestically and offshore. HMRC works hard to persuade and support people to comply. For those that don't heed this message, its longstanding approach when tackling evasion is to collect the tax and interest due as efficiently as possible with appropriate civil and criminal penalties. It does so to change taxpayer behaviour, and to discourage people from evading again in the future.

**2.9** HMRC takes a graduated and proportionate approach to promote good compliance in the most cost-effective way it can. It does so through the use of:

- education and support for those who wish to comply
- campaigns to persuade people with specific trades and professions to settle their affairs voluntarily via publicity letters, advertising and social media nudges
- harder edged interventions such as Taskforces — activity targeted at specific sectors and locations where there is a high risk of tax evasion, such as illegal alcohol and tobacco sales, migrant workers and hidden wealth
- disclosure agreements, such as the Liechtenstein Disclosure Facility, to encourage people with undeclared offshore income to come forward and pay tax, interest and penalties

**2.10** HMRC's approach gives people ample opportunities to come forward and tell them about their past omissions, but backs that up with tough action where people do not take that opportunity and continue to evade tax. HMRC has a range of enforcement tools at its disposal, including a mix of criminal prosecution and civil sanctions. Civil sanctions include a range of financial penalties of up to 200% of the evaded tax and also seizure of assets.

**2.11** Most tax evasion detected during the one million interventions HMRC does in a year will be dealt with via civil penalties, as this provides the quickest and surest way to recover funds for the Exchequer at the lowest cost.

**2.12** But when appropriate HMRC will pursue criminal charges. Criminal investigation is reserved for those cases where civil approaches just would not work, or where it is in the interests of the Exchequer to be seen to punish wrongdoing, to create a deterrent effect to foster wider compliance or to reinforce that sanctions are being visibly enforced. Since 2010 HMRC has changed its approach to tackling criminal tax evasion with a fivefold increase in criminal prosecutions for mass market or "volume crime" (investigations across trade sectors intended to produce deterrent prosecutions). It also tackles organised crime and the most egregious tax evasion through criminal investigations.

**2.13** Exploiting publicity is an important compliance tool, so over the past five years HMRC has:

- launched a three-year evasion publicity campaign
- launched an offshore media publicity campaign
- recently published two interactive maps to show the results of its criminal investigations and its taskforces
- in a small number of serious cases published the names of people who have deliberately defaulted with at least £25,000 of tax and not told HMRC about it

**2.14** Over the past five years HMRC has achieved a significant shift in tackling evasion domestically. Underpinning this is the use of data in order to identify and control tax risk. HMRC's Connect data analysis system has secured around £2 billion of additional tax revenue over the past five years. And it makes use of third party data, such as from merchant acquirers — payments passing through card processors — both to identify cases for investigation and as part of its campaigns approach. HMRC has expanded its intelligence network – including those based overseas — to work with other agencies to disrupt criminal gangs.

## Offshore tax evasion – transforming transparency internationally

**2.15** The above approach applies domestically and offshore. However offshore evasion presents additional challenges, particularly the ability to gather evidence and information about offshore assets. In the past, it has been too easy to hide money offshore in jurisdictions with strong tax secrecy and never be found. In the absence of detailed information, investigations are difficult and complex and evidence hard to gather. Successful prosecutions are hard to obtain.

**2.16** Without access to information on offshore financial assets, HMRC's approach has long been to encourage people to come forward and disclose information voluntarily. It has done this by offering time-limited 'disclosure facilities', including through bilateral agreements, which encourage tax evaders to come forward and to disclose their offshore affairs, pay the tax due together with penalties and interest.

### Box 2.A: Case study

John, a quantity surveyor from Kenilworth, was sent to prison for two and a half years for failing to pay income tax. His fraud was uncovered when HMRC identified his ownership of a holiday home in Antibes by analysing data on French properties. The house had been bought with the proceeds of the tax evasion. Following a criminal investigation he pleaded guilty in January this year.

**HMRC is getting more data on offshore assets – including holiday homes – all the time. Whether the proceeds of tax evasion are held in a bank account or used to buy property, they will not remain hidden forever. When you are caught, you could face jail.**

**2.17** While that approach has been successful in bringing in unpaid tax that HMRC would not otherwise have been able to recover, this government wanted to go further and to tackle the secrecy which has allowed people to hide assets offshore. Over the last two years this government has led the way to transform international tax transparency. It has been determined that the minority of people who evade tax are identified, caught and punished.

### **Box 2.B: Case study**

Mr B used a windfall to set up various businesses which he didn't declare to HMRC. He arranged his affairs so that he virtually disappeared from view – no tax record, no financial records – and set up an offshore account to invest his profits. His determination to pay no tax meant he wasn't even on the electricity grid.

His offshore investments were very successful and he ended up with hundreds of thousands of pounds sitting offshore. Yet Mr B lived a very basic lifestyle in the UK – his house fell into disrepair and he didn't spend money on possessions. He was scared that if he used his offshore accounts his tax evasion would be found out.

In the end, it was when he realised he couldn't fill in a simple government form without revealing his evasion, he decided to come clean.

**2.18** In Budget 2013 the government announced ground breaking agreements with the Crown Dependencies for the automatic exchange of information. This was followed swiftly by similar agreements with all of the UK's Overseas Territories.

**2.19** Building on this, the government announced in April 2013 an initiative with France, Germany, Italy and Spain for multilateral exchange between these five countries. The UK then led the drive to persuade others to join this initiative. Simultaneously the government worked closely with the OECD on developing a standard that could be applied worldwide, driving this through its G8 presidency.

**2.20** More than 90 countries have now committed to automatically exchange taxpayer information by 2018. This includes all major financial centres including Switzerland, Hong Kong, Singapore, Austria, Luxembourg, all of the G20, all EU member states, all UK Crown Dependencies and Overseas Territories and all of the Caribbean countries. Last October, in Berlin, the UK was amongst the first to sign the agreements to bring this into effect.

**2.21** These agreements will give HMRC access to more information on offshore investments than ever before. Initial estimates are that it will receive information on up to 2 million UK taxpayers with offshore investments. This will include names, addresses, account numbers, interest and balances. It will also give HMRC the ability to look through structures, such as trusts and shell companies, which can be used to hide the beneficial owners of accounts. This will significantly enhance HMRC's ability to tackle offshore tax evasion. The UK will be among the first countries to introduce legislation to implement this standard.

**2.22** For the first time, HMRC will know who has hidden their money abroad and have the evidence to be able to go after them. Building on this the government will toughen the penalties for those who continue to evade tax offshore as set out in Part 3 of this document.

## **Domestic tax avoidance**

**2.23** Individuals and businesses must pay what they owe. That is why the government has taken ground-breaking action to tackle tax avoidance.

**2.24** Since April 2010 the government has made more than 40 changes to tax law, closing down loopholes and introducing major reforms to the UK tax system. The measures this government has taken to tackle avoidance are forecast to raise more than £12 billion over the

lifetime of this Parliament. Without the government taking firm action, that money would have been lost to the Exchequer and the UK's public services. Table 2.A highlights some of the loopholes that the government has closed:

**Table 2.A: Examples of actions taken by the government to close loopholes**

<b>Action taken:</b>	<b>Effective year</b>	<b>Additional revenue for the exchequer</b>
Stopped businesses paying employees using trusts in order to pay less taxes and NICs	2011	£3.8 billion
Stopped investment companies changing their historic accounts so they were in a different currency, saving them paying as much tax	2011	£300 million
Tackled large businesses which were combining the sale of printed matter with other things just to reduce their VAT bills	2011	£250 million
Stopped banking groups from avoiding tax on profits by buying back their own debt cheaply	2012	£660 million
Tackled tax avoidance schemes which allowed thousands of wealthy homebuyers to get out of paying stamp duty	2013	£160 million
Stopped wealthy individuals extracting profits from their companies without paying tax	2013	£530 million
Blocked a practice by which companies could wipe out their tax bills by accessing losses made in a different group	2013	£1.2 billion
Closed an IHT loophole – deduction of tax liabilities – which allowed people to have a double relief against inheritance tax	2013	£70 million
Stopped companies from avoiding tax on profits by claiming that those profits had been taxed abroad when they had not been	2013	£35 million
Stopped hedge fund managers in partnerships obtaining unfair tax advantages by allocating profits to companies they controlled	2014	£1.9 billion
Stopped groups of companies avoiding corporation by transferring their profits to tax havens	2014	£380 million
Stopped the use of offshore employment intermediaries to avoid employer NICs and the use of onshore employment intermediaries to facilitate false self-employment	2014	£2.5 billion

Stopped companies from obtaining a tax advantage by entering into contrived arrangements to turn old tax losses of restricted use into more versatile in-year deductions	2015	£715 million
Changed the Capital Gains Tax rules so that non-residents became liable when they sold their UK houses	2015	£270 million

Source: HMRC

**2.25** The government has taken effective and innovative action to tackle avoidance with tougher tools for HMRC and structural reforms. HMRC is now stopping more avoiders who try to exploit the tax system and is addressing the supply side of the equation by taking action against promoters of avoidance schemes. The government has changed the economics of tax avoidance by reducing the incentives for entering into avoidance schemes and increasing the downsides of engaging in avoidance. These measures have included:

- introducing the UK's first General Anti-Abuse Rule (GAAR) to tackle the worst tax avoidance arrangements, and to deter those who might be tempted to use them (2013)
- requiring companies bidding for large government contracts to disclose their tax history, so that their conduct regarding tax evasion and avoidance can be considered as part of the bidding process (2013)
- introducing the Accelerated Payment regime, under which certain taxpayers involved in marketed avoidance schemes are required to pay up front the tax they are disputing (2014). As at 13 March 2015, HMRC has already issued 7,712 notices with a value of £1.6 billion. Beyond Accelerated Payments, millions more is being paid by avoiders who have conceded their positions and stopped contesting avoided tax with HMRC altogether
- legislating for Follower Notices and penalties to encourage users of tax avoidance schemes to settle with HMRC after a relevant judicial ruling or risk facing a penalty if they lose (2014). HMRC has issued the first batch of Follower Notices (nearly 400) to users of a scheme they defeated in court. Those users are settling their outstanding avoidance bills
- set up a tough regime of penalties and monitoring requirements for High Risk Promoters of tax avoidance schemes, thus tackling the supply as well as the use of marketed tax avoidance (2014). HMRC has identified the first risky promoters under the regime, issued them with Conduct Notices, requiring them to change their ways. If they don't comply, they can be labelled as high-risk promoters, named and fined up to £1 million
- expanding and strengthening the Disclosure of Tax Avoidance Scheme (DOTAS) regime to ensure that it remains robust as the avoidance market evolves and to ensure that more promoters and users of avoidance schemes have to tell HMRC about their avoidance activities (2010-2015). The number of marketed avoidance schemes disclosed under DOTAS is falling. 40 schemes were disclosed in 2013/14 – down from 84 in 2012/13 (and from more than 600 in 2005/06). The government's legislative action and HMRC's strategy is shrinking the market for avoidance. But HMRC remains alert to the risk of increasing non-disclosure, and



efforts to design non-notifiable schemes. At Autumn Statement 2014, the government strengthened the DOTAS rules again. They also supported HMRC in setting up a DOTAS taskforce. This will deploy more expert resources to police the regime and identify those who fail to disclose when they should

**2.26** The government has also strengthened the Code of Practice on Taxation for Banks, under which banks agree not to engage in or promote tax avoidance. HMRC now has the power to name banks that refuse to sign up to the code, as well as any bank that fails to adhere to its code commitments.

**2.27** With support and re-investment from the government, HMRC has created a dedicated Counter-Avoidance Directorate, which brings together policy, operational and technical expertise into a single coordinated effort to tackle marketed avoidance. This approach is already paying dividends providing front-line evidence for the design of effective policy changes, and accelerating activity to challenge and settle cases.

**2.28** As well as implementing and deploying the new powers granted to it, HMRC has been steadily defeating tax avoidance schemes in court. HMRC wins around 80% of cases that users choose to take to court, and the government has made full use of publicity around these wins to point out the increasingly fruitless use of avoidance schemes. HMRC sends strong messages to the public about avoidance to increase awareness of the risks involved and the types of schemes that do not work. Greater public awareness has contributed to changing attitudes towards avoidance over this Parliament.

**2.29** HMRC's progress and coordinated approach has been recognised by the National Audit Office (NAO). In their 2015 report 'Increasing the effectiveness of tax collection: a stocktake of progress since 2010', the NAO said that HMRC's response to their recommendations to tackling marketed tax avoidance had been "exemplary" – particularly in terms of coordinating action and seeking new powers to tackle promoters and scheme users.

**2.30** This process of structural reform and tough action is an ongoing one. At this year's Budget, the government signalled its intention to take action in a number of new areas as set out in chapter 3.

## **Tax avoidance by multinational companies**

**2.31** In 2012 the government invested £29 million in HMRC to better ensure that multinational enterprises (MNEs) pay the tax due and don't shift profits out of the UK. HMRC used part of this funding to increase its specialist Transfer Pricing team by almost 25%, which it expects to generate £500 million over 4 years by March 2018. The funding was also used to create the Large Business Risk Task Force - an additional resource to maximise HMRC's ability to identify tax compliance risk. By March 2016 HMRC expects risk identified by the Task Force to have generated more than £1 billion from large businesses. Subsequent funding in 2013 further enhanced its risk assessment capability through improved exploitation of electronically-filed data and additional data handling specialists.

**2.32** But measures taken in the UK alone will not fully deal with aggressive tax planning strategies that erode the UK's tax base and shift profits made in the UK to low-tax countries. Tax avoidance and aggressive tax planning by MNEs is an international issue which needs an effective international response. MNEs that adopt aggressive tax strategies seek to exploit vulnerable areas in international taxation, as well as in the UK's domestic rules. Countries need to work closely together to develop new solutions that will work within the international tax

framework. That is why the UK has driven forward the fight against tax avoidance in the global economy through the G8 and the G20 group of countries, the European Union and the OECD.

**2.33** In June 2012, G20 leaders decided to take a stand against aggressive tax planning by multinational businesses. In November 2012, the UK and Germany made a joint statement calling on the G20 to back the OECD's Base Erosion and Profit Shifting (BEPS) initiative for concerted international cooperation to strengthen international standards for corporate tax regimes. To demonstrate the government's commitment to the BEPS project, the UK contributed €550,000 to the OECD in order to ensure that work progressed rapidly. The UK used its presidency of the G8 to continue to successfully build international support for the BEPS project, with G8 leaders confirming their support in June 2013.

**2.34** The OECD's 15-point BEPS Action Plan was published in July 2013 with a clear timetable for delivery of each action item through to December 2015. HM Treasury and HMRC officials are heavily engaged in the OECD working parties that are delivering the action items. The first phase of the BEPS project was completed on time in September 2014, with participant countries reaching agreement on the first set of outputs addressing high-priority areas, including improving transparency between large multinationals and tax authorities with the development of a country-by-country reporting template and rules to counter complex cross-border tax avoidance strategies, known as hybrid mismatch arrangements.

**2.35** As well as championing the drive for the reform of the international tax framework, HMRC has a long-standing record of actively encouraging tax administrations to share information and expertise in order to tackle international tax avoidance. It has developed one of the largest tax treaty networks in the world which enables us to exchange information about multinational enterprises with tax administrations in around 150 other countries.

**2.36** HMRC joins forces with other tax administrations to delve deeper into the cross-border strategies of MNEs, so that it has a full global picture of the tax risks they pose. It has recently participated in a major project with international partners to share information and intelligence under the terms of its treaties about multinational business operating in the digital economy. This project is looking at whether HMRC can challenge these MNE's tax arrangements and has provided vital information which informed the development and design of the Diverted Profits Tax.

**2.37** In October 2014, the heads of 38 tax administrations working together through the OECD's Forum on Tax Administration (FTA) set out a new strategy for systematic and enhanced cooperation to combat cross-border tax avoidance through a new Joint International Tax Shelter Information and Collaboration (JITSIC) network. HMRC was one of the founder members of the original, smaller JITSIC grouping. The decision to significantly expand the network and open membership up to all members of the FTA endorses the success of the earlier model and recognises the important role that extensive collaboration between countries has to play in combating tax avoidance by multinationals. The FTA is currently chaired by Edward Troup, Second Permanent Secretary at HMRC.

# Next steps on tax evasion and avoidance

## 3

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### Government commitment

**3.1** As set out in this document, the government has a strong track record on evasion and avoidance. HMRC is determined to chase down the tax that is owed and make sure that those who bend or break the rules change their behaviour.

**3.2** The Budget announced a further package of measures to continue to step up the fight against offshore tax evasion. Building on this, and the progress it has made this Parliament, **the government today announces further measures to toughen the consequences for tax evaders and those who help them. This includes publically naming evaders and enablers of evasion.**

**3.3** On avoidance, the Budget announced further measures to tackle the persistent minority who enter into tax avoidance schemes that HMRC defeat. HMRC will continue to ensure risks are identified and loopholes are closed. Building on this, and looking to the next Parliament, the government will also ensure that HMRC has additional powers where needed to tackle avoidance. For example, at Budget, the Government announced it would explore options on publicly naming serial avoiders and ensuring that HMRC are able to charge appropriate penalties to deter the minority of taxpayers that continue to avoid their taxes. **Today the government also announces it is asking the regulatory bodies who police professional standards to take on a greater lead and responsibility in setting and enforcing clear professional standards around the facilitation and promotion of avoidance.**

### Evasion

**3.4** Most people pay the tax they owe on time and do not attempt to evade their responsibilities. Over the past five years HMRC has found new ways to tackle the minority who do evade, and will continue to build on its success.

**3.5** It has already succeeded in changing the economics of tax avoidance, and influenced the attitude of those tempted to avoid. It aims to do the same for evasion, by making it harder to hide, and by making both the cost and consequences of being caught greater than they are now.

**3.6** HMRC's work on both onshore and offshore evasion will continue to be informed by sophisticated data analytics, from which it will develop its understanding of the risks presented by different groups of people. This will include building the data analysis capability to fully exploit third party information, including that received from other tax administrations under the new Common Reporting Standard.

**3.7** HMRC will develop the new techniques, skills and capabilities it needs to address onshore and offshore evasion through an aligned approach to compliance, by bringing together intelligence, publicity, campaigns and taskforces. HMRC will invest in training and staff capability to make full use of the data it will receive.

**3.8** It will take every opportunity to design legislation and processes to reduce the opportunity for evasion, so that those who want to break the rules cannot do so.

**3.9** HMRC will continue to work collaboratively with other prosecution and investigative bodies to support criminal prosecutions, meeting the evidential standard required to support successful prosecutions.

**3.10** And it will have a strong focus on the hidden economy. Over the SR10 period, HMRC has stepped up the fight against the hidden economy, increasing yield to more than £160 million. It will build on this record of success by redesigning processes to prevent non-compliance from the outset and promote registration; finding new ways to tackle the hidden economy through better and smarter use of data, including Merchant Acquirer data on credit/debit card sales; encouraging hidden economy businesses to come forward, for example through the Credit Card Sales Campaign; while continuing to come down hard on those who deliberately cheat the system, including through criminal investigation where appropriate. HMRC will make it harder to do business in the hidden economy; encourage those who are willing to come forward and get their tax affairs back on track; and continually strengthen its ability to find and tackle those who are determined to operate beneath HMRC's radar.

## **A step change in tackling offshore tax evasion**

**3.11** The government has reached ground-breaking agreements to exchange information on financial accounts automatically every year with over 90 other countries. Building on this, it is introducing stronger sanctions for those who continue to evade tax and for those who assist them.

**3.12 The Government today announces the introduction of a new strict liability offence for those who have not paid the tax due on offshore income.** This will act as a significant deterrent to the minority of people who evade their tax and will help to stamp out offshore tax evasion. There was previous consultation on a strict liability offence in 2014 at a time when fewer countries had agreed to begin exchanging information automatically in 2017 or 2018. In light of the significant increase in the number of participating countries, there will be a further consultation before legislation is introduced which takes account of this and considers appropriate defences and thresholds.

**3.13** The Government is also taking tough action against those who enable offshore tax evasion. **The Government today announces new civil penalties for enablers of tax evasion and will consult on the detail of this.** This will include a new collateral penalty under which enablers will pay a fine equivalent to that paid by the individual that they helped to evade tax; and public naming of those that enable tax evasion. Criminal sanctions are already available against individuals who facilitate or encourage tax evasion. **The Government today announces it will create a new offence of corporate failure to prevent tax evasion or the facilitation of tax evasion, following consultation.**

**3.14** HMRC is already able to apply penalties of up to 200% of the tax due. Changes introduced in Finance Bill 2015 will extend the scope of these. , **The government today announces that there will be a further toughening of the range of penalties available to HMRC, following consultation.** This will include a new penalty that would take a portion of the asset that has been hidden and increasing the scope of the power to name those who have evaded tax. HMRC can and does pay rewards for significant information on offshore tax evasion, and **the government today announces it will be investing more resources in this.**

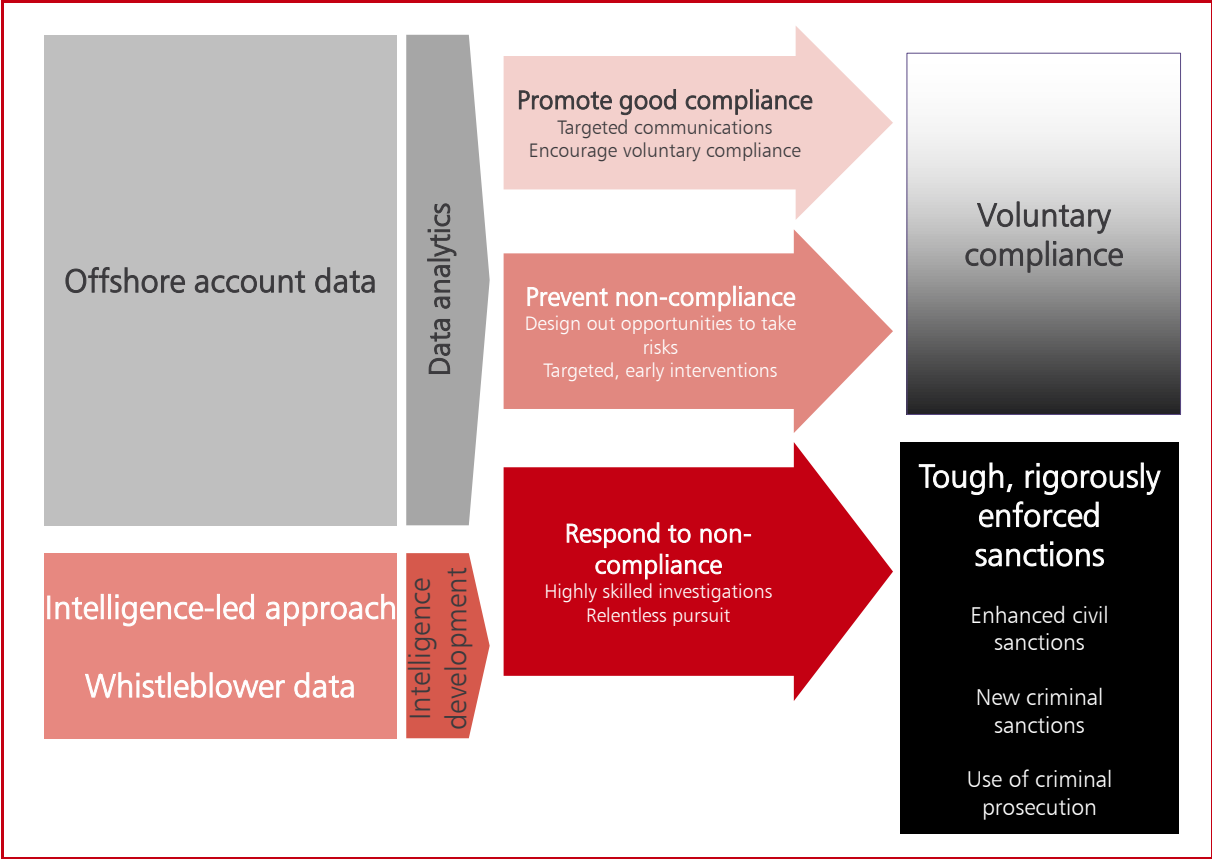
**3.15** As regards disclosure opportunities, Budget 2015 announced that existing disclosure facilities, created for a period before automatic exchange, will close early at the end of 2015. A new time-limited facility, with tougher penalties and with no guarantee that criminal

investigations will not be pursued in appropriate cases, will be introduced in 2016. This will give people who have not paid their tax a last chance to disclose before the information is automatically received about offshore accounts in 2017. HMRC has strongly marketed the message that the net is closing on offshore evasion, and over 57,000 people have acted on that message and disclosed their offshore income and paid the tax due and penalties. For those who do not take the opportunity to disclose voluntarily, the full weight of sanctions available to HMRC will apply.

**3.16** It is right the financial services industry should continue to play its part in tackling tax evasion. Budget 2015 announced that the government will legislate to take a power to require all financial institutions and tax advisors, to notify their customers: that HMRC is being sent data on offshore accounts; of the changes in the penalties for evasion; and of the final opportunity to disclose any unpaid tax before HMRC receives the data and opens investigations.

**3.17** This Government’s message is clear to those that are hiding undeclared income offshore or are enabling offshore tax evasion - HMRC is closing in and anyone found engaging in this behaviour will face serious consequences when found. HMRC is giving a final opportunity to disclose unpaid tax before you are caught.

**Figure 3.A: The future of tackling offshore tax evasion**



**Domestic avoidance**

**3.18** In this Parliament, the government has transformed the way avoidance is tackled. Rather than just acting to block individual abuses, the government’s radical approach has altered the underlying economics of avoidance by accelerating the payment of disputed tax and stemmed the supply side by acting against the highest-risk tactics of avoidance promoters. These actions have been a significant leap forward but more can be done.

**3.19** At Budget 2015, the government announced it would introduce a range of new measures for those who persistently enter into tax avoidance schemes which HMRC defeats. Avoidance is the preserve of a small, persistent minority. The measures the government has taken this Parliament are working to reduce that minority. Amongst those that remain, there are some who avoid again and again, often using more than one scheme each year, knowing that some will fail but hoping that one will not. **Today, the government also announced it is asking the regulatory bodies who police professional standards to take on a greater lead and responsibility in setting and enforcing clear professional standards around the facilitation and promotion of avoidance to protect the reputation of the tax and accountancy profession and to act for the greater public good.**

### **Serial avoiders**

**3.20** . At present, serial avoiders find themselves in no worse a position than someone who has used only one failed avoidance scheme and has decided not to do it again. They face no additional deterrent to stop them persistently seeking to circumvent the will of Parliament. The government therefore announced this Budget that it will introduce a new surcharge on serial avoiders whose latest tax return is incorrect as a result of a further failed avoidance scheme. The government is determined to address these behaviours by the very small minority who are not deterred by the current range of sanctions.

**3.21** To further reform the behaviours of this small minority, the government has also signalled its intention to develop other measures for serial avoiders. Those who continue to use failed avoidance schemes could be named and those that abuse tax reliefs could also have access to reliefs restricted.

### **General Anti-Abuse Rule**

**3.22** At Budget 2015, the government also announced that it would strengthen the deterrent effect of the General Anti Abuse Rule (the GAAR) by introducing a penalty. The GAAR applies to the worst cases of tax avoidance and has a strong deterrent effect. We expect there will only be a fairly small number of cases brought under the GAAR. It is right that they attract penalties that go beyond the application of the penalty regime in all other avoidance cases to distinguish GAAR cases as the worst form of avoidance. The new penalty will be based on the amount of tax people sought to avoid in a GAAR case.

### **Accelerated Payments**

**3.23** At Budget 2014, the government introduced the Accelerated Payments regime, a ground breaking measure which changes the underlying economics of avoidance by removing the attraction of deferring tax whilst amounts remain in dispute. This new regime is having a very positive effect and is encouraging people to get out of avoidance altogether. It is ensuring a more level playing field, with tax being paid up front in avoidance cases so that avoiders are in the same position as all other tax payers, paying now and disputing later.

**3.24** At Budget 2015, the government announced that HMRC will issue 21,000 more Accelerated Payment Notices than the estimate announced, bringing in an additional £555 million yield. These are cases that were already under investigation which HMRC has now identified meet the criteria for the issue of Accelerated Payment notices. This will mean that, by the end of 2016, 64,000 users of avoidance schemes will have been required to pay tax upfront, and by the end of 2019/20 the measure will have brought forward over £5.5 billion in payments to the Exchequer.

## Promoters of Tax Avoidance Schemes

**3.25** Alongside the Accelerated Payments regime this government has also introduced tough measures to deal with promoters of tax avoidance schemes. Accelerated Payments addresses the demand side of avoidance by making the economics of avoidance far less attractive to users; the Promoters of Tax Avoidance Schemes (POTAS) regime addresses the supply side by reforming the behaviours of avoidance scheme promoters who use uncooperative tactics to attempt to make their schemes succeed.

**3.26** The government announced in this Budget that it will widen the scope of this powerful new regime by bringing in promoters whose schemes are regularly defeated by HMRC. Legislation will also be introduced in Finance Bill 2015 to allow HMRC to issue Conduct Notices to a broader range of connected persons under the promoter of tax avoidance schemes legislation. These new rules will prevent high risk promoters avoiding the consequences of their actions via elaborate or rapidly changing business structures.

## Disclosure of Tax Avoidance Schemes

**3.27** The government has also strengthened the Disclosure of Tax Avoidance Schemes regime (DOTAS). DOTAS is a tool which provides valuable information about the use and promotion of tax avoidance schemes, and is a trigger for the issue of an Accelerated Payment notice to an avoidance scheme user. It is therefore important to ensure avoidance promoters and users comply with their DOTAS obligations.

**3.28** At this Budget, the government announced that it would strengthen DOTAS to give HMRC more powers to identify users of undisclosed avoidance schemes; increase penalties for users who do not comply with reporting requirements under DOTAS; and provide protection for those wishing to give information about failures to comply with DOTAS.

## Going further

**3.29** Beyond this Budget, and as it already does, government will keep avoidance behaviour under close review and act rapidly to close down loopholes that emerge.

**3.30** HMRC will consider how it can defeat schemes faster and with increased downside risk for users, promoters and intermediaries to deter future avoidance. A range of potential options will be considered, including legislative changes.

**3.31** Building on the serial avoiders' surcharge, the government will consider whether it should introduce new surcharges or penalties for all avoiders. It should not be worthwhile to seek out and pay for an avoidance scheme and the advice on its use in an attempt to pay less tax than is due. The government will explore how to ensure promoters and users feel the full impact of their scheme being defeated in the courts. The government will also consider whether it should target other sub-groups of avoiders and those with bespoke regimes.

**3.32** As HMRC moves more processes online, it will look to use digital tools to bring avoidance notification online for earlier warning and greater transparency. HMRC will also look for opportunities to exploit information more, for example, pre-populating tax returns and using intelligent automated prompts to challenge suspect or unusual behaviour that might indicate avoidance.

**3.33** The government will also consider whether further legislation is needed to stop avoiders from using tax administration processes and deadlines in an effort to frustrate or delay HMRC investigations. As part of this the government will look to identify processes or deadlines that are being used to the advantage of avoiders and consider whether to change them.

**3.34** At Budget 2014, the government introduced Accelerated Payments. It will consider the impact of Accelerated Payments and the effect it is having on the avoidance landscape. The government will consider whether the principle might be appropriate for different types of cases and whether the government should extend the acceleration of tax payments to more avoidance cases.



**Figure 3.B: Action taken to tackle avoidance in this Parliament, and future areas for consideration**



- ◆ Actions taken to tackle avoidance this Parliament
- ◆ Areas being considered for next Parliament

## Tax avoidance by multinational companies

**3.35** The UK government is committed to working with its international partners to conclude the G20-OECD BEPS project in 2015. This international project is working to reform the international tax rules to ensure that profits are taxed where the economic activities that give rise to them are undertaken.

**3.36** The UK is taking action to implement the internationally-agreed outcomes of the BEPS project:

- the government is introducing legislation to implement the G20-OECD agreed model for country-by-country reporting in the UK, initiated by the UK (under its G8 Presidency), which will require multinational companies to provide tax authorities with high-level information on profit, corporation tax paid and certain indicators of economic activity for risk assessment
- it has committed to introduce the G20-OECD agreed rules to tackle complex cross-border tax avoidance arrangements known as hybrid mismatches and consulted on their implementation in the UK

**3.37** The government will continue to work with international partners to maintain the momentum of the BEPS project. The aim is to reach practical and sustainable solutions that ensure profits are taxed where the economic activities which generate them are performed, counter aggressive tax planning and promote UK growth and competitiveness. Delivering this objective will require progress across all the actions within the BEPS project. These include:

- Transfer Pricing rules that reflect economic reality and attribute profits to where value is created. The current transfer pricing rules, which are based on the principle of the "arm's length price", allow some MNEs to argue that excessive risk, capital and intangible assets are located in group companies in low-tax countries and therefore that all residual profit should be attributed there. New rules should allow tax administrations to re-characterise transactions, address transactions involving hard to value intangibles, and introduce new rules in relation to the pricing of capital and risk
- new Permanent Establishment rules that determine whether a MNE has a taxable presence in a jurisdiction in which it is not tax resident, based on the level and nature of the activities it undertakes there. These will prevent companies artificially fragmenting functions or contracts to minimise or avoid a taxable presence in a particular jurisdiction, and stop companies benefiting unfairly from the specific activity exemptions within the current rules
- agreeing minimum standards for inclusion into tax treaties that will ensure that one of the purposes of the treaty is to prevent abuse, and to prevent companies gaining unfair access to the benefits of a tax treaty through applying new rules or a purpose test to determine their eligibility for treaty benefits. Tax treaties may also in future include anti-conduit provisions
- developing best practice recommendations in relation to rules in relation to interest deductibility, that will allow access to appropriate relief for commercial purposes, and prevent groups from gaining a tax benefit through excessive levels of debt in group companies

- continuing to work as part of the OECD Task Force on the Digital Economy to report on the challenges related to data and income characterisation and options to address these, and ensuring that work on other Action Points take digital aspects into account
- continuing to work in the OECD Forum on Harmful Tax Practices, which seeks to address profit shifting opportunities and improve transparency within preferential tax regimes
- developing recommendations in relation to rules on Controlled Foreign Companies, which provide an essential backstop against the artificial diversion of profits that should be taxed in another jurisdiction
- improving dispute resolution mechanisms to prevent double taxation and to provide greater transparency and certainty. This is a major step which should lead to lower compliance burdens for businesses and tax authorities alike
- developing recommendations regarding the design of mandatory disclosure rules for aggressive or abusive transactions, arrangements, or structures, taking into consideration the administrative costs for tax administrations and businesses. This includes how to capture international tax avoidance schemes in such rules
- developing indicators of the economic impact of BEPS and look to establish monitoring tools which can evaluate the effectiveness and economic impact of the BEPS Action Plan's outputs
- within the BEPS project, the government will be looking at the practical measures which will be needed to put into practice the solutions developed by the project. This includes ground-breaking initiatives such as the development of a multilateral instrument to implement BEPS measures consistently and to the same timetable across participating countries without having to amend bilateral tax treaties on a treaty-by-treaty basis

**3.38** In addition to the UK's involvement in the BEPS project, the government has also taken action to strengthen the UK's domestic defences to address the problem of tax avoidance by multinational groups. The new Diverted Profits Tax is being introduced from 1 April 2015 and will use a 25% rate to counter the use of complex arrangements by multinational businesses to divert profits out of the UK.

**3.39** The measure is targeted at countering the erosion of the UK tax base as a result of arrangements that use contrived structures to circumvent the international tax rules on permanent establishment and transfer pricing, for example by using group companies in other countries as conduits to route expenditure to tax havens so that profits from UK activity go untaxed.

**3.40** The arrangements targeted by this new tax are typical of the contrived structures associated with some multinational businesses in the technology sector but the tax will apply to any large business which puts such arrangements in place. HMRC is setting up a special task force within its Large Business directorate to identify those businesses and ensure that they are subjected to the Diverted Profits Tax.

**3.41** Building on the success of the multilateral project on the digital economy, HMRC is exploring with other tax administrations the scope for extending that approach to close collaborative working to projects covering businesses in other sectors of the economy where there is high risk of tax avoidance.

## Next steps

**3.42** The above ideas will build on achievements this Parliament to do more to clamp down on evasion and avoidance, and to take out the profits for those who facilitate or enable it. The government will continue to consider what further action is needed in the future, working with other countries globally where needed on both powers and specific proposals.





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