



Introduction

As explained in our more detailed July briefing, Requirement To Correct (RTC) covers Income Tax, Capital Gains Tax and Inheritance Tax relating to any year that HMRC can lawfully assess as at 5 April 2017. It imposes a statutory requirement on affected taxpayers to correct the position by providing relevant information relating to offshore non-compliance to HMRC on or before 30 September 2018.

Broadly, the statutory position is that:

- The current rules on penalties will apply if the necessary disclosure is made.
- Severe failure to correct (FTC) penalties - the minimum being 100% of the tax due with the maximum being 200% - will be imposed if:
 - no disclosure is made by the deadline; and
 - the taxpayer is unable to satisfy any of the tests for having “reasonable excuse”.

Limited relaxation of the rules with respect to FTC penalties

In a limited relaxation to the statutory rules, HMRC has stated that taxpayers will not be liable for FTC penalties in three sets of circumstances.

Using the Worldwide Disclosure Facility (WDF)

If registration is made using HMRC’s Digital Disclosure Service (DDS), the registration must be made by midnight on 30 September 2018. There is a shorter registration for those who want to register for the WDF by telephone, such individuals being required to do so by 4pm on 28 September 2018.

The taxpayer will not be liable to penalties for any failure to correct provided the disclosure process is completed fully and accurately within the 90 day time limit required by the WDF.

Where the 90 day period would expire prior to 29 December 2018 and the case is complex and/or a non-statutory clearance application is made, the taxpayer can ask HMRC for an extension to the 90 day WDF period.

Where the extension is agreed, taxpayers will have up to the end of 29 December 2018 to provide HMRC with all the required information without any FTC penalties being applied. The actual HMRC WDF extension deadline granted may be to a date beyond 29 December 2018 (15 January 2019 for example) but this later date is not relevant in the context of FTC penalties. FTC penalties will be applied in all cases where there is an extension situation and 29 December 2018 is passed without the required information being provided to HMRC.

Using HMRC's Contractual Disclosure Facility (CDF)

The CDF is a way for a taxpayer to voluntarily tell HMRC about his or her deliberate tax non-compliance. A taxpayer will not be liable to FTC penalties with respect to any issue detailed in the disclosure if:

- a completed form CDF1 is e-mailed to HMRC at centre.cop9@hmrc.gsi.gov.uk on or before 30 September 2018;
- HMRC is informed that the taxpayer wants to make a disclosure of their deliberate offshore tax non-compliance via HMRC's CDF process;
- HMRC agrees to the request; and
- the outline disclosure is submitted within the 60 day time limit stipulated in the process (there are no circumstances where this deadline will be extended and if it is not met the FTC penalties will apply).

Ongoing enquiry

Where HMRC is already enquiring into the affairs of a taxpayer there is the option on or before 30 September 2018 of informing the HMRC Enquiry Officer that the taxpayer wishes to make a disclosure of offshore tax non-compliance.

In this situation, to avoid FTC penalties with respect to issues detailed in the disclosure, an outline disclosure must be submitted to the HMRC Enquiry Officer by 29 November 2018 (there are no circumstances where this deadline will be extended and if it is not met the FTC penalties will apply).

The outline disclosure must provide:

- details of the offshore tax non-compliance committed;
- the years involved;
- a summary of how the non-compliance came about;
- the amount of tax that is felt to be due; and
- a summary of the records that are available to assist in making the disclosure.

And at

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