



Offshore tax evasion

11 April 2016

The “Panama Papers”

The Panamanian law firm Mossack Fonesca and the so called Panama Papers have dominated headlines in recent days. It is claimed that a large number of offshore companies registered in Panama may have been used to evade taxes.

There are of course perfectly legitimate reasons for holding offshore investments. It is not unlawful to utilise offshore jurisdictions or investment vehicles as part of an efficient financial planning strategy. Such arrangements can provide a secure and flexible environment for investors whose state of origin may be unstable and subject to undemocratic regime change.

Her Majesty’s Revenue and Customs

The reaction of national tax authorities is awaited. HMRC has already put together a team to sift through the data, and its Director-General of Enforcement and Compliance, Jennie Granger, has confirmed that:

“we have already received a great deal of information on offshore companies, including in Panama, from a wide range of sources, which is currently the subject of intensive investigation.”

HMRC is under intense political pressure to increase the tax take. In such an environment, those who consider that they have complied

with their UK tax obligations should be mindful that they may still come under scrutiny from HMRC. HMRC are likely to focus on areas such as domicile and whether offshore companies are centrally managed and controlled from the UK and therefore UK resident for tax purposes.

This is a complex area and innocent mistakes can occur. Those affected will need to ensure that they have fully complied with all their legal obligations.

Information exchange

The Panama Papers come at a time when many governments and their tax authorities are concerned that certain taxpayers avoid or evade tax by holding money or investments outside their territory of residence and fail to declare income and gains in that territory. To combat this concern, a number of agreements and arrangements are now in effect. From 1 January 2016, all UK entities are potentially subject to the following tax information exchange regimes:

Any comments or queries?

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- United States Foreign Account Tax Compliance Act
- Crown dependencies and Gibraltar regulations
- the Common Reporting Standard
- EU directive on administrative co-operation in tax matters.

The above do not only relate to large traditional financial organisations. Many trusts and personal investment companies will also be caught by the definition of “financial institution”.

Action

HMRC’s sophisticated systems will be able to analyse the information it receives (whether the source of that information is the Panama Papers or otherwise) and we expect HMRC to carry out a thorough review.

Anyone who believes that they may have undeclared income or gains (whether that arises because of deliberate action, misunderstanding of the technicalities of the law, or a simple mistake) should review their position as a matter of urgency. Failure to act may lead to hefty penalties or even criminal sanctions. Engaging with HMRC and regularising their position will be the preferred option for many rather than awaiting the knock!

Please contact us should you require advice and support.

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