

## NEW DISCLOSURE OPPORTUNITY

From 1st September 2009, UK residents with offshore assets, including offshore bank accounts and credit cards, will be provided with an incentive to declare any undisclosed liability under a new arrangement announced by HM Revenue & Customs (HMRC) on 28 July. This "New Disclosure Opportunity" (NDO) offers offshore asset holders the possibility of significantly reduced penalties of just 10% together with payment of the taxes and duties underpaid and associated interest. At the same time, HMRC is contacting over 200 banks and financial institutions for details of customers with offshore assets.

The NDO will only be available for a limited time period, making it important for individuals to pay close attention to the timetable. There is an initial 'registration period' and different deadlines apply depending upon whether the disclosure is made in paper format or is filed electronically.

### Who should make a disclosure?

It may be that people are unsure whether a liability will arise purely because they hold an offshore asset.

There can be situations where no liability arises. However, a number of questions need to be answered before determining the position, such as:

- What is my tax domicile status?
- Did any of my offshore capital arise from earnings and, if so, where and when did I earn it?
- Did any of my offshore capital arise from Capital Gains?
- Have I ever brought any of this money into the UK?

This list is by no means exhaustive and each individual's situation will need to be considered carefully on a case-by-case basis.

Any taxpayer who is uncertain of their situation should contact their advisor at an early stage to provide clarity for their own circumstances before the end of the respective 'registration window'.

### What kind of offshore assets are included?

The NDO relates to any offshore asset that might have been purchased with undisclosed income, profits or gains or in which such amounts might have been invested. It will also relate to any taxable income, profits or gains that may arise from the holding of the asset s, such as the profits from the letting of a property or interest on an undisclosed bank account.

Taxpayers should consider all their offshore assets and investments including, for example:

- Bank accounts and credit cards;
- Bonds or other financial products;
- Land or Property;
- Trusts;
- Business interests;
- Other assets such as yachts, aircrafts and vehicles.

### What are the deadlines for registration and disclosure?

If an individual wishes to make a paper disclosure they must:

- Notify their intention to disclose between 1 September 2009 and 20 November 2009 then;
- Submit their disclosure no later than 31 January 2010.

If an individual wishes to make an electronic disclosure they must:

- Notify their intention to disclose between 1 October 2009 and 30 November 2009 then;
- Submit their disclosure no later than 12 March 2010.

A publicity campaign will support the NDO with the aim that individuals are fully aware of the information they are required to provide, as well as their responsibilities and potential consequences of non-compliance.

### What happens if a disclosure is made?

Where a disclosure ought to be made, the taxpayer must pay any duties outstanding together with interest and a penalty. HMRC have stated that these individuals will only face a penalty of 10% of the taxes and duties that are underpaid provided that they were not covered by the first 'Disclosure Facility' in 2007. Any person making a disclosure under the NDO who had already been contacted by HMRC under the first disclosure facility will be subject to a penalty of 20% of the taxes and duties that are underpaid.

After the disclosures have been submitted HMRC may carry out a sample of the disclosures and ask selected taxpayers to provide documentation to confirm that their disclosure is correct and complete. Any individual who ought to make a disclosure but fails to do so faces the likelihood of enquiry and the prospect of a penalty of 30% or more, and runs an increased risk of criminal prosecution.

### What help is available?

Given the short time frame in which a disclosure can be made, seeking advice sooner rather than later will be advantageous. Burgess Hodgson will be able to:

- review each individual's specific circumstances, and assist in determining whether it is necessary to make a disclosure;
- assist with the management of any disclosure where the factors may increase the risk of prosecution;
- assist with personal tax returns for the year ended 5 April 2009, reporting any previously undisclosed income to potentially avoid a penalty associated with any liability.

### Gaining further guidance

It's important for all those individuals holding offshore assets to consider seeking expert advice to ensure that they are fully aware of all factors relating to the NDO. If you want help making an informed decision, contact Burgess Hodgson on 01227 454627 or email [ndo@burgesshodgson.co.uk](mailto:ndo@burgesshodgson.co.uk)

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