SRD Tax Management

'We are serious about tackling offshore evasion. Hiding tax liabilities offshore believing that you will never be discovered is no longer a realistic hope.

These new penalties will increase the deterrent against offshore non-compliance. They build on other activity, including signing tax information exchange agreements, requiring information about offshore bank accounts and disclosure opportunities, including the Liechtenstein Disclosure Facility (LDF).

Dave Hartnett, Permanent Secretary for Tax at HM Revenue & Customs

New Penalties to tackle offshore tax evasion

HM Revenue & Customs (HMRC) has announced new penalties for offshore non compliance.

These new penalties come into force from 6 April 2011 and apply to Income Tax and Capital Gains Tax. The first Self Assessment returns affected will be for the 2011–12 tax year with paper returns due to be filed by 31 October 2012 and electronic returns by 31 January 2013.

The legislation can be found in Schedule 10 of Finance Act 2010.

How it works

The new penalty is an enhancement of the penalties for

- **failure to notify**
- **inaccuracy on a return**
- **failure to file a return on time**

Under the new legislation these penalties will be linked to the tax transparency of the territory in which the income or gain arises. Where it is harder for HMRC to get information from another country the penalties for failing to declare income or gains arising in that country will be higher.

There will be three new levels of penalty:

- **where the income or gain arises in a territory in Category 1 the penalty rate will be the same as under existing legislation**

- **where the income or gain arises in a territory in Category 2 the penalty rate will be 1.5 times that in existing legislation which is up to 150 per cent of the tax due**

- **where the income or gain arises in a territory in Category 3 the penalty rate will be double that in existing legislation – up to 200 per cent of tax**

The Treasury has laid legislation before Parliament which describes which territories are in Category 1 and Category 2. All other territories (except the UK) are in Category 2.

All existing safeguards will still apply. There will be no penalty if a person can demonstrate they have taken reasonable care to get their tax right or have a reasonable excuse for a failure to notify taxable income.

Where penalties are due HMRC can reduce them depending on how helpful the individual is in assisting it to establish the correct amount of tax due. The largest reductions will be for unprompted disclosures. Unprompted means when you inform HMRC about a tax issue you have no reason to believe they have already discovered or are about to discover.

Please contact SRD Tax Management now if you need to get your tax affairs in order before these new penalties come into force. Steve Dumper can be reached on 01363 775365 or by email at steve@SRDTaxManagement.com.