

Tax Insights

Worldwide Disclosure Facility

Tick tock, the clock is ticking! If you have undeclared income or capital gains from anywhere in the world, you have until 30 September 2018 to notify HMRC using its Worldwide Disclosure Facility. Time is running out!

It is now almost impossible to hide assets or funds around the world.

HMRC has been accumulating information from domestic and foreign based banks and investment companies over a number of years. It will at some point use that information to challenge UK taxpayers as to whether they have declared all of their overseas income and capital gains.

That's not all. Over 100 countries have signed up to the Common Reporting Standard (with more countries, including Switzerland, expected to follow) under which they will automatically exchange information about taxpayers amongst themselves.

All this means that it is wise for taxpayers to undertake a review of their worldwide income and assets, even if they think that the income received is passive and may not be brought into the UK. Where necessary, taxpayers can register to make a disclosure to HMRC by 30 September 2018 under its '**Requirement to Correct**' arrangement using the Worldwide Disclosure Facility (WDF).

Who can use the WDF?

The facility is open to anyone who wants to disclose a UK tax liability that relates wholly or partly to any offshore issue and includes:

- Income arising from a source outside the UK
- Assets situated or held outside the UK
- Activities carried on wholly or mainly outside the UK
- Funds connected to unpaid or omitted UK tax transferred to a territory outside the UK

Why should I consider using the WDF?

An intention to disclose will help to demonstrate to HMRC that, should you not be fully compliant, you wish to repair the position. Furthermore, making such a disclosure will protect you from the aggressive action that HMRC proposes to take against those who have undeclared income, capital gains and other benefits from offshore assets that may produce a tax liability. It can also extend to taxpayers who have received excessive tax repayments and have not alerted HMRC of the overpayment made to them.

I have an offshore entity (trust, company or partnership) based outside the UK. Do I need to make a disclosure to HMRC?

You may not have to make a disclosure but you should consider getting advice from someone who can help you examine your overall worldwide position and determine whether you can benefit from using the WDF.

Is the WDF only for offshore related matters?

No. You can use WDF to regularise your UK tax affairs where there is unreported income or capital gains.

How significant are the penalties?

If you find an understatement of income or capital gains generated offshore and bring it to HMRC's attention via the WDF before 30 September 2018, you can potentially offer to pay a penalty to HMRC. The penalties can be up to 100% of the tax due but there is scope to mitigate the penalty down to 15%.

If, on the other hand, the taxpayer does not make use of the WDF process by 30 September 2018, the 'Failure to Correct' rules will apply, and the penalties are very severe:

1. A tax-g geared penalty of between 100% and 200% of the tax liability, with a minimum penalty of 100% of the tax due;
2. The initial penalty can be increased by 50% where HMRC can demonstrate that the taxes remain unpaid by virtue of concealing or evading taxes by moving assets to another jurisdiction. This is for serious offences arising from overseas based assets;
3. The penalty may be up to 10% of your total asset value;
4. The taxpayer may be named and shamed, where the liability exceeds £25,000.

It is strongly recommended that if the taxpayer is aware of a problem, they should take expert advice.

Could I risk a prison sentence if I fail to make an intention to disclose before 30 September 2018?

It depends. If it is established that a UK taxpayer has tried to conceal or has given false information, HMRC may consider criminal action, which could result in imprisonment. Otherwise, the taxpayer will be subject to penalties and interest up to the date that the total tax liability has been paid, as mentioned above.

What happens if I receive a letter from HMRC about assets or monies that are held abroad?

We would urge you to seek immediate advice from an expert who will be able to guide you as to the appropriate action that you will need to take.

I file tax returns every year without fail. Do I still need to review my taxes with a specialist?

Invariably we find that many individuals who complete their tax returns personally, without any assistance, can inadvertently miss declaring offshore income, disposals and benefits from offshore assets.

I am currently not resident in the UK, and not paying UK taxes. Do I still need to consider this process?

If you are aware that you may not have been compliant before leaving the UK, we would encourage you to review your position during the time you were living in the UK. HMRC can go back as far as 20 years under this process and can raise tax assessments in respect of non-reporting of income or capital gains during this timeframe.

How does the process work?

The intention to disclose under the WDF must first be submitted using HMRC's Digital Disclosure Service.

Once HMRC has acknowledged your initial registration, you have 90 days to complete the disclosure (including calculating the tax, interest and penalties, and making the total payment of the overall liability).

If the submission proves to be complex, it is possible to request for a further 90 days to make the disclosure.

We recommend that you seek advice before you register an intention to disclose.

If I know that a disclosure needs to be made, should I wait nearer the deadline of 30 September 2018 to do so?

We would advise that action is taken immediately, as it is likely that HMRC will be inundated with disclosure reports from other taxpayers who are potentially in the same situation.

Once the digital disclosure has been made, is that it?

It depends. If it turns out that the disclosure will need a detailed explanation, a written report must be sent to HMRC. Our experience suggests that this approach is helpful to HMRC and has reduced the need for it to come back with additional queries.

Can you advise me and guide me through the complete disclosure process?

Yes. We have extensive experience in dealing with past disclosure opportunities as well as representing clients in complex negotiations with HMRC. Our aim is to help you through this very difficult and stressful time and to make it as painless as possible. Our experienced and dedicated team of tax specialists will be able to guide you through this process.

For further information or to arrange a meeting with our expert team today, please contact:



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You may delay, but time will not.

Benjamin Franklin

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