HM Revenue
& Customs

Promoters of Tax Avoidance Schemes

Who is likely to be affected?

Promoters of avoidance schemes under the Finance Act (FA) 2014 Promoters of Tax Avoidance Schemes legislation, the intermediaries that continue to represent promoters after monitoring has commenced and clients using the monitored promoter's products.

General description of the measure

The legislation allows HM Revenue and Customs (HMRC) to issue conduct notices to promoters and subsequently monitor promoters who breach a conduct notice. Monitored promoters are subject to new information powers and penalties which will also apply to intermediaries that continue to represent them after the monitoring commences. This measure will include associated and successor entities of promoters in the high-risk promoter regime. A small number of other changes are also included in this measure, aimed at ensuring the 2014 legislation functions as intended.

Policy objective

The changes to this legislation are part of the Government's strategic response to avoidance and to deter the use of avoidance schemes through influencing the behaviour of promoters, their intermediaries and clients.

Background to the measure

The legislation was enacted in Finance Act 2014, following a consultation on the tax aspects entitled *Raising the Stakes on Tax Avoidance* which ran from 12 August until 4 October 2013, and applied to tax. The National Insurance Contributions Bill (NICs) 2014 includes legislation which will effectively mirror the tax provisions for NICs purposes. The Government announced in 2014 its intention to introduce a threshold condition for associated and successor entities. Including associated and successor entities in the high-risk promoter regime is vital to ensuring that the rules cannot be circumvented, which agreed with the consultation responses.

This Tax Information and Impact Note (TIIN) updates the TIIN published on 19 March 2014.

Detailed proposal

Operative date

The measure will have effect from the date that Finance Bill 2015 receives Royal Assent.

Current law

The current law is set out in Section 234 to 283, and Schedule 34 to 36 of Finance Act 2014.

Proposed revisions

First, Schedule 34 be amended to allow HMRC to issue Conduct Notices to a broader range of connected persons under the common control of a promoter of tax avoidance schemes.

Second, Part 5 of the 2014 Act be amended to provide that the three year time limit for issuing notices to promoters who have failed to disclose avoidance schemes to HMRC under DOTAS applies from the date when the failure comes to the attention of HMRC rather than the date of the underlying failure.

Thirdly, a new threshold condition will be introduced into Schedule 34 for failing to comply with NICs disclosure requirements.

Finally, Schedule 34 will be amended to ensure that the threshold conditions take account of decisions by independent bodies in matters of all relevant forms of professional misconduct.

Summary of impacts

<table>
<tr><td rowspan="3">Exchequer impact (£m)</td><td>2013-14</td><td>2014-15</td><td>2015-16</td><td>2016-17</td><td>2017-18</td></tr>
<tr><td>nil</td><td>+5</td><td>+35</td><td>+35</td><td>+35</td></tr>
<tr><td colspan="5">These figures were set out in Table 2.1 of Budget 2013 as the Avoidance schemes: enhanced information powers policy measure and have been certified by the Office of Budget Responsibility. More details can be found in the policy costings document published alongside Budget 2013.</td></tr>
<tr><td>Economic impact</td><td colspan="5">The measure is not expected to have any significant economic impacts.</td></tr>
<tr><td>Impact on individuals, households and families</td><td colspan="5">The measure will mainly impact on those individuals who are, or work for, monitored promoters.

There may also be an impact on the users of avoidance schemes. Individuals who use avoidance schemes will generally be higher rate taxpayers.

It is not expected that the measure would adversely affect households and families.</td></tr>
<tr><td>Equalities impacts</td><td colspan="5">HMRC does not hold information about the protected characteristics of promoters and users of schemes but there is no reason to suppose that there is any particular equality impact.

It is not expected that the measure would impact adversely or disproportionately on equality groups.</td></tr>
<tr><td>Impact on business including civil society organisations</td><td colspan="5">Approximately twenty promoters were considered to be within the scope of the 2014 legislation. These changes secure the original policy intent. Some of the initially identified promoters are expected to improve their behaviour without HMRC using their powers under the legislation, others are expected to require formal action. Over time it is possible that other promoters under common control will be identified as having breached a threshold condition and become subject to this legislation.

The measure is expected to have a negligible impact on businesses. There will only be an impact on businesses if they participate in or promote avoidance schemes

This measure will have no impact on and civil society organisations or businesses undertaking normal commercial transactions.</td></tr>
<tr><td>Operational impact (£m) (HMRC or other)</td><td colspan="5">Dealing with the additional information and reporting of information will have negligible impact on HMRC.</td></tr>
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Other impacts	Small and micro business assessment: businesses of any size develop market and use tax and NICs avoidance schemes. HMRC expects this measure will have little, if any impact on small businesses either in absolute terms (considering the overall effect on them) or in relative terms (considering the effect on specific businesses). Other impacts have been considered and none have been identified.

Monitoring and evaluation

The measure will be monitored using information collected from the limited population of designated promoters and their users.

Further advice

If you have any questions about this change, please contact Simon Galloway on 03000 585154 (email: simon.galloway@hmrc.gov.uk).