

## Your appearance in the Pandora papers

We're writing to you because you've been named in the Pandora Papers. This is a large release of offshore data by the International Consortium of Investigative Journalists (ICIJ).

We've been reviewing the data in the Pandora Papers and writing to customers to give them an early opportunity to update their tax affairs. You can view this data on the ICIJ website.

## About the Pandora Papers

During 2021 and 2022, the ICIJ released more than 11 million records from 14 offshore service providers. These providers specialise in incorporating companies, trusts, foundations and other entities in low, or no tax jurisdictions. This release is known as the Pandora Papers.

We have identified that you are connected to:

- [\[ICIJ entity or entities in list format from data file – up to 5\]](#)

Offshore companies and structures can be used as part of legitimate tax planning. However, there are structures which may be impacted by:

- residence, domicile and deemed domicile, anti-avoidance provisions - including the Settlements Legislation and Transfer of Assets Abroad code (ToAA)
- trust protections and trust tainting (if you are deemed domicile under Condition B – there is more information and explanations in the appendix to this letter)

You told us that you are UK deemed domiciled (under Condition A or B) and resident. This means you should declare worldwide income and gains on the 'arising basis'. We explain what we mean by 'arising basis' in the appendix to this letter.

This also means you should pay tax in the UK on:

- income and gains from the UK
- income from outside the UK
- gains from the disposal of your assets, wherever they are located in the world.

There are transitional provisions specific to Condition B. For example, trust protections which may need to be considered when considering how your worldwide income and gains should be reported.

Offshore taxation is complex, and mistakes can be made. We have included an appendix which gives you key information and risk areas for you to consider.

## What you need to do now

Please check that you've told us about all your UK tax liabilities from all overseas income or gains by [\[date of letter + 60 days\]](#).

If you find that you need to update us about your tax affairs, go to GOV.UK and search 'tell HMRC about underpaid tax from previous years'.

If you are still within the amendment window you should make any required amendments. For information about how to do this, go to GOV.UK search 'Self Assessment corrections' and choose 'If you need to change your return'.

If you're not sure, we recommend getting professional tax advice. It's important that you review your tax affairs. This is because some people with assets overseas have found that earlier tax advice is now out of date due to changes in their circumstances or to tax laws.

If you have a Customer Compliance Manager (CCM), you can ask them any questions you may have.

If you think your tax affairs are correct and up to date, you don't need to do anything.

## If you don't report all your overseas income or gains

We're continuing to review the data from the Pandora Papers and other information we have. This includes Common Reporting Standard (CRS) data. As part of that review, we may investigate your tax records further.

If we find that you haven't reported all your overseas income or gains that you owe UK tax on, we may charge you penalties. We can charge penalties of up to 200% of any tax due. For more information about this, go to GOV.UK and search 'CC/FS17'.

## If you need extra support

If you have any health or personal circumstances that may make it difficult for you to deal with us, please tell us. We'll help you in whatever way we can.

For more information about this, go to GOV.UK and search 'get help from HMRC if you need extra support'.

We've sent a copy of this letter to your tax adviser.

Yours sincerely

**Wealthy and Mid-sized Business Compliance**



## Your link to the Pandora Papers – UK resident and domiciled (under Condition A or B) individuals

Our records show that you told us that you are UK resident and UK deemed domiciled or were in previous tax year(s) under Condition A or B. This means you must pay UK tax on your worldwide income and gains. Also known as the 'arising basis'.

You need to consider all foreign income and gains that you have included on your tax return(s) because of your link to an entity or entities within the Pandora Papers.

Examples of foreign income and gains which you need to tell us about are:

- interest from overseas savings
- dividends from foreign companies
- income from overseas pensions and property
- foreign employment and self-employment income
- capital gains from the disposal of overseas assets and property
- certain income or gains paid out of a trust
- income or gains retained or accumulated in certain types of trust – for example, settlor interested trusts
- income or payments that are treated as an individual's based on anti-avoidance legislation, including the Transfer of Assets Abroad provisions
- services and benefits that are paid for by an offshore entity

For more information about Condition A and Condition B, go to GOV.UK and search 'Deemed domicile rules'.

### Areas of risk you need to consider if deemed domicile under Condition A or B

Offshore taxation is complex. It covers specialist subjects and there have been significant changes in the law recently. Whilst most people and businesses pay the right amount of tax, mistakes are made.

You will need to understand how your links to the entity or entities referenced in the Pandora Papers affect you if you:

- are a UK resident beneficial owner, or can benefit somehow from the company (or a non-resident trust if the company sits within a trust structure)
- manage or administer the overseas entity or entities
- benefit from the protected settlement rules as a Condition B deemed domicile individual and a settlor of an offshore trust connected to the offshore company

Below we have detailed some of the key risk areas that you should consider as an individual linked to the Pandora Papers. Offshore taxation is complex so we recommend you get advice from an experienced professional who deals with offshore matters.

### Attribution of chargeable gains

Chargeable gains not subject to tax in an offshore company may be attributable to UK-resident participators in an overseas close company. A participator is any person having a share or interest in the capital or income of the company.

If you meet the definition of a participator, you should check if there are gains you need to declare personally.

### Transfer of assets abroad code

This is a key area where we are seeing increases in tax risk.

You may be liable to Income Tax under the Transfer of Assets Abroad (ToAA) provisions if you have made a transfer of assets. Because of this, income has become payable to a non-resident entity such as that linked in the Pandora Papers. You may also be liable if you receive, or are entitled to receive, a capital sum connected with the transfer.

We may also charge you Income Tax under the ToAA provisions. We can do this if you haven't personally transferred assets but benefit from a transfer made by somebody else. For example, occupying a property owned by an entity and not paying rent at market value.

The ToAA provisions are wide ranging anti-avoidance provisions. For more detailed guidance about these provisions, go to GOV.UK and search 'INTM600000'.

### **Attribution of trust income and gains**

If the company or companies you are linked to the Pandora Papers are owned within a non-resident trust structure, trust income may be attributable to UK-resident settlors and beneficiaries. This is known as the settlements code.

Where the overseas company in the Pandora Papers is within a trust structure, a gain can be attributed up to the first tier of non-resident trusts in the chain of interests. That gain may then be attributed to a UK resident settlor or beneficiary.

You should check the position carefully where you have been the settlor or beneficiary of an offshore trust structure. You should make sure that the anti-avoidance provisions above don't apply to attribute any income or gains directly to you.

### **Remittances**

You may have used the remittance basis before 6 April 2017. You may have then been deemed domiciled for UK tax purposes after this date. If so, you must continue to tell us when you remit any foreign income or gains to the UK that arose in a year when you claimed the remittance basis.

Any remittances made in a year when you're deemed domicile in the UK, from funds that arose in an earlier year when you claimed the remittance basis, are still taxable in the year they're remitted to the UK. This can include income and gains attributable under provisions covered elsewhere in this factsheet.

### **Additional risk areas you should consider if you are deemed domicile under Condition B (over and above those listed above)**

#### **Protected settlements and Trust 'tainting'**

The normal rules shown above are different if you are a Condition B deemed domicile individual.

You may have settled an offshore trust that you're also a beneficiary of before you became deemed UK domiciled. This offshore trust may own the entity you are linked to in the Pandora Papers. If so, you may be taking advantage of special provisions around Protected Foreign Source Income (PFSI).

We are seeing increased risks around PFSI, specifically around trusts being tainted. Protected settlements can be tainted by:

- implementation failures in the associated tax planning - for example, timing of transfers of the legal and beneficial ownership by the settlor into trust structure
- loans being made between the settlor and the trust which are non-commercial
- loans where interest is not paid, in line with the loan agreement(s)
- loans where the interest has been capitalised
- services provided to the trust or underlying entities by the settlor at undervalue
- income or property which adds value to the trust structure by the settlor, or any connected settlement, (of which the settlor has an interest) after the settlor becomes deemed domiciled

If a trust is 'tainted', the deemed domicile settlor may have to pay UK tax on an arising basis on all income and gains from the Trust structure.

You should check now that none of the above apply. This is to make sure you continue to benefit from the protected settlement rules.

#### **Offshore income gains (OIGs)**

It is our view that OIGs arising in a tax year in which the settlor is UK deemed domiciled are not automatically protected as protected foreign source income (PFSI), under the protected settlement rules. This is due to the wording of the legislation and OIGs are not within the definition of 'relevant foreign income' for the purposes of section 830 ITTOIA 2005.

OIGs will be treated as an individual's 'relevant foreign income' only if the remittance basis applies to the individual for the tax year in question.

Individuals who are deemed domiciled cannot qualify for the remittance basis. This means OIGs arising in a trust settled by them will not benefit from being treated as PFSI. And OIGs that qualify must be declared in the UK for a deemed domiciled customer on the arising basis.

### **If you manage or administer an overseas entity**

Non-UK resident companies have had to pay UK tax on profits of a trade carried on in the UK through a permanent establishment in the UK. This means your trading position in the UK should be examined carefully.

There are more complex rules in relation to certain gains from April 2015 which involve UK land and property.

If a non-UK incorporated company is centrally managed and controlled in the UK (for example, by UK resident beneficial owners) they will be considered UK tax resident (subject to being treated as non-UK resident under a Double Taxation Agreement) and must pay Corporation Tax on worldwide profits. Depending on the facts and circumstances, this may result in the company paying more UK tax than if it was non-UK resident.

### **If you're concerned you haven't paid the right amount of tax**

These are just some of the key areas of risk we are seeing with individuals linked to the Pandora Papers. The above areas should not be considered in isolation as there are many other provisions which may apply to offshore matters.

When checking your position, we recommend you get advice from an experienced professional who deals with offshore taxation.

If you find that you need to update us about your tax affairs, go to GOV.UK and search 'tell HMRC about underpaid tax from previous years'.





# Corresponding with HMRC by email

Use the following information to decide whether you want to deal with us by email. We take the security of personal information very seriously. Email is not secure, so it's very important that you understand the risks before you email us. We will not deal with you by email unless you tell us you accept the risks of doing so.

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## About the risks

The main risks associated with using email that concern HMRC are:

- confidentiality and privacy – there's a risk that emails sent over the internet may be intercepted
- confirming your identity – it's crucial that we only communicate with established contacts at their correct email addresses
- there's no guarantee that an email received over an insecure network, like the internet, has not been altered during transit
- attachments could contain a virus or malicious code

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## How we can reduce the risks

We'll desensitise information, for example by only quoting part of any unique reference numbers. We can also use encryption. We're happy to discuss how you may do the same but still give the information we need.

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## If you do not want to use email

You may prefer that we do not respond by email, for example because other people have access to your email account. If so, we're happy to respond by another method. We'll agree this with you either by telephone or in writing via post.

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## If you do want to use email

If you would like to use email as one of the ways HMRC will contact you, we'll need you to confirm in writing by post or email:

- that you understand and accept the risks of using email
- that you're content for financial information to be sent by email
- that attachments can be used

If you are the authorised agent or representative, we'll need you to confirm in writing by post or email that your client understands and accepts the risks.

Also:

- send us the names and email addresses of all people you would like us to use email with - you, your staff, your representative, your agent, for example
- confirm you have ensured that your junk mail filters are not set to reject and/or automatically delete HMRC emails

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## How we use your agreement

Your confirmation will be held on file and will apply to future email correspondence. We'll review the agreement at regular intervals to make sure there are no changes.

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## Opting out

You may opt out of using email at any time by letting us know.

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## More information

You can find more information on HMRC's privacy policy. Go to [www.gov.uk](http://www.gov.uk) and search 'HMRC Privacy Notice'.



HCPS Ref (use if they've requested a tax reference from the list)

N/A
From data file
N/A

Our Ref (can be fixed for all letters or from data file)

Dictate 'Our Ref' label?  
If dictated, 'Our Ref' label to say:

N
N/A

Your Ref (can be fixed for all letters or from data file)

Hide Salutation

N

Salutation if shown

Title>Surname

Hide Sign off name

Y

Sign off name if shown

Fixed

Hide Sign off role

Y

Sign off role if shown

Fixed

Hide Phone number

N

Phone number if shown

03000 531795

Hide Opening hours (N/A if phone number is hidden)

Y

Opening hours if shown

N/A or ENTER

Hide Fax

Y

Hide Web address

N

Wed address if shown (default is www.gov.uk)

www.gov.uk

Hide Email address

Y

Email address if shown

N/A

Hide Office address

N

Office address if shown

Wealthy & Mid-Sized Business  
Compliance  
HM Revenue and Customs  
BX9 1BN

Hide SA / Service message

Y

Message to include if shown

N/A

Hide Charter/PTA message

Y

Embed or Link logo

Link'