KPMG

Making tax digital

Big Data

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Big Data

If you are an assignee working overseas, how would you feel if you received a letter from the local tax authority of the country you are working in containing the following?

> Your final opportunity to bring your worldwide tax affairs up to date

> When you have offshore assets, UK tax is likely to be due on any income or gains you receive from the assets

> Failure to make a disclosure and pay your tax liabilities could lead to tougher penalties or a civil or criminal investigation

This is actual wording taken from a recent letter to an assignee in the UK from the UK tax authorities. It was clearly sent to the assignee to warn that HMRC is receiving information from overseas under the OECD Common Reporting Standard ('CRS'). The phrasing may seem strong in tone but CRS data will provide a new and significant source of data that tax authorities will be using to test whether taxpayers are compliant and selecting cases for audits.

CRS data is just one of the sources of data that tax authorities will have at their disposal. In the UK, consultations are ongoing about the submission of third party data from banks and other organisations to help populate individual's digital tax accounts as part of the Making Tax Digital reforms.

What is the CRS and how will the data be used?

CRS is an agreement between over 100 countries to exchange information in a consistent format. Tax authorities will receive a wealth of information including year-end account balances, interest and dividend income, proceeds from sales, income from investment funds, income from pensions and valuation of those pensions, values of life insurance policies.

The first wave of countries recently exchanged information for the calendar year 2016. This includes the EU and many British Crown dependencies. Many other countries have agreed to share information from 2017 by 30 September 2018 including Australia, Brazil, Canada, UAE, Singapore and Switzerland.

Clearly the data will provide tax authorities with a better indication of overseas wealth, income and gains and enable them to challenge the filing position of some taxpayers.

We fully expect many countries to increase investigation activities. Initially, due to resource constraints, this may be on a random trial basis to help them learn how to best use the data from certain populations.

Some assignees may get caught up in the crosshairs

The CRS initiative is an agreement to increase tax transparency and tackle tax evasion against a backdrop of recent events such as the leaking of the 'Panama Papers' and 'Paradise Papers'. It is likely to be highly successful in that regard.

In the world of the Globally Mobility, it is of course quite normal for international assignees to have offshore banking and financial arrangements as a result of retaining accounts and investments in their home location. And, under UK law for example, assignees who are resident and not domiciled in the UK can make a claim for the "remittance basis" which means that in most cases their non-UK investment income and gains are not taxable in the UK if they are not remitted to the UK. Some other examples of favourable regimes are as follows:

UK
Non-domiciled individuals
Remittance basis of taxation

Italy
Newly created non
Domicile regime where qualifying individuals can pay a 100,000 Euro[1] fee for exemption of their foreign income and gains from tax

Japan
Non permanent residents
Remittance basis of taxation

Ireland
Non domiciled individuals
Remittance basis of taxation

Singapore
General exemption for
Foreign investment income and gains

South Korea
Foreign
Remittance basis of taxation if residency condition met

Hong Kong
General exemption for
Foreign investment income and gains

Portugal
Non habitual residents
Exemptions for foreign source income under conditions

As a result of these regimes, there may be no reporting of foreign investment income and gains and historically no visibility to the tax authorities, individuals would neverthless be compliant with local laws whilst they are eligible to claim such status. However, as a consequence of CRS, tax authorities are set to receive information about individuals offshore accounts and may open investigation proceedings which can be intrusive and time consuming to deal with.

[1] https://home.kpmg.com/content/dam/kpmg/xx/pdf/2017/01/tnf-italy-jan11-2017.pdf

UK - Worldwide Disclosure Facility and Requirement to Correct

Early indications are that the UK is leading the way in offshore compliance enforcement as a result of the arrival of the CRS data. The UK has introduced a 'Requirement to Correct' (RTC) and associated severe penalties for 'Failure to Correct' (FTC) potentially apply to anyone with historic UK tax liabilities relating to "offshore tax non-compliance" at 5 April 2017 and who fails to correct that non-compliance by 30 September 2018. This may include UK resident and domiciled individuals, UK resident and non-UK domiciled individuals, non-UK residents (including business travellers) and offshore trustees. It applies equally to those who have deliberately evaded tax, those who have failed to pay the correct amount of tax through a careless error or even those who have taken reasonable care but where the advice they have received is "disqualified".

With penalties of a minimum of 100% (and up to 200%) of the tax underpaid, plus a 10% asset-based penalty and naming and shaming in the most serious cases, the sheer size of potential penalties signifies a step-change in HMRC's approach to dealing with those who fail to put historic non-compliance right. Furthermore, RTC provides an important extension of existing assessment periods such that years up to 5 April 2017 will remain open to scrutiny until 5 April 2021.

The UK is not alone. Other countries are also introducing similar disclosure and enhanced penalty regimes and disclosure initiatives for offshore non-compliance.

What data sources are being used?

The information being shared under the CRS exchanges is just one source of data but an important one and it extends the data collection outside the home country. It allows tax authorities to build a better picture of global wealth. There are many other sources of data that help tax authorities understand their customer base and lifestyles.

HMRC have been using a computer system called 'Connect' to join up the various data sources and build a picture of an individual's lifestyle against submitted tax returns. Individuals who have remitted previously untaxed offshore income and gains may need to review their affairs.

Next steps

The use of data by tax authorities is significantly enhancing their learning and enforcement activities, all with the aim of reducing tax avoidance and evasion. Some assignees including senior executives will be impacted by increased scrutiny of their affairs and may need additional support from their employers to help them navigate any enquiries from tax authorities. As one of the aims of Making Tax Digital is to bring tax reporting and payment into real-time, any significant tax return liability or repayment resulting from compensation may result in a greater risk of audit by tax authorities. Our previous articles provide further thoughts on how internal systems and processes can be modernised to support real-time accurate reporting.

Contact us

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About KPMG's Global Mobility Services (GMS)

Aligning our thinking to your talent management objectives, we can support you with the planning and management of your international workforce.

GMS provides advisory, compliance and administrative services, along with outstanding technology, to help you manage an international workforce.

Our network across KPMG member firms of over 4,000 leading specialists supports more than 2,500 companies across 140 countries worldwide. The tools and advice we provide helps to simplify business functions and reduces time spent on compliance, making the assignee experience more seamless.

For many organisations, the pressure to compete effectively has led to an increase in the size and complexity of their global workforce, placing greater demands on international human resource teams. Managing compensation, tax compliance and global mobility is becoming more costly, complex and time-consuming.

GMS brings together a wealth of tax, technology, immigration and mobile administration services to help you manage your global workforce in an easier, safer and far more efficient way. Whether you are considering expansion or relocation to a new location, an acquisition or more streamlined processes to help you manage your existing workforce, our practice can help support you.

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