

# Accounting for every last penny

## key points

- Disclosure of offshore bank accounts and the correctly calculated amount due for payment is to be in the hands of HMRC by 26 November 2007.
- In terms of the general law, you are born with the same domicile as your father.
- HMRC has given everyone a well-publicised chance of incurring a low penalty as a reward for disclosure, and non-disclosure will therefore attract a higher penalty.

Those holding offshore accounts were given a June deadline for the intention to disclose them to HMRC



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**T**he HM Revenue and Customs' campaign is aimed at taxpayers who have had offshore bank accounts, property and other assets. In particular, the Offshore Disclosure Facility was designed to persuade such people to search their consciences and their bank accounts, so that they could reveal all their previous dubious financial dealings to HMRC. At the same time, they would make full and proper restitution of previously avoided tax liabilities.

### Good intentions

In order to take full advantage of this facility, taxpayers had to notify an "intention to disclose" by 22 June 2007, and follow this with a fully quantified disclosure of all the omitted income, gains and other irregularities relating to tax.

This disclosure and the correctly calculated amount due for payment is to be in the hands of HMRC by 26 November 2007. HMRC have said that they will examine these disclosures and by 30 April 2008.

But what about those unfortunate souls who missed their opportunity?

HMRC said that they expected to receive at least 100,000 disclosures from the total of around 400,000 indi-



viduals identified as holding offshore bank accounts. Currently, the total of disclosures is believed to be around 60,000. To my mind, there are several reasons for this shortfall.

First, it is possible that HMRC hugely overstated their expectations of the numbers who felt that they needed to

**Counting the pennies: HMRC gave a June deadline for "intention to disclose" any offshore accounts**

register an intention. But HMRC have done a lot of research and the banks concerned have revealed substantial amounts of factual information relating to 400,000 accounts, so that will not account for the total discrepancy.

Second, British gamblers and their winnings are kept anonymous and they therefore believe they will get away without investigation. This could be because an account was closed some time ago or perhaps because the investment was not with one of the main UK clearing banks. Here again, taxpayers need to be aware that banks have told some customers of the particular length of time for which information has been provided to HMRC and these investigation periods go back some years.

Third, there will be many people who believe that although they have had offshore income or gains, they will not have relevant UK tax liabilities. This will be related to a foreign connection. This brings us to the question of domicile.

In terms of the law, you are born with the same domicile as your father and you keep this until you abandon it by adopting by choice a different domicile. This is not an easy course of action.

This is an area where HMRC may try to attack many longstanding UK residents with origins abroad, suggesting that long-term residence here means an adoption of the UK as a domicile of choice. Where a taxpayer with foreign family origins has made his home here for many years, there are likely to be difficulties in demonstrating domicile outside the UK and specialised expert

assistance is required. The first thing to remember is that being domiciled outside the UK does not take away UK tax liability. If income arises abroad and is transmitted here, then it is taxable.

### Tax aware

A final category is simple "head-in-the-sand" carelessness and inertia. Taxpayers need to be aware that all the information is now held by HMRC. It is reported that 3500 investigations will commence each month concerning those who failed to declare themselves under the amnesty.

HMRC have given everyone a well-publicised chance of incurring a low penalty as a reward for disclosure, and non-disclosure will therefore attract a higher penalty. HMRC will be targeting some cases for criminal prosecution.

It is still possible to make a disclosure although the June deadline has passed but it will need to be to your normal Revenue Office instead of to the Special Unit. Realistically, if a disclosure is made before 26 November 2007, before any approach by HMRC, and if the liabilities are paid in the same way as with the registered cases, a level of penalty may be negotiable.

November is fast approaching. Time, therefore is of the essence and HMRC, having determined that this exercise will be very cost-effective. After November, taxpayers newly under scrutiny for undisclosed offshore-linked tax offences can only expect severe treatment.

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