New cross-border mandatory disclosure rules in the UK

Alessandro Belluzzo
TEP - Barrister
January 2023

After the government consultation on the measure from 30 November 2021 to 8 February 2022, the new rules requiring financial intermediaries and advisors to report arrangements which are likely to avoid international exchange of information under the OECD Common Reporting Standard (CRS) will be effective from 28 March 2023, replacing the EU rules known as DAC6 ("EU Council Directive 2011/16/EU on administrative cooperation in the field of taxation").

The new measure, implemented by Statutory Instrument, will affect people "who design, market, or advise on certain structures and arrangements that could be used to evade tax. This could include tax advisory and legal firms and financial institutions. The measure could also affect taxpayers who implement such arrangements", according to the Government.

The Organisation for Economic Co-operation and Development (OECD) rules and exchange framework will replace the existing EU rules now that the UK has left the EU.

1) Main features of the measure

Promoters and advisors will be requested to disclose details to HMRC regarding certain types of arrangements to HMRC.
HMCR explains that an arrangement will be reportable "if it involves the use of opaque offshore structures or if it circumvents reporting under the Common Reporting Standard (CRS)" – i.e., reporting and exchange between tax authorities of financial account information. In fact, such arrangements, in the view of the policy, can be used to hide beneficial ownership of assets from the tax authorities.
Once this information is obtained, HMRC will share it with other tax authorities implementing the same rules, in the Countries where the taxpayers involved in the arrangement are resident. In addition, this information will be useful to identify and challenge potential cases of offshore tax non-compliance.
The new regulation will impose the reporting obligations, set deadlines for reports to be made, and provide for penalties for non-compliance.

2) Tax policy target

These new rules will help the government to tackle offshore tax evasion. Mandatory reporting will discourage people from setting up or joining arrangements if they are intending to use the arrangements to evade tax.

These new disclosure rules are also expected to influence taxpayers to help ensure that any relevant structures they implement are reported correctly for tax purposes, with all tax due being declared.

3) Next steps for clients

Clients should approach professionals to identify any arrangements falls within the scope of the new regulation and take appropriate step in the light of the entry into force date of 28 March 2023.

Belluzzo International Partners is able to assist clients with the analysis and further actions.