



A UK Tax Deadline Not To Be Missed

Those with remuneration loan agreements should register their intention to settle tax affairs by 30 September 2018 – or face penalties.

– By Mark Taylor

We are soon to approach 30 September 2018. This date is arguably one of the most important deadlines of recent note that has been set by the UK tax authority, HM Revenue & Customs (HMRC), in its attempt to tackle tax avoidance and offshore tax evasion.

Tax Avoidance

Taxpayers, whether employees, employers or self-employed contractors, who have entered into contractor/disguised remuneration loan arrangements, often non-repayable received from offshore employee benefit trusts, have a last opportunity to register their intention by 30 September 2018 to settle their tax affairs. They must also by this date provide HMRC with all relevant information to enable settlement proposal figures to be issued.

Those taxpayers who fail to register and settle their tax affairs whom still have loans outstanding at 5 April 2019 face a 'loan charge' that will fall due for immediate payment on that date.

Some taxpayers will face tax exposure over several years, meaning those who do not have the savings or assets to make immediate payment will require time-to-pay arrangements to be negotiated with HMRC or face bankruptcy.

If you are a user of such loan arrangements, with loan amounts outstanding, you should immediately seek advice from a specialist who can review your position and let you know where you stand.

Offshore tax evasion

The UK introduced legislation in late 2017 called

'Requirement to Correct' (RTC). In summary, if you do not correct an historic UK tax error before 30 September 2018, and HMRC later discovers the mistake (e.g. through information received under the Common Reporting Standards sharing regime); there will be crippling penalties (200% of the tax plus 10% of the value of any related assets). In addition, HMRC may publish your details on their website, which is watched by the media.

The RTC legislation will not just affect UK residents. If you are an individual, trustee or director/ shareholder of a non-UK company and have consistently resided outside of the UK, you may still have a UK tax problem.

The UK's tax system has far-reaching tentacles so if you (in whatever capacity you are acting) have any connection to the UK, you should soon check the position carefully, just to make sure that nothing has been missed. If it turns out that there has been a mistake, it is possible to limit your exposure to just the tax missed plus any interest (i.e. no penalties). A disclosure can then be made (whether unprompted or prompted by HMRC), using the HMRC's Worldwide Disclosure Facility (WDF). However, HMRC's WDF closes its door on 30 September 2018.

Any person who has knowingly and deliberately evaded UK tax in respect of offshore income, assets or gains should think very carefully about whether HMRC's WDF is the right disclosure process for them, given it does not provide immunity from prosecution. Alarmingly,

HMRC is not averse to criminally investigating taxpayers whom are seeking to disclose irregularities and settle their tax affairs on a civil basis. HMRC is under pressure to crack down on offshore 'wealthy' taxpayers and has challenging prosecution targets to meet, so specialist advice must be sought about the most appropriate disclosure process to minimise any potential prosecution. In certain circumstances, HMRC's Code of Practice 9 Contractual Disclosure Facility

would be a more suitable disclosure process given it provides immunity from prosecution in relation to all matters that are fully disclosed.

If you are entirely confident that you have complied with all your UK tax-reporting obligations, you do not need to worry (perhaps make a note on your files that you considered RTC but felt there was no need to act further). However, if you are at all uncertain, then you should seek advice from a specialist who can review your position and advise you accordingly.

One of the most unusual aspects to the RTC legislation is that you are generally not able to rely on the fact you took tax advice in the first place. While this may seem nonsensical, it can be solved by receiving a second opinion now, which you can rely on if HMRC successfully challenge your historic actions.

One thing that is certain is that the draconian assessment and penalty powers HMRC will have at its disposal post 30 September 2018 means that many taxpayers are currently in the 'last chance saloon' and the bar has just called last orders. 

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Mark Taylor
Head of Tax Investigations and Dispute Resolution,
Buzzacott

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