

HMRC's continuing crusade against non-compliant taxpayers



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HMRC continues to “police” the UK tax system

- Investigations can be resource driven
- Prosecutions are expensive
- Are they in the public interest?

The world has become much smaller and HMRC are increasing their reach





Current hot topics

- CONNECT
- Common Reporting Standard
- Disguised Remuneration
- The requirement to correct
- The requirement to notify
- The Worldwide Disclosure Facility
- Campaigns

CONNECT

Increasingly being used by HMRC to track:

- UK properties
- UK shareholdings
- UK anything
- Worldwide anything



CONNECT CONT'D

- Not to be underestimated
- Now used in over 80% of investigations
- Contains over billion records
- 30 data sources



CONNECT CONT'D

- HMRC uses data-collecting programs ("robots")
- Robots patrol online marketplaces such as eBay
- Where activity levels are high it may suggest trading



CONNECT CONT'D

- Social media such as Facebook gives evidence of spending, travel plans etc.
- Well-wishers
- Game changer



The Common Reporting Standard

Overseas financial institutions are required to provide details to HMRC on an annual basis about anyone who owns foreign investments and appears to be a UK resident, for example by having a UK postal address.

What do we know?

"... as we know, there are known knowns; there are things we know we know. We also know there are known unknowns; that is to say we know there are some things we do not know. But there are also unknown unknowns – the ones we don't know we don't know."





The journey so far

HMRC have been focussed on:

- Tax avoiders (Disguised Remuneration); and
- Tax evaders
- Day to day compliance

In the beginning

- No Safe Havens
- Tackling offshore tax evasion
- Requirement to correct



Common Reporting Standard (CRS)

- First FATCA
- Then son of FATCA – TIEA's
- Next - European Union Directive on Administrative Cooperation (2011/16/EU, as amended by 2014/107/EU)

Tax avoiders

- Disguised remuneration
- The Counter Avoidance Directorate (CAD)
- Code of Practice 8
- Settlement opportunities have come and gone



Tax evaders

- The Fraud Investigation Service (FIS)
- Code of Practice 9

Day to day compliance

The process involves:

- The registration by taxpayers
- The regular submission of returns
- The payment of all taxes due on time



Stick and carrot approach

Compliance checks:

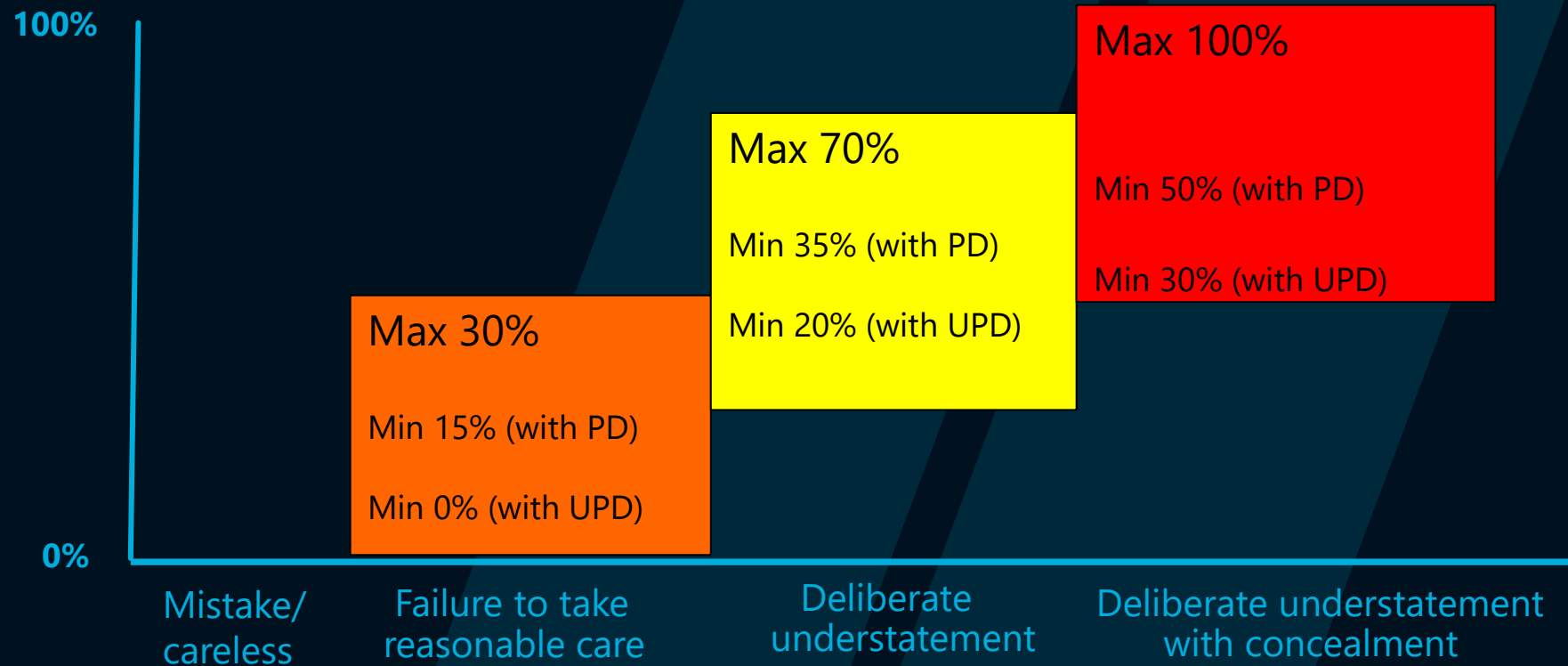
- On site field reviews
- By post
- Desk reviews

A change in penalties

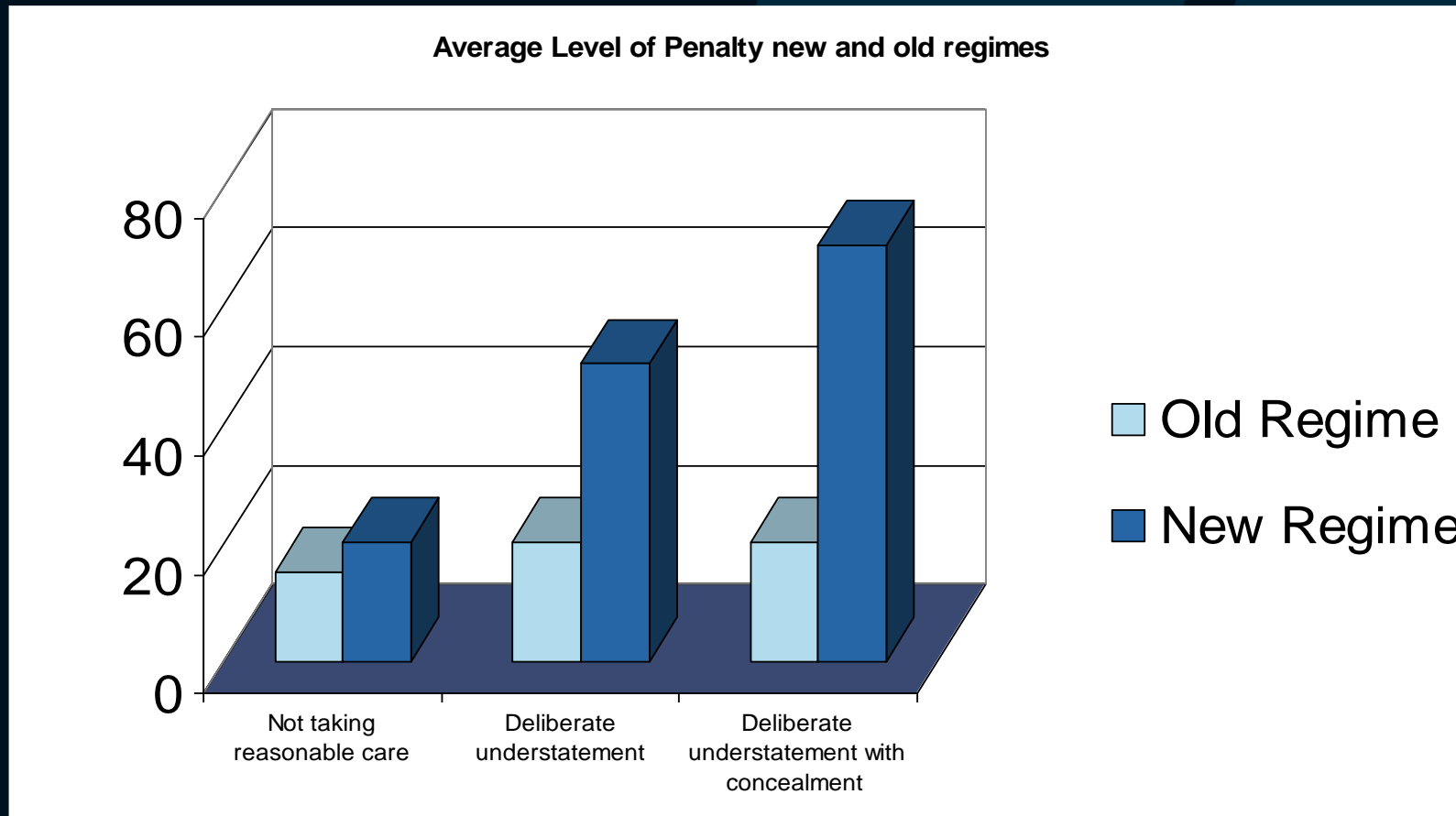
- Operative since April 2009
- Out with the old
 - Disclosure/
Co-operation/Seriousness
- In with the new
 - Prompted/Unprompted
 - Careless
 - Failure to take reasonable care
 - Deliberate/Deliberate with
Concealment



UPD = Unprompted disclosure
PD = Prompted disclosure



Penalty regimes





Offshore penalties

- Category 1 – UK etc. - up to 100%
- Category 2 – The remainder - up to 150%
- Category 3 – Faraway places - up to 200%

The Requirement to Correct and the Failure to Correct

- Retrospective in application
- Transfers on or before 5 April 2017
- Income Tax, Capital Gains Tax, Inheritance Tax
- Not corporation tax or VAT





Oops #1

- The Swiss bank account
- May 2013 paid the tax on the balance
- Withholding tax ever since
- Forgot the money taken out



**HM Revenue
& Customs**

**Risk & Intelligence Service, Criminal
Intelligence Group**
OCU/S0987
City Centre House
30 Union St
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For the addressee only

Mr.

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hmrc.gov.uk

Date 16 November 2011

**Unique
identifying ref** OCU/S **YOUR UTR**

Dear Mr **YOUR NAME**

It is important that you read this letter and the guidance referred to later in this letter. You must reply no later than 21 December 2011. If you do not, we may start a detailed investigation into your tax affairs, supported by our statutory information powers. In some cases, this could be a criminal investigation.

Swiss investments

We hold information that indicates that you currently have, or have previously had, a direct interest in, or a connection to, overseas accounts or investments. Based on this information, we believe that you may not have disclosed all your tax liabilities in respect of these accounts and investments.

About the information we hold

The information we hold relates to HSBC Private Bank (Suisse), which includes HSBC Republic Bank (Suisse), Republic National Bank of New York (Suisse) and Safra Republic Bank. The specific account titles are described below.

- **YOUR ACCOUNT NUMBER**

We need to be satisfied that you have declared any income or gains from these accounts or investments on your tax returns and that no additional liabilities are outstanding because of these accounts and investments.



Oops #2

- HM Revenue & Customs issue “nudge letters”
- “We know who you are”
- Letter dated 08/01/2021 and response



Oops #3

- The offshore bank account
- The foreign property
- The EBT
- The UK rental property

Past strategies of HMRC

Focus upon:

- Annual Tax Returns
- Pay and file
- Self-assessment

All reactive and ineffective



Past strategies of HMRC

An ever-changing landscape

- A move from bespoke tax planning to mass marketed schemes
- The world has got smaller - nowhere to hide
- Success down to individual Inspectors and offices
- Lack of resources and joined up thinking



A worldwide issue for all governments

- The Organisation for Economic Co-operation and Development (OECD)
- The British Overseas Territories (BOTs)
- A downturn for the world economy
- Tax Information Exchange Agreements (TIEAs)



How things can go awry

- Knowing your client
- Knowing the sources of all funds

And more importantly,

- Having access to key facts





Settlement opportunities

There have been a few:

- The Employee Benefit Trust Settlement Opportunity (EBTSO)
- Contractual Disclosure Facility (CDF)
- The Liechtenstein Disclosure Facility (LDF)
- More recent disclosure facilities
- GDF, JDF, MDF

The problems being encountered

- Not understanding what we have
- Legacy issues
- Excluded Beneficiaries
- Voluntary Restitution



Certificate of tax position

1. I need to bring my tax affairs up to date. I will declare all my UK tax irregularities using HMRC's Worldwide Disclosure Facility;
2. I do not have offshore income, assets or gains on which UK tax may be due;
3. My tax affairs do not need updating. I do not have any additional tax to pay. I have declared all my offshore income, assets and gains which are taxable in the UK.





Oops #4

- The missing millions
- He lends to her, she lends to him
- 11 residential properties
- and 3 car parks



Oops #5 Willy and Wally

- The BVI companies
- 11 residential properties
- and 3 car parks



Oops #6 The artist

- From the USA
- then to UK
- to Andorra
- to Switzerland
- and finally to Spain
- Or is it the UK?



Oops #6 The artist cont'd

- From the USA
- Not just a change in Trustee but also a change in jurisdiction.
- Now the chairman has passed away.
- Loans everywhere



Oops #7 Dave

- It all started with his mum
- then US\$100
- then his American aunt
- then his girlfriend



Oops #7 Dave cont'd

- Today the trust has properties valued at £480m debt free
- Business rivals
- Forgot to pay his rent
- or did he?

How can I help?

- Put the taxpayer back in control
- Give the taxpayer certainty
- Approach HMRC on a no name basis
- Reach a settlement





What the future may hold

Why settle?

- Planned events
 - Sale of the family business
- Life changing events
 - Death and divorce

What does the future hold?

- No skeletons in the cupboard
- No unwanted legacies
- Back to traditional tax planning?



Thank you

Need advice?

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