

Helping taxpayers get offshore tax right & Preventing and collecting international tax debt – Discussion Documents

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UK Finance is the collective voice for the banking and finance industry.

Representing around 300 firms across the industry, we act to enhance competitiveness, support customers, and facilitate innovation. Our members include businesses that are large and small, national and regional, corporate and mutual, retail and wholesale.

General Comments

1. We welcome the opportunity to respond to the HM Revenue & Customs ('HMRC') 'Helping taxpayers get offshore tax right – Discussion Document' and 'Preventing and collecting international tax debt – Discussion Document' (collectively, 'the Discussion Documents').
2. We are not responding to the Discussion Documents in detail as we do not believe that they are addressed to the core UK Finance membership. However, we would like to comment on certain aspects of the treatment of 'intermediaries' in these Documents.

'Helping taxpayers get offshore tax right'

3. Section 4 of the Discussion Document provides a definition of 'intermediaries'. This section states that the term "refers to any persons or entities that play a role in-between HMRC and the taxpayer concerning tax obligations. For example, agents, employers, Financial Institutions ('FIs') and online platforms are intermediaries when helping clients complete their returns, operating PAYE, or supplying data needed to complete returns."
4. We believe that this definition should be narrowed to exclude FIs. This is because generally there is usually a high degree of removal from their clients' tax affairs.
5. If this is not possible, then we believe that this definition should be significantly narrowed by specifically carving out certain types of FIs that do not provide key ancillary services which could result in additional knowledge of a taxpayer's situation. For example:
 - a. Where an FI simply provides customer accounts and other related products but is not regulated to provide tax advice (tax or otherwise) to customers;
 - b. Where an FI may have a customer holding accounts in multiple jurisdictions but does not have the capability to identify such nexus between such accounts; or,
 - c. Where an FI only offers UK-regulated products to UK-resident account holders and no relationship manager or broader scope of services exists.

6. Furthermore, it is important to note that whilst an FI may hold personal and financial information about a customer to enable them to comply with their obligations under the Common Reporting Standard, they will not usually have knowledge of their customer's specific facts and circumstances in respect of their other income or assets held outside the FI's corporate group, possible tax reliefs available, or their wider tax history and profile.

'Preventing and collecting international tax debt'

7. No definition of 'intermediary' is provided in this Discussion Document. Assuming that the definition is the same as in Section 4 of the 'Helping taxpayers get offshore tax right' document, we believe that it should be similarly narrowed to exclude FIs.
8. Any additional requirements on intermediaries to "disseminate information" (section 3.21) or "[collect] more information from agents and intermediaries about clients who may be more likely to accrue international tax debt" (section 3.21) must be proportional and therefore focus on those who have a deep relationship with, and knowledgeable understanding of, the taxpayer.
9. We do not believe that a 'waterfall' approach (similar to the reporting cascade under Directive on Administrative Cooperation 6) would be appropriate in such situations for fulfilling an intermediary's obligations as it risks diluting the focus and failing to be proportional.
10. We are supportive of the fact that this Discussion Document does not propose to create a mechanism for the collection of international debt via either:
 - a. A mechanism similar to the existing Direct Recovery of Debt protocols; or,
 - b. Via a withholding mechanism on any cross-border payments to the international recipient from whom tax is outstanding.

If you have any questions relating to this response, please contact Mark Schofield (mark.schofield@ukfinance.org.uk).

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