



Press Release – 21 February 2017

Taxpayers should seek advice re foreign income and assets disclosure regime - thousands of taxpayers to receive letters this week

All comments attributable to Mark Barrett, President Irish Tax Institute

**Revenue's foreign income and assets disclosure regime
Key facts**

What is this offshore campaign about?

A new Revenue campaign was announced in Budget 2017 which targets offshore income and assets which have been undeclared or underdeclared to Revenue. Offshore does not just mean assets or funds held in exotic locations and includes any income or assets held outside Ireland, for example a UK pension or rental income from a holiday home overseas.

Taxpayers are being given a final opportunity to come forward before 30 April and make disclosures voluntarily, before new exchange of information rules vastly increase the data available to Revenue about taxpayers' offshore interests.

After 30 April, severe penalties will apply to taxpayers who have not declared or have under-declared their offshore income and assets to Revenue. There is no minimum threshold on the level of income or assets held overseas that must be declared.

Revenue is writing to thousands of self-assessed tax payers this week to invite them to review their tax affairs and consider whether they need to make a disclosure to Revenue and pay over any underpaid tax, interest and penalties.

The disclosure regime applies to all taxpayers including individuals, corporates and trusts. There are only 10 weeks left until the deadline date of 30 April for making a disclosure.

What new information is Revenue getting about taxpayers and their offshore matters?

Later this year, Revenue will start to receive bank and other financial account information from over 100 countries globally covering:

- The identity of taxpayers,
- Account balances,
- Gross income,
- Gross sales proceeds, and

- Account closures.

This is a very broad information exchange initiative. Revenue will be obtaining details of all financial accounts Irish taxpayers hold, irrespective of the amounts held in the accounts. This will give Revenue extensive visibility over assets and income held offshore by Irish taxpayers. Revenue is already in receipt of similar information from a separate US initiative called the Foreign Account Tax Compliance Act (FATCA).

In addition, Revenue also receives data from EU Member States on:

- Ownership of and income from land and property,
- Income from employment,
- Directors' fees,
- Life insurance products, and
- Pensions

Revenue has been investing considerable resources for some years now in data analytics skills and technology to properly match and measure risk from this data and is expected to use it in a very sophisticated way for much of its future tax compliance programme.

All this means that it is crucial to ensure that any offshore matters are fully disclosed to Revenue by 30 April, as it will no longer be possible to make a disclosure after this date without incurring severe penalties.

What types of offshore matters need to be disclosed?

There are a number of situations where taxpayers may have an offshore issue and need to consider whether the underlying funds and associated income/gains have been declared.

For example, a taxpayer may have deposited funds in a bank account in Northern Ireland or elsewhere in the UK and be in receipt of UK deposit interest, which has not been included on their Irish tax return.

A person who worked in the UK could be in receipt of a UK pension, or hold shares in a UK company and details of the pension, dividends, or share sales may not have been included in their tax return.

Some additional items are outlined below. The list is intended to be indicative of the types of scenarios that could give rise to a matter that may require disclosure but is not exhaustive:

- Owning an overseas property which is either rented or has been sold.
- Having earnings from an employment in another country.
- Holding a directorship of a non-Irish company and receiving directors' fees.
- Earning profits from running a business in another country.
- Receiving income from a family trust established outside Ireland.
- Inheriting a property abroad.
- Investing in financial products, possibly through a stockbroker or financial adviser e.g. investing in foreign life policies, offshore funds.
- Investing in a foreign property fund.

In what situations do taxpayers need to make a disclosure?

If the answer to any of these questions is yes, then the taxpayer may need to make a disclosure to Revenue as part of this foreign income and assets disclosure campaign. Consider the following:

- Have you transferred undeclared money or assets offshore?
- Have you obtained money or assets offshore (e.g. by inheritance) that has remained undeclared?
- Have you earned undeclared income or gains offshore (even though the underlying funds have been declared)?
- Is it possible that you have incorrectly declared an offshore matter that is included in your tax return?

Some complex areas that merit particular attention are:

Offshore funds

If you have invested in financial products or have an investment portfolio then you may have invested in offshore funds. The tax treatment of offshore funds is a very complex area. The treatment of income and gains arising from these investments depends on a number of factors including the type of investment vehicle (regulated or unregulated fund) or the location of the fund.

Your broker or financial adviser will have supplied you with statements each year that provide a detailed breakdown of your investments and your income and gains. You should be able to determine from this information whether you have invested in offshore funds. In addition, these statements will often also include information about the tax treatment of these funds and how to correctly include them on your tax return.

Foreign property

Taxpayers can sometimes assume that a rental loss on an Irish property can be offset against foreign rental income in calculating their tax bill. This is not possible under Irish law. Irish rental income and foreign rental income are treated as separate sources of income, so a loss arising on one cannot be offset against income arising from the other.

Taxpayers who are in any doubt about their obligation to make a disclosure should talk to a Chartered Tax Adviser who can review their tax affairs and advise accordingly. It is important to begin this process immediately as there are only 10 weeks remaining to regularise affairs before the 30 April deadline.

How to make a disclosure

To be valid, the disclosure must cover not only the offshore matter, but any onshore issues that require disclosure.

The Code of Practice for Revenue Audit and other Compliance Interventions sets out the detailed requirements for making a qualifying disclosure

<http://www.revenue.ie/en/business/disclosure.html>. However, in summary, the disclosure must include:

- Any previously undeclared income, plus
- Tax, plus
- Interest (8% per annum), plus
- Penalties (if the disclosure relates to an “innocent error” or “technical adjustment” no penalty should apply. See the Code above).

Payment must be made in full with the disclosure or it will be invalid. If you are unable to pay the full amount at once, it may be possible to arrange for a Phased Payment Arrangement with Revenue. The disclosure should be submitted to Revenue electronically via MyEnquiries.

What are the consequences of not making a disclosure by 30 April?

After 30 April 2017, the penalties applying to any undeclared or under-declared tax in relation to offshore income and gains will be much more severe. Penalties of up to 100% of the tax due may be sought by Revenue.

In addition, taxpayers who have not come forward by this date may be published in the Tax Defaulters List if their settlement with Revenue exceeds a certain threshold (currently €35,000). They may also be prosecuted.

Furthermore, an offshore matter that has not been dealt with and paid by 30 April could have serious implications for disclosures on any future onshore matters by the taxpayer. For example, this could impact completely unrelated issues such as the taxpayer's Irish VAT or PAYE liabilities. Taxpayers must be aware that if the undeclared offshore matter amounts to more than 15% of the total tax due in a return and the taxpayer does not cooperate with Revenue, then the taxpayer may be precluded in future from making a disclosure on any of their domestic/onshore matters. In situations where tax is underpaid in error and the underpayment is less than €6,000, no penalty will be sought by Revenue if the taxpayer subsequently makes a disclosure to correct the error.