

**Requirement to correct certain offshore tax non-compliance
Consultation on draft clauses for Finance Bill 2017
Response from the Low Incomes Tax Reform Group (LITRG)**

1 Executive Summary

- 1.1 We welcome the opportunity to comment on the draft clause and schedule for Finance Bill 2017 in relation to the requirement to correct certain offshore tax non-compliance (clause 94 and schedule 22).
- 1.2 We welcome this initiative by HM Revenue & Customs (HMRC) to encourage taxpayers to review their offshore affairs and put them back onto a compliant footing where necessary.
- 1.3 The “requirement to correct” requires taxpayers to correct their offshore tax affairs without specific prompting from HMRC. In order for these proposals to be successful, there will need to be effective communication by HMRC with all taxpayers, in particular, hard-to-reach groups affected, such as unrepresented migrants.
- 1.4 HMRC’s messages concerning data sharing must be communicated effectively to all non-compliant taxpayers, both the deliberately non-compliant and those who have not been deliberately non-compliant. HMRC should also ensure that there is clarity for all taxpayers about what they can expect from HMRC going forward and how HMRC expect to use Common Reporting Standard (CRS) data.
- 1.5 We are hugely concerned that the proposed penalties, which are extremely harsh (maximum 200% of potential lost revenue; minimum 100% of potential lost revenue), might deter some taxpayers from coming forward.
- 1.6 We welcome the inclusion of provision for a reasonable excuse. It is essential that reasonable excuse is considered by reference to all the relevant circumstances of a taxpayer.

2 About Us

- 2.1 The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low income workers, pensioners, migrants, students, disabled people and carers.
- 2.2 LITRG works extensively with HMRC and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 2.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

3 General comments

- 3.1 The government consulted on introducing a requirement to correct in August 2016, as part of their proposals to tackle offshore evasion. That consultation included a proposal to introduce an obligation compelling those with offshore interests to put their UK tax affairs in order by September 2018 (if they have not yet done so), ahead of the widespread adoption of the CRS. Taxpayers who fail to correct their tax affairs by September 2018 will be subject to a single, tougher set of failure to correct sanctions for offshore tax evasion. The CIOT responded to that consultation and we agree with the comments they made.¹
- 3.2 The requirement to correct requires taxpayers to correct their offshore tax affairs without specific prompting from HMRC. In order for these proposals to be successful, there will need to be effective communication by HMRC with all taxpayers, not just those who are represented by agents. There will be some hard-to-reach groups affected by the requirement to correct provisions, who will need to be catered for: for example, unrepresented migrants.

¹ <http://www.tax.org.uk/policy-technical/submissions/tackling-offshore-tax-evasion-requirement-correct-ciot-comments>.

- 3.3 While many represented taxpayers may receive a copy of the HMRC produced 'client notification letter',² this will not reach unrepresented taxpayers, who may have overseas income or assets.³ We have a particular concern about low-income, unrepresented migrants, who have overseas income or assets in their home countries. Due to a lack of familiarity with the UK tax system, and an inability to afford tax advice, they may not appreciate the need to tell HMRC about their overseas interests. In addition to the client notification letter, it is essential that there is a huge publicity drive, covering a wide range of channels and ensuring the broadest reach possible, such that the unrepresented are not at a disadvantage. Even with a major communications campaign, we do not think it can be presumed that an unrepresented taxpayer would be aware of this requirement, especially if their understanding of English were poor.
- 3.4 Some taxpayers will not have yet put their offshore tax affairs in order, not because they are trying to evade their responsibilities, but because of a lack of care, a lack of a recent review, or a lack of understanding of the tax system. Since they are not deliberately evading tax, they will not identify themselves as tax evaders. It is essential that messages concerning data sharing are communicated effectively to all non-compliant taxpayers, in order to give them an incentive to come forward. Communications also need to be nuanced, such that those who have not been deliberately non-compliant realise that the requirement to correct also applies to them.
- 3.5 We think the success of the requirement to correct regime could be maximised if HMRC ensure that there is clarity for all taxpayers about what they can expect from HMRC going forward and how HMRC expect to use CRS data.
- 3.6 The proposed penalties are extremely harsh (maximum 200% of potential lost revenue; minimum 100% of potential lost revenue), to the extent that they might deter some taxpayers from coming forward.
- 3.7 We welcome the inclusion of provision for a reasonable excuse at paragraph 19 of Schedule 22. It is essential that reasonable excuse is considered by reference to all the relevant circumstances of a taxpayer. In addition, if a taxpayer is unrepresented and can show that they have not received a client notification letter, we think this should be taken into consideration.

² <https://www.gov.uk/government/publications/client-notification-income-or-assets-abroad>.

³ The obligation to send 'client notification letters' also applies to 'specified financial institutions', which include banks. We accept that in some cases an unrepresented UK resident migrant taxpayer could receive the letter from a bank if they have an overseas bank account with the institution, but this will not apply to all.

4 Comments on draft legislation

4.1 *Clause 94 and Schedule 22 Requirement to correct certain offshore tax non-compliance*

4.1.1 No comments.

LITRG
23 January 2017