

ANYTHING TO DECLARE?

Nisha Singh advises Asian clients to embrace the era of global tax transparency and disclose their UK tax liabilities

Funds held in offshore financial centres are under scrutiny and this is set to intensify as we enter an era of global tax transparency.

Countries that were early adopters of big-data analytics as a tool to tackle tax evasion, such as the UK, will soon gain access to more data than ever before. The UK's award-winning big-data system 'Connect' has already been credited with helping HMRC collect an additional GBP3 billion of tax,¹ and it is said to hold more information than the British Library. The system will take the data it receives from other jurisdictions under automatic exchange of information agreements and – at the click of a button – connect it with HMRC's records to detect anomalies, highlighting areas where the tax authority can launch enquiries.

IMPACT ON ASIAN CLIENTS

This new world of tech-enabled tax transparency raises particularly interesting issues for Asian clients and those in the private-wealth industry who advise them. Given the growing importance of Singapore in global wealth management, it is not surprising that it is on HMRC's radar. Singapore's wealth-management industry is already growing faster than Switzerland's, and it is predicted that Singapore's share of global wealth will outstrip Switzerland's by 2020.²

Singapore has committed to signing up for automatic exchange of information under the OECD Common Reporting Standard (CRS) and it is expected that Hong Kong will follow suit shortly. Soon

dozens of jurisdictions, including Singapore, will begin to collect information that will be exchanged with other countries, including the UK, on an automatic basis under the CRS and, by as early as 2017, the UK may have the information it needs to investigate taxpayers with accounts or structures in these jurisdictions.

This is not a concern only for those who have deliberately been evading their tax obligations. Many Asian clients simply are not aware that they may have outstanding UK tax liabilities. Broadly, an individual might have an exposure to UK tax because they are domiciled in the UK, are tax resident there or have UK assets. For example, if an Asian entrepreneur's child goes to the UK as a student and lives rent-free in the London flat held through a family trust, that benefit is potentially taxable on the child. Unlike the US tax system, there is no exemption for students, and these sorts of situations can create significant confusion regarding the UK tax obligations of a wealthy international Asian family.

HARSHER PENALTIES

It is expected that taxpayers will recognise the shift towards greater transparency and voluntarily settle their tax affairs before information is shared. However, HMRC has already shifted its focus to ensuring there will be even tougher consequences for those who do not come clean.

The UK government will introduce enhanced penalties for moving hidden funds to circumvent international

tax-transparency agreements. It is also proposing to introduce a new strict-liability criminal offence for failing to declare offshore income and gains, and those who deliberately move funds from a jurisdiction that has adopted the CRS in an attempt to escape scrutiny will be prioritised for criminal investigation. HMRC's message is clear – there are no more safe havens.

THE ANSWER?

The optimal solution will often be to come forward under one of the favourable disclosure facilities – the Liechtenstein Disclosure Facility or the Isle of Man, Jersey or Guernsey Disclosure Facilities. There are significant benefits in making a disclosure rather than risking an investigation, including a reduced period of assessment and lower penalties, fixed at 10–40 per cent, rather than the potential 200 per cent of tax due. All of the current disclosure facilities will close in 2016. The OECD may encourage member countries to introduce one last disclosure facility before the CRS is implemented but, in the absence of this, there may not be any more chances.

Unfortunately, there may be circumstances, particularly for clients in Asia, where taxpayers are not eligible for the full favourable terms under the existing disclosure facilities. However, in all cases, it is better for clients to come forward on their own terms before HMRC comes to them. Doing nothing is no longer an option.

¹ HMRC fast facts, May 2014, available at bit.ly/HMRCfacts

² *International Business Times*, February 2014, available at bit.ly/IBTreport



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