

Helping taxpayers get offshore tax right – HMRC discussion document

Response by the Chartered Institute of Taxation

1 Executive Summary

- 1.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response.
- 1.2 The CIOT supports HMRC's efforts to improve compliance in the complex area of offshore taxation. We strongly agree that the best way to tackle non-compliance is to prevent it happening in the first place. In general we agree with HMRC's analysis of why offshore non-compliance can happen and support the suggestions in the discussion document to try to help taxpayers get their offshore tax right first time, subject to the comments on some of the details which we make in this response.
- 1.3 We would like to highlight the following points in our response:
- we agree that the factors listed by HMRC in the discussion document contribute to offshore non-compliance but think that the role simple mistakes and misunderstanding of the rules play in producing inaccurate tax outcomes could be being underestimated.
 - we also note that while some of the rules on offshore taxation remain as complicated as they are at present it seems inevitable that mistakes and misunderstandings will continue.
 - we suggest that HMRC provide more information about the sorts of errors with offshore tax which they see being commonly made by taxpayers. Efforts could then be focussed in the first instance on identifying solutions to the most common errors.
 - we suggest that it would help improve compliance and reduce errors and omissions in tax returns if HMRC were prepared to share more of the offshore data they have about taxpayers (e.g. from exchange of information with other jurisdictions) with the taxpayers concerned and their agents (if they have one).
 - there are several practical problems with registering with HMRC and contacting HMRC from overseas, and solutions to these problems should be explored.

- we suggest that consultation be carried out to explore whether changing the UK's tax year from 5 April to 31 December would help with international data sharing and improve compliance.
- we agree with using offshore data to develop more nudges and prompts to help improve compliance.
- we think the terminology around offshore tax is confusing for taxpayers and agree that it does lead to misunderstandings and errors. We make some suggestions for some simpler wording that could be used instead.
- information about offshore tax is not particularly easy to find on GOV.UK so improving accessibility of this information and putting it all in one place may help improve compliance. However, we note that this will not be sufficient on its own to raise awareness and increase knowledge, so we make suggestions about further communication mediums which could be investigated.
- since many taxpayers affected by an offshore tax issue may not speak English as a first language we recommend that HMRC should consider providing communications and guidance in languages other than English.

1.4 This response supplements the comments we provided to HMRC in the five workshops held during May 2021.

2 About us

2.1 The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

2.2 The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

2.3 The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

2.4 Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

3 Introduction

3.1 HMRC's discussion document seeks views on ways to help taxpayers get their offshore tax right first time. 'Offshore tax' is defined as UK tax that is due on non-UK income, gains (such as proceeds from the disposal of offshore rental property) or transfers. HMRC would welcome views on how best to ensure offshore tax compliance and prevent mistakes.

3.2 The CIOT's stated objectives for the tax system which are relevant to the issues explored in this discussion document include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

4 Overarching question A. Do you agree that the factors set out in paragraph 1.9 cause offshore non-compliance?

- 4.1 We assume this question is referring to paragraph 1.8 of the document (which lists four possible causes of offshore non-compliance) and not paragraph 1.9 (which sets out three areas which HMRC could focus on to improve compliance).
- 4.2 We agree that the factors listed in paragraph 1.8 contribute to offshore non-compliance. However, we think it would be more accurate if the fourth bullet point was simply 'Not asking for help or support'. If a person asks their tax adviser for help close to the time a tax return is due to be submitted to HMRC then generally the adviser will give that help (eg help the client make a reasonable estimate of the tax position and the tax liability so they can submit the return and pay the tax due on time, and then amend the return when full information is available; or delay submission for a short period so as to establish the position and then help them submit and pay correctly).
- 4.3 One additional cause of non-deliberate offshore non-compliance is simple mistakes or misunderstandings. A taxpayer may take advice (eg on what constitutes remittances or on their residence status) and believe that they understand it. They then implement what they understood the advice to say but they fail to keep enough records or make a mistake in the implementation.

5 Overarching question B. Are there other factors that we should address to improve offshore compliance?

- 5.1 The complexity of the rules around the taxation of offshore (non-UK) income is another contributing factor which can lead to taxpayers getting things wrong. The discussion document acknowledges this at paragraph 3.4. The legislation in this area is complicated which makes it difficult for taxpayers to understand. Professional advice from a specialist will be required. For example, Finance (No 2) Act 2017 implemented significant and wide-ranging reforms to the taxation of non-UK domiciled individuals and to offshore trusts and their beneficiaries from 6 April 2017 including new deemed domicile rules. These changes followed earlier reforms in 2008, 2012 and 2015. A further example of complexity highlighted in the Office of Tax

Simplification's second report on Capital Gains Tax is the treatment of exchange rates on the disposal of foreign assets.¹

- 5.2 It is unfortunate that the document does not consider how the complexity of the rules could be reduced or eased. We would suggest that this ought to be the subject of future consultation. It seems inevitable that mistakes will continue to be made whilst some rules remain as complicated as they are at present.
- 5.3 It would help reduce confusion and misunderstandings if HMRC clearly explain when their technical view of a matter changes, and why. This would help tax advisers understand and explain the impact of the change to their clients. HMRC should publicise their change of view widely. Often a change is simply done by updating a page in HMRC's Manuals which is not enough to ensure the change is sufficiently widely noticed and understood. A recent example is the changes made to RDRM35270².
- 5.4 Another factor that can lead to non-compliance is where the taxpayer does not have all the information they need to file a complete and correct tax return with HMRC. If a person has complex investment arrangements involving multiple intermediaries or institutions, information may not necessarily reach the taxpayer (or their agent if they have one) in an easily understandable or usable format, or it may not reach them at all. HMRC are already aware of some of these issues as we have raised them with them on previous occasions. For example, CIOT attended a presentation at HMRC's Wealthy Forum on Offshore Capital Investment Schemes (OCIS) in April 2019 about a compliance project where we raised the point that from an investors' perspective the information needed to make a return is not often in easily available form (or not available at all in the case of Excess Reportable Income).
- 5.5 Given the area of focus is offshore tax, it is likely that many of the people affected may not speak English as a first language, or may not speak it at all, and that this may be another cause of non-compliance. A lack of information available in languages other than English (or Welsh) may hinder a person's awareness and understanding of the rules and consequently lead to non-compliance. Alongside changes and improvements to guidance and communications (referred to elsewhere), HMRC should consider producing material in languages other than English.
- 5.6 Finally, some individuals struggle to register to file UK returns or to set up a personal tax account from overseas, particularly if they do not have a UK National Insurance number. What can HMRC do to make this process easier?

6 Overarching question C. Do you consider the possible approaches suggested in this paper would be effective to help ensure offshore tax compliance?

- 6.1 We agree that the suggestions put forward in the discussion document could be effective in reducing the level of offshore non-compliance. We strongly agree that the best way to tackle non-compliance is to prevent it happening in the first place.

¹Recommendation 11: <https://www.gov.uk/government/publications/ots-capital-gains-tax-review-simplifying-practical-technical-and-administrative-issues>

² RDRM35270 - Remittance Basis: Amounts Remitted: Mixed Funds: Remittances from mixed funds - collateral in respect of relevant debts <https://www.gov.uk/hmrc-internal-manuals/residence-domicile-and-remittance-basis/rdrm35270>

7 Overarching question D. What further ideas do you have to help taxpayers get their offshore tax right?

- 7.1 It would be helpful if HMRC could provide information about the sort of errors with offshore tax which are being commonly made by taxpayers. Efforts could then be focussed in the first instance on identifying solutions to prevent the most common errors.
- 7.2 Consideration might be given to a de minimis exclusion for small amounts of offshore income akin to the Personal Savings Allowance³.
- 7.3 We understand HMRC will be launching a consultation shortly on rules which will require certain UK digital platforms to report information to HMRC about the income of sellers of services on their platform. HMRC will then exchange the information with the other participating tax authorities for the jurisdictions where the sellers are tax resident. When HMRC receive data on these areas that should further assist HMRC in improving offshore non-compliance. Under the Organisation for Economic Co-operation and Development (OECD) rules, digital platforms in participating jurisdictions will be required to provide a copy of the information to the taxpayer to help them comply with their tax obligations. This is a good idea as it will act as a useful reminder to taxpayers that they may have a UK reporting obligation. It would be very useful if institutions which provide data under the Common Reporting Standard (CRS) were also required to provide a copy of what they share with taxpayers. HMRC should consider asking the OECD to update CRS to include this feature in the existing CRS and in the second part of CRS relating to report arrangements designed to avoid CRS and opaque offshore structures.

8 Q1. How do you think HMRC could best use offshore data to promote offshore compliance and help taxpayers get offshore tax right first time?

- 8.1 We agree with the suggestions in paragraph 2.9 of the discussion document, including the two immediately above Q1 on page 9.
- 8.2 The suggestions in the first two bullet points in paragraph 2.9 are worth exploring further because providing prompts at the earliest opportunity in the annual cycle would be very helpful, such as in the notice to file an annual self-assessment tax return.
- 8.3 The fact that the UK's tax year is different to the tax years used by overseas jurisdictions (many of whom use the calendar (31 December) year) creates difficulties with marrying up the data. The offshore data received by HMRC is usually for a year ending on 31 December, whereas the UK tax year ends on 5 April. We know this is making it hard to match data coming in to HMRC from overseas jurisdictions under the CRS and the Foreign Account Tax Compliance Act (FATCA) and making it more difficult to efficiently identify cases for nudge letters or compliance checks. This situation is likely to get worse as international co-operation increases and more exchange of information agreements are developed (see 7.3 above), eg through the OECD.
- 8.4 Countries that have a 31 December year end receive the CRS data by the 31 January after the tax year end. They can then use it for prompts when asking people to file or nudges in the tax return preparation software etc on a timely basis. However the UK's 5 April tax year end means that some CRS data arrives around the time of the UK self-assessment tax return filing deadline (31 January) so HMRC cannot use it to prompt on a timely

³A taxpayer may receive up to £1,000 of UK interest and not have to pay tax on it, depending on which Income Tax band they are in – see <https://www.gov.uk/apply-tax-free-interest-on-savings>

basis. If the UK's tax year is changed to a calendar year the offshore data could also be used for pre-population (eg in relation to income from digital platforms).

- 8.5 However, changing the tax year would have implications for the whole UK tax system. We suggest that HMRC should consider consulting on changing the UK tax year as part of the current Tax Administration Framework Review and we note that the Office of Tax Simplification has recently published a scoping document on the subject.
- 8.6 In practice, sometimes HMRC will accept calendar year reporting (so income received in January - December 2021 would be included in the 2021/22 tax return), for example where the income is small, recurring and disclosed as calendar year. However, this adds unnecessary complexity to the already complicated rules around offshore tax and does not resolve the situation for larger amounts of income or any amounts of capital gains. Whilst the current situation is better than not accepting calendar reporting at all, it may be more efficient for HMRC's work (and taxpayers) if, following consultation, the tax year was changed to 31 December.
- 8.7 We would encourage HMRC to share more of the offshore data they have about a taxpayer with the taxpayer (and their agent if they have one) so that the taxpayer can reconcile the figures and make a full disclosure to HMRC. Ideally this should be done early, well before the submission deadline of returns (or, at the latest, when a nudge letter is sent). However, HMRC seemed to be concerned that telling the taxpayer about a particular source of income that HMRC have found out about through exchange of information agreements, such as the CRS and FATCA, will pose a risk to the taxpayer declaring other sources. In our view, this lack of transparency on the part of HMRC is unhelpful, wastes time and does not necessarily improve compliance. HMRC should be willing to share more of the data they have about them with the taxpayers concerned.
- 8.8 If HMRC were to share more data with taxpayers (and their agents) this would help:
- i. overcome matching issues which arise where a non-domiciled taxpayer is taxed using the remittance basis of taxation (rather than the arising basis) and consequently does not need to report certain income on their UK tax return.
 - ii. identify mistakes in the CRS data at an early stage and so avoid HMRC making unnecessary enquiry into a person's submitted tax return.

Sharing the data more proactively gives the person a chance to ensure their return is correct before they submit it and make a 'white space' note to explain any discrepancies.

9 Q2. How do you think HMRC could best use offshore data to stop errors from happening?

- 9.1 Offshore tax is such a wide area that maybe HMRC need to categorise the types of problem and adjust their responses accordingly. One can have sympathy for the individual taxpayer in receipt of an offshore spouse's pension that is subject to a withholding tax in the overseas jurisdiction and which they therefore assume to be correctly taxed for UK purposes. We know that the charity Tax Help for Older People has some examples of this, and that it was discussed at length during HMRC's Powers and Safeguards Evaluation Review last year in the context of the Requirement to Correct. This is such a different situation from someone using a complex offshore structure and we would suggest that HMRC's approach should be adjusted depending on the type of error they are attempting to prevent.

- 9.2 A challenge with using prompts and nudges is ensuring that the data HMRC have is correct before they start using it, for example that it is for the right taxpayer, it is correctly classified (eg is it interest or is it a dividend?) and for the right period (see above comment on the UK's tax year). Also, not everything is taxable in the UK (such as when a person uses the remittance basis of taxation) which is another challenge when trying to target prompts.
- 9.3 Another challenge is how to use prompts and nudges to reach taxpayers who HMRC do not know about because they are not already registered for self-assessment (so prompts in the notice to file will not reach them) and have no online presence with HMRC (eg no digital tax account). These will likely be people who are simply not aware that they have an obligation to report offshore income or gains in the UK. See our further comments in paragraph 15 below.
- 9.4 HMRC should also work with third party software providers to develop prompts and nudges in tax return software since not all taxpayers use HMRC's online tax return service. Most tax agents are likely to use either third party or proprietary software, not HMRC's filing service.
- 9.5 Prompts could be put into the taxpayers' digital tax account. However, since agents do not have access to clients' digital tax accounts, an alternative method of sharing prompts with agents on a timely basis, such as putting messages or notifications about clients into their Agent Service Account, could be explored.
- 9.6 Pre-population of data into tax returns is another option that could be considered by HMRC. Appropriate safeguards would be needed to help ensure the data is correct and errors can be easily rectified. This has recently been explored by the Office of Tax Simplification in their consultation paper 'Making tax easier through smarter use of third party data'⁴.
- 9.7 Online prompts will not help taxpayers who file paper returns or who those who do not access their online digital tax account. Alternative means of prompting these taxpayers will be needed. Paper prompts may be required.
- 9.8 We would be concerned if the use of prompts led to an increase in HMRC's issuing deliberate penalties for errors, ie if despite a prompt the taxpayer still made a mistake in their return, as the mistake may arise for another reason (eg relying on advice which appeared correct at the time, but which is later shown to be incorrect).
- 9.9 We understand that HMRC are already trialling some prompts and nudges in the online tax return, and it would be useful to know how effective these have been in improving compliance. They have also been using CRS data to send letters to taxpayers where the data suggests errors or omissions have been made in submitted tax returns. Could HMRC share the results of these exercises with professional bodies?

10 Q3. Should additional safeguards apply to ensure taxpayers' rights are protected if HMRC use offshore data in new ways as set out in paragraph 2.9?

- 10.1 Our main concern is how errors in the data HMRC have or in how it is being used can be rectified. In other words where does the responsibility for the accuracy of the third party data being used as a prompt or nudge, or pre-populated into a return, lie?

⁴ <https://www.gov.uk/government/consultations/making-tax-easier-through-smarter-use-of-third-party-data>

10.2 It should be possible for the taxpayer to correct inaccurate third party data easily, such as by overriding data that has been pre-populated into a return. To minimise taxpayer error, the taxpayer could be asked whether they agree with the data, and if they disagree with it be required to provide an explanation for why they are overriding the data. Warning nudges and prompts could be used to warn of the consequences of submitting incorrect information.

11 Q4. Do you think making the changes to the data and information collected through the foreign pages, as set out in paragraph 2.14, would be helpful?

11.1 The suggestion in paragraph 2.14 would be helpful, so long as it did not place additional burdens on taxpayers, for example if the extra information requested by HMRC is not ordinarily provided by an overseas financial institution or other intermediaries or if it is provided in a different format or calculated under different rules. We are not sure how this could be overcome unless HMRC can somehow work with the relevant institutions to see if they will provide the extra information required. It would also be necessary for HMRC's systems to be adapted in order that the extra information provided is captured and processed correctly.

11.2 It seems unlikely that providing a breakdown of overseas income would overcome the difficulty matching income which is caused by overseas jurisdictions using different tax years to the UK. Similarly the changes proposed would not resolve difficulties in HMRC matching data from investment portfolios held in a non-UK financial institution that contain shares and/or assets sited in many different overseas countries which the taxpayer will report on their UK tax return by reference to the countries concerned.

11.3 HMRC should consider a de minimis level below which a breakdown of income would not be required to minimise additional burdens on taxpayers.

12 Q5. What other areas are there where it would assist tax agents if it were made mandatory for their clients to provide HMRC (and hence the agent) with details that are not currently required in a self-assessment return?

12.1 One thing that could be considered would be a statement (requiring just a 'yes' or 'no' answer) as to whether the individual owns assets or is a beneficiary / settlor of a trust outside of the UK, regardless of the tax position. This would then prompt their agent to ask questions. Agents should ideally already be reviewing their client's assets when collecting details of their income and gains for a particular tax year when preparing their return, but it is not uncommon for a client not to tell their UK agent about offshore assets and trusts because they assume that there is no UK connection and/or no UK tax implications.

12.2 However, we would not support going any further than this and requiring the taxpayer to include details of assets, whether income producing or not, on their self-assessment tax return. Providing information like that would be extremely onerous.

12.3 There may be scope to educate some smaller agents who may not be familiar with or aware of the rules pertaining to the taxation of offshore matters, although it should be noted that members of professional bodies covered by Professional Conduct in Relation to Taxation (PCRT⁵) must not undertake professional work

⁵ See Professional Conduct in Relation to Taxation para 2.11 <https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/8cdfd33a-9726-49ce-95a5-46ddf62989d5/PCRT%20Effective%201%20March%202017%20FINAL.pdf>

which they are not competent to perform unless they obtain appropriate assistance from a suitably qualified specialist.

- 12.4 HMRC could consider including an ‘educational’ note on the foreign sections of the self assessment tax return to remind taxpayers to consider all their assets and check that they have not received income or realised gains/losses from them during the year. However, this may have limited effect because at present if a person does not know or indicate that they need to complete the ‘foreign’ pages then the pages do not appear in the online return (or they will not download the paper version to fill in by hand) and consequently they would never see educational notes on the foreign pages.

13 Q6. What terminology do you think would help a broader range of taxpayers associate themselves more accurately with their offshore tax obligations?

- 13.1 We agree that using different words to describe international tax matters is confusing for taxpayers and that it can lead to misunderstandings and errors.
- 13.2 In particular, the term ‘offshore’ is ambiguous. We would suggest the consistent use of the term ‘non-UK’ instead of ‘offshore’, ‘overseas’ or ‘foreign’. This should extend to the non-UK pages in the self -assessment return.
- 13.3 The terms ‘non-compliance’ and ‘inaccuracy’ do not mean much to the general public; perhaps using simpler language like ‘mistakes’ or ‘errors’ would be better. There is also the risk that people associate the term ‘offshore tax non-compliance’ with tax evasion and assume it is not relevant to them even though it might be (we have seen that this has been the case to some extent with the Requirement to Correct where people missed the deadline because they just did not think it applied to them).

14 Q7. In which areas of offshore tax should HMRC focus communication efforts and why?

- 14.1 We agree with the suggestions made in paragraph 3.7, but it would also be helpful for us to know what HMRC are seeing from their data in terms of specific areas of non-compliance due to lack of information or misunderstanding on the part of taxpayers. Is it only the areas mentioned in paragraph 3.7, or are there more? It would be helpful if HMRC could share this information with us so we can respond on those areas.
- 14.2 Other areas of common difficulty (which we also mention elsewhere in this response) which HMRC could focus their communications and guidance on are:
- i. Offshore pensions – a common misconception that if the pension is taxed locally, there is no requirement to disclose, that misunderstanding is compounded where the non-UK tax is higher than the UK tax (touched on at paragraph 3.7)
 - ii. Excess Reportable Income (ERI) – there is an obligation on fund managers to report ERI to HMRC but no obligation to tell the individual investors. Why not?
 - iii. People moving to the UK (as they may not speak English well or at all, be unfamiliar with our rules and may assume they do not need to disclose overseas income/gains here despite tax being levied at source).

- iv. Non-UK property income is another likely area of difficulty (the Rental Property Toolkit notes the risk of an overseas rental property being combined with those of a UK rental business but not the risk the income/gains may not be disclosed at all).
- v. In the context of toolkits, we note there is no toolkit for non-UK income/gains identifying common errors. Perhaps this is something that could be explored as an aid to compliance, although offshore tax may be too complicated for it to be useful.
- vi. HMRC could consider producing some basic factsheets in languages other than English about the most common issues to look out for and how to comply with reporting obligations.

15 Q8. How should HMRC best carry out public communications to have the most impact in helping taxpayers get their offshore tax right?

15.1 We agree with the suggestions in paragraph 3.6.

15.2 The third bullet point refers to debunking myths about what is and what is not legal. However, misconceptions tend to be more common about what is reportable than about what is or is not legal. In particular, we think there could be targeted communications on common misconceptions such as:

- Thinking there is no need to declare income from foreign pensions and retirement savings plans where tax has been withheld in the overseas jurisdiction.
- Thinking that there is no need to declare offshore income if non-UK tax rates exceed UK rates.
- Thinking there is no need to declare profits from an overseas property where there is a commercial loss for accounting purposes overseas despite a taxable profit to declare in the UK under UK tax rules.

15.3 Information and guidance should continue to be published on GOV.UK, but it should all be brought into one place so it is easy to find (at the moment it appears to be scattered across the website). However this will not be sufficient on its own because GOV.UK does not have a wide enough reach.

15.4 A key challenge is how to reach people who are not even aware that they may have an offshore tax liability or problem. The use of social media and the mainstream press should be considered as well as raising awareness via intermediaries (see our response to Q11 below).

15.5 HMRC should use non-technical language in public communications otherwise people will not understand the message, or how it could affect them.

15.6 Devising successful public communications to help people get their offshore tax right is very challenging, as we saw with the Requirement to Correct in 2018. Despite HMRC making efforts to publicise this measure, supported by professional advisers, professional bodies and financial institutions, it is clear that many affected taxpayers still remained completely unaware of the change.

16 Q9. How can HMRC raise awareness of changes in legislation when the target audience is based offshore?

16.1 This is difficult, as was evidenced by the significant level of non-compliance following the introduction of non-resident Capital Gains Tax (CGT) reporting in 2015. People who had left the UK were simply unaware that they had an obligation to file a CGT return with HMRC following the disposal of a UK property. It is likely that a similar situation will arise with the changes to SDLT mentioned in paragraph 3.8. Putting information on

GOV.UK does not appear to reach this audience. It does not help that people based overseas – for a variety of reasons - have great difficulty accessing HMRC’s online services even when they are aware they might have a reporting obligation and/or a UK tax liability. In addition guidance on GOV.UK does not always cover the position for non-residents (because of a perceived reduced ‘user need’), for example the guidance⁶ for indirect disposals provides very little to help for the non-UK resident investor in a property rich fund who may have little other contact with the UK tax system. In fact, the reference to the 25% de minimis for indirect holdings, without qualification, might mislead them into thinking there is no need to report. We have suggested there is at least a link in the GOV.UK guidance to more detailed guidance for non-residents disposing of interests in property rich funds to increase awareness.

17 Q10. What data would be useful to you when receiving a prompt and when in the process would you like to receive it?

17.1 See our comments in response to Qs 1, 2 and 3 above.

18 Q11. How could HMRC work with agents and intermediaries to improve offshore tax compliance?

18.1 HMRC could explore how professional bodies, such as the CIOT, might work with them to amplify messages around needing to disclose offshore income and taking advice on offshore tax issues. This could include HMRC writing articles for professional magazines and websites or collaborating on technical webinars. We are mindful that some smaller advisers might need reminding of the basics so there may certainly be an education piece to ask clients open questions, check implementation and not to make assumptions.

18.2 Improvements to the Worldwide Disclosure Facility (WDF), as discussed at HMRC’s workshop which we attended on 27 May 2021, would help. We also provided some detailed feedback to HMRC in December 2020 about the operation of the WDF with some suggestions for improvement.

18.3 HMRC could also develop some specific helpsheets which other intermediaries could give taxpayers in relation to the sorts of transactions where HMRC identify mistakes most often occur. For example, in relation to disposals of UK property by non-UK resident people, HMRC could make a general factsheet available summarising the tax compliance obligations in relation to such transactions which HMRC could request conveyancing solicitors (or estate agents) give to the vendors. The aim being to educate taxpayers on the requirements (prompting them to take advice where needed) so as to increase compliance.

18.4 HMRC are introducing conditionality in Finance Act 2020 in relation to taxi drivers and others. HMRC could consult on introducing a form of conditionality for non-UK vendors through platforms like Amazon and Etsy so that they could not be listed as a seller until the platform confirms with HMRC that they are suitably registered for UK direct and/or indirect tax. This should then mean fewer such vendors fail to properly declare and pay UK tax.

18.5 The Home Office is involved in the process of authorising visas and citizenship. It is therefore aware of individuals who move to the UK for more than a short period of time. HMRC could explore the possibility of a standard factsheet (prepared by HMRC) raising awareness of the need to file and pay tax in the UK (including

⁶ <https://www.gov.uk/guidance/capital-gains-tax-for-non-residents-uk-residential-property#indirect-disposals>

on offshore income, gains and profits) to be automatically provided (electronically or in paper) to successful applicants for visas and citizenships. Again this will hopefully improve compliance by those inbound to the UK.

19 Q12. What are your views about more direct sharing of information with agents?

19.1 We think this could be helpful and should be explored further. It would be particularly useful if HMRC could share offshore data, such as CRS data, about clients with agents on a timely basis before tax returns are submitted. Even just sharing the existence of such data with the agent, such as a bank account with a specific financial institution, would be helpful. We would need to ensure that the correct permissions existed for HMRC to be able to share this data with the agent. Ideally this should be built into the 64-8 agent authorisation process.

20 Q13. How can HMRC ensure agents based outside of the UK meet the standards expected of those giving UK tax advice?

20.1 This question was also raised in HMRC's Call for Evidence last year 'Raising Standards in the Tax Advice Market' to which we responded⁷. We suggest that any discussion on this point should be done in conjunction with HMRC's work on raising standards. In paragraph 5.11 of our response we said the following:

'Some customers obtain tax advice from offshore. Offshore members of UK professional bodies who advise on UK taxation are bound by ethical rules. But this is unlikely to be the main part of the population operating offshore. This issue needs to be addressed if any of the options pursued are not to be undermined. The solution may need to be as extreme as requiring any services in relation to UK taxation to be routed through a UK-based organisation in some way or another. Alternatively, we understand that the approach of Financial Services regulation is to make it an offence to give financial services advice 'in' the UK (which includes giving it electronically to someone in the UK). - that is, the focus is on the place where the advice is 'consumed'. A similar approach could be adopted, namely that the giving to a UK person/company of advice in relation to UK taxes needed to be regulated (irrespective of the place from which the advice was given).'

21 Q14. How could we further leverage public-private partnership initiatives and the role of financial institutions to promote offshore compliance?

Q15. Are there other non-financial areas where public-private partnerships could be developed to help promote offshore compliance?

21.1 We are not clear what HMRC mean by 'public-private partnership' in this context. In terms of the CIOT's engagement with HMRC, we are uncertain whether this term means HMRC are contemplating a change to the way they would normally interact with stakeholders such as ourselves.

21.2 The CIOT would be willing to continue to work with HMRC on initiatives to improve awareness and promote offshore compliance, such as inviting HMRC to write articles for our member magazine and to take part in

⁷<https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/915e398c-2c2c-4f29-a11f-b530c81a7db3/200825%20Raising%20standards%20in%20the%20tax%20advice%20market%20-%20CIOT%20response.pdf>

webinars with us. We have an extensive network of overseas branches. We could also explore how these could get involved in educative initiatives overseas.

- 21.3 We would not support a repeat of an exercise like the obligation that was placed on tax advisers who provided offshore advice or services in the year to 30 September 2016 (beyond solely the preparation and delivery of tax returns) to send certain clients a notification comprising an HMRC branded document and standard wording for inclusion in a covering letter or email. We conducted a survey of our members following the exercise. In a report⁸ which we shared with HMRC at the time we said that before imposing any similar requirement on tax advisers in the future, we would urge HMRC to review and evaluate the exercise to ascertain not only whether it achieved its objectives, but whether using tax advisers to communicate messages from HMRC to their clients was more effective than sending the messages themselves. Given the burden it placed on tax advisers, we think it would be unreasonable for HMRC to repeat the exercise without conducting such a post-implementation review. There should also be a comprehensive consultation undertaken with stakeholders before any similar obligations are imposed in the future.
- 21.4 We are not certain what role UK financial institutions could play in improving compliance since most of their customers would not have an offshore financial footprint, and people with offshore accounts may not use the same financial institution they use in the UK. Even if they do use the same institution, the banks' systems are usually segregated so the London branch cannot see that the person has an account with the Frankfurt branch for example.

22 Acknowledgement of submission

- 22.1 We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

15 June 2021

⁸ <https://www.tax.org.uk/policy-client-notification-letters-report-on-the-results-of-a-ciota-and-att-survey>