



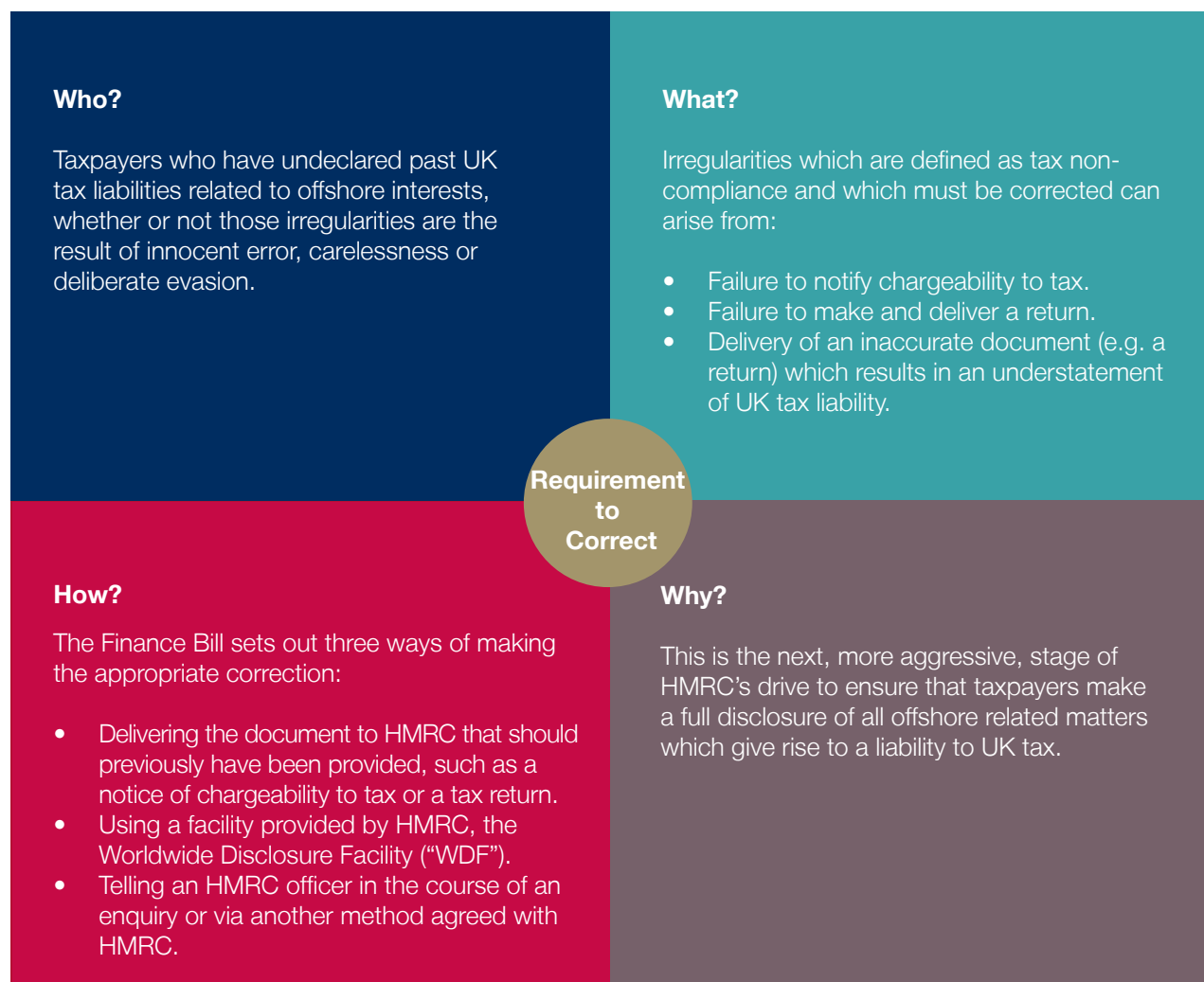
HM Revenue & Customs Requirement to Correct

Requirement to Correct: Overview

The Finance Bill (2) 2017 introduces a requirement for taxpayers who have undeclared past UK tax liabilities related to their offshore interests to correct those irregularities by disclosing the relevant information to HM Revenue & Customs (“HMRC”) or face punitive sanctions because of the Failure to Correct (“FTC”).

The Requirement to Correct (“RTC”) has a deadline for compliance of 30 September 2018; a date which was no doubt set with the first full exchange of information under the Common Reporting Standard (“CRS”) in mind, since this will provide HMRC with unprecedented amounts of information on UK taxpayers with offshore interests. Failure to carry out necessary corrections by the deadline will result in new penalties of a size never before imposed.

The table below demonstrates the impact of the legislation:



Scope of the offence

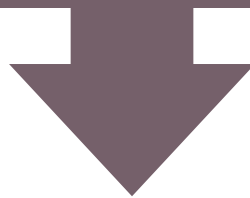
Scope

The RTC is in respect of tax non-compliance involving an offshore matter or offshore transfer.

An offshore matter is an issue where tax at stake relates to income arising outside the UK, assets situated outside the UK, activities carried out wholly or mainly outside the UK or anything having the same effect as any of these.

An offshore transfer is an issue which is not an offshore matter and the applicable condition is met – which varies depending upon the tax in question. As the name suggests, it relates to transfers of income, gains, or assets.

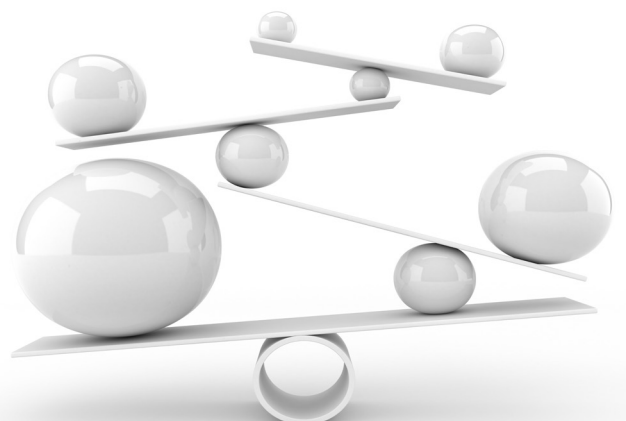
It applies to income tax, capital gains tax and inheritance tax but excludes capital gains tax on certain capital gains payable by companies as part of their corporation tax liability.



Sanctions

Failure to correct irregularities by the RTC deadline will result in FTC penalties rather than ordinary penalties and possibly other sanctions. These are:

- 200% of the potential lost revenue (“PLR”) – e.g. the assessable tax previously undisclosed. There is scope to reduce this but not to below 100% of PLR;
- An additional 50% of the penalty if the taxpayer is aware that there is relevant offshore tax non-compliance in relation to his tax affairs and moves the assets to another jurisdiction after the Finance Bill receives Royal Assent and before the RTC deadline of 30 September 2018;
- An asset-based penalty of 10% of the asset value (or 10 times the PLR if lower) if during the RTC period the taxpayer was aware that at the end of 2016/17 he had relevant offshore tax non-compliance to correct;
- Naming and shaming if the potential lost revenue in respect of which FTC penalties are charged exceeds £25,000 or the taxpayer is charged at least five FTC penalties.



How can we help?

Our team of experienced tax dispute resolution specialists can carry out healthchecks on taxpayers' affairs to establish whether there are any areas where there is a risk of undeclared past tax liabilities and, if there are, we can make the relevant disclosure to HMRC before the deadline of 30 September 2018.

If there are complex technical issues, where HMRC may take a different stance from the taxpayer or advisers as to the appropriate tax treatment, we can submit a full disclosure of the facts and technical view taken by the taxpayer and advisers to ensure that HMRC cannot impose an FTC penalty if they take a different technical position.

We can also carry out a similar healthcheck process for tax advisers and fiduciaries, highlight risks in their clients' tax affairs and help them advise their clients on the best course of action.

For further information or to discuss your specific requirements, please contact your usual Blick Rothenberg contact or:



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