



PRESS CUTTING

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**No (Offshore) Hiding Place
New plans announced recently by HM Revenue and Customs
set out to target offshore assets of British nationals abroad.
So, is the party over? Noshir J Avari of Avari & Associates
offers advice to UK residents who own assets abroad.**

There is nothing inherently illegal in a UK resident holding an offshore bank account, a property, trust or company. As some of the estimated 1.5 million UK citizens owning foreign property have found, there can be complications with local tax authorities, and countries with large numbers of non-residents owning second homes are now actively engaged in collecting property taxes.

Many EU countries (France and Spain, for instance) charge an annual income tax based on the rental value of properties owned by non-residents of that country, and some impose wealth taxes on the value of other assets held (France and Spain again).

And this is in addition to problems which will now face many UK residents with existing arrangements of the sort mentioned, where the offshore dream has been financed in ways which may not accord with UK tax law.

The trouble is that for many years, all these arrangements have been favoured hiding places for taxpayers concealing funds from the Inland Revenue (now HM Revenue & Customs). They may of course have had thoroughly innocent reasons, but officers of HMRC and others of a cynical turn of mind have viewed the use of such vehicles as offensive because, as they believe (and evidence frankly bears this out), a fair proportion of these have been used to shelter undisclosed profits, income and capital gains from the authorities.

Until recently the advantage lay with the taxpayer hiding behind a cloak of anonymity, and there is no doubt that a great deal of money flowed out of the UK, particularly after the demise of exchange control.

European Savings Directive

This position has changed radically following recent developments. The European Savings Directive which came into being on 1st July 2005 provided for exchanges of information between EU Member States regarding bank interest arising on an account in one Member State where the depositor's place of residence was in another Member State.

Importantly, other countries, including Jersey, Guernsey, the Isle of Man and even Switzerland, have adopted the measures in the EU directive and are to provide information to the tax authorities in the Member State of residence of account holders. This produced a flow in the opposite direction, but of information useful to HMRC identifying the location and ownership of funds stored abroad in bank accounts.



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HMRC was already exchanging information with the EU and other jurisdictions, but this flow is becoming a veritable torrent, because landmark legal decisions won by HMRC in four cases since November 2005 against selected UK financial institutions have meant that information held on tens of thousands of UK residents has been passed to HMRC where bank accounts and/or debit and credit cards are known to be held offshore.

In these successful actions, HMRC adduced evidence indicating that 400,000 UK residents may hold £200 billion in offshore accounts, with Jersey currently heading the list. In the case of one institution being targeted, HMRC statistical evidence suggested over 40,000 clients, generating around 9,000 investigations yielding an average of £170,000 per case – a total for that one institution of £1.5 billion in lost tax, associated interest and penalty charges.

This is serious business for HMRC, the financial institutions and a large number of vulnerable taxpayers. There are many trapped by existing arrangements not easily undone, with offshore companies, trusts and properties which they believed would be protected. The increase of money-laundering legislation has strengthened HMRC's hand with obligatory reporting of bank transactions both within and outside the UK.

Plans to Investigate

HMRC intends to investigate 20% of the 400,000 individuals in the next two years, and it has set up a sophisticated screening process and a new network of specialist investigation offices. This has been spearheaded by the Offshore Fraud Project Group based in Bootle, which over the past two years has collected millions of pounds from taxpayers connected with Offshore Financial Centres.

This successful effort has been augmented by the creation of Civil Investigation of Fraud ("CIF") teams based in London, Bristol, Nottingham, Wolverhampton, Stockport, Southampton, Leeds, Belfast, Cardiff, Glasgow and Edinburgh.

HMRC will be allocating investigations by reference to expected yields, so that anything between £50,000 and £500,000 is worked in one of these new offices. The more serious cases, perhaps 5% of the total, will be handled by the existing eight Special Civil Investigation offices ("SCI"), and the remainder will be dealt with in local tax offices.

The cost-effective intention is to turn over cases quickly, reserving criminal prosecution for a small minority including repeat offenders, implicated professional advisers and organisers of the worst business frauds.

Operation of the new offices will be aided by bringing back to the fold seasoned campaigners from the former Special Compliance Office and Enquiry Branch, who acquired fearsome reputations in the field of tax fraud investigation, but who have moved elsewhere in the department.



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HMRC are widely publicising these activities, because it makes their job easier if they meet with little resistance, and many cases will, although large, prove relatively straightforward.

Whether or not someone knows that HMRC are likely to be after them – and there really is no hiding place, because closure of an account may itself trigger an investigation – the best solution is to make an immediate voluntary disclosure, with proper skilful representation. That applies particularly where there is no sign of imminent HMRC interest, since more credit can then be earned than where there is an existing challenge.

About the author: Noshir J Avari, Principal of Avari & Associates Limited, served the Inland Revenue Department for 20 years prior to setting up Avari and Associates in July 1988.
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