

With you today



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Agenda

- 1. What is the Profit Diversion Compliance Facility ('PDCF')?
- 2. HMRC risk indicators
- 3. Key considerations
- 4. Next steps
- 5. Any questions?







What is the PDCF?



Key features and background

- Enables MNEs to bring tax affairs up to date where not already under HMRC investigation
- Profit Diversion not just Diverted Profits Tax ('DPT') so relevant to any business with (related party) cross border transactions e.g.
 - Transfer pricing arrangements
 - Company residence
 - Permanent establishments
 - Withholding taxes
 - Indirect taxes
- Detailed HMRC guidance with wide relevance





Why has HMRC launched the PDCF?

- Continued wide lack of BEPS compliance identified e.g.:
 - Incorrect assumptions made
 - Failure to reflect 'what is actually happening on the ground'
 - Implementation failures
 - Failure to update TP policies
- Time limits for DPT Preliminary Notices
- Co-operative Compliance preferred





HMRC's plans

- High risk MNEs identified in a variety of sectors
- Investigation programme across Large Business and Mid-Sized
- Fraud Investigation Service involvement
- 'Nudge' letters to some but not all







HMRC's risk indicators



HMRC risk indicators



General

- Contractual

 allocation of risk
 inconsistent with
 control over risk.
- Fragmentation of valuable integrated functions in the pricing model.



Sales, marketing and distribution

- Important regional functions taking place in the UK with associated profits routed overseas.
- UK entities
 performing key
 account
 management
 functions.



Supply chain

- Supply chains with entities in low tax territories.
- Payments made
 to procurement or
 sourcing hubs
 with limited
 functionality or for
 group synergies.



R&D

Valuable R&D functions described as low value.



Intangibles

- Accumulation of residual profits in a (low tax) IP holding entity with low value functions.
- UK entities
 performing key
 functions
 related to IP.





Key considerations



Setting the scene

Profit Diversion investigations:

— Our recent experience

Detailed PDCF Disclosure Report requirements e.g.:

- Employee interviews
- Contemporaneous communications and documents e.g. e-mail review
- Analysis of behaviours and conclusions on penalties

How does the PDCF differ?





Other important considerations

Do you have sufficient **resources** to commit to an accelerated process?

The disclosure report will require **a broad scope**, covering all tax risks.

Could the PDCF guidance result in a mismatch between taxpayer and HMRC expectations?

Costs: tax, interest, (potentially) penalties, and cost of preparing the disclosure report?







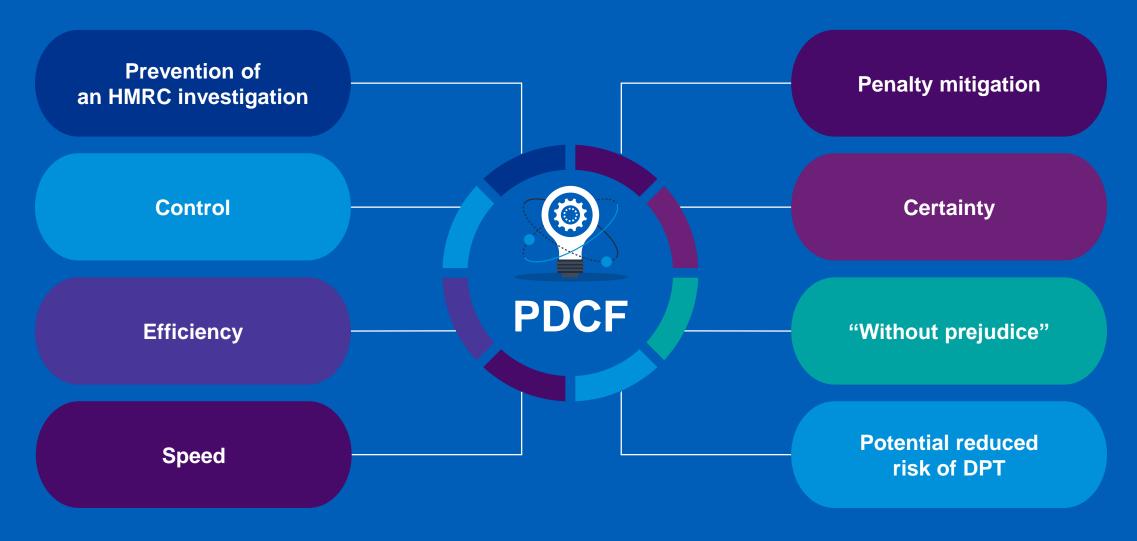
Whilst HMRC expects to accept most proposals, there are **no guarantees** against further investigations.







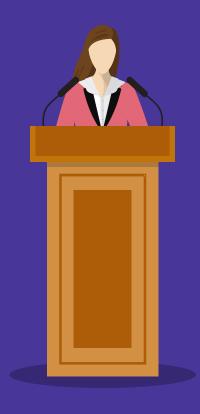
Benefits of using the PDCF







Next steps



Considerations: Decision Tree

Have I reviewed my arrangements and TP policies in light of HMRC's PDCF guidance published January 2019? Yes No Urgently review Are any high risk indicators outlined in the PDCF Yes guidance potentially present? No Is TP documentation to the standard HMRC expects? No Yes Would I value a second opinion by an independent team? Yes No Have I received a 'nudge' letter? Yes No Ensure that evolutions in the facts and tax rules are Urgently review; seek specialist advice as required monitored



Options for taxpayers

Range of options, dependent on specific fact and risk patterns e.g.:



BEPS compliance risk assessment



Design and implement BEPS compliant tax models



Obtain advice on potential exposures



Advance pricing agreements and mutual agreement procedures



Proactively engage with HMRC



Register for the PDCF

KPMG can assist with all of the above options, and services can be provided under **legal advice privilege** where appropriate.

Next steps

- Review your own fact pattern
- Assess your options
- Discuss and obtain buy in from key (internal) stakeholders: CFO, General Counsel, C-Suite
- Consult with appropriate external stakeholders: your advisors, (potentially) your HMRC customer compliance manager





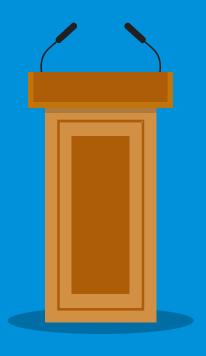


Any questions?





Thank you





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