

# Investigations & enquiries



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## HM Revenue & Customs New Disclosure Opportunity Q&A briefing

Q. What is the New Disclosure Opportunity?

The New Disclosure Opportunity (NDO) is a **final** opportunity to settle unpaid taxes linked to offshore accounts or assets. 'Offshore' means anywhere outside the United Kingdom of Great Britain and Northern Ireland, including the Channel Islands, the Isle of Man and the Republic of Ireland.

Q. Who is affected?

Anyone who holds or has held (directly or indirectly) an offshore account which was opened before 6 April 2008 and which is associated in any way to a loss of tax, NIC, VAT etc. in the UK.

Q. What is wrong with having an offshore account?

Absolutely nothing provided the monies therein originate from non taxable sources or taxed income and is subject to the income arising thereon being properly declared.

Q. What is HMRC looking for?

The tax authorities are interested to ensure that UK resident and domiciled individuals are declaring their worldwide income including bank interest arising on offshore accounts as well as checking the source of the sums deposited. In the case of UK resident non-domiciled individuals, they want to ensure that any income remitted to the UK has been declared and taxed.

Q. What are the key dates?

**1 September 2009:** date when registration for NDO opens.

**30 November 2009:** deadline for notifying intention to make a disclosure.

**31 January 2010:** date by which disclosure must be made and duties paid for paper or offline disclosures.

**12 March 2010:** date by which disclosure must be made and duties paid for online disclosures.

Q. What taxes are covered by the NDO?

- Income Tax
- Capital Gains Tax
- Inheritance Tax
- Corporation Tax
- Pay As You Earn
- National Insurance
- Value Added Tax
- Other taxes administered by HMRC



## HM Revenue & Customs New Disclosure Opportunity Q&A briefing continued...

Q. How do they know who has an offshore account?

Approximately 250 banks are being placed under a legal obligation to provide offshore account information for all customers with UK addresses.

Q. What is there to pay?

Tax and interest will be due in respect of any undeclared sums as well as a fixed penalty of 10% of the tax/NIC underpaid. This represents a substantial saving in areas where larger amounts of tax may have not been paid (e.g. a typical penalty in a case where £100,000 of tax has not been paid could be £30,000 to £40,000). No penalty will be due where the tax due is less than £1,000. However, individuals who were given the opportunity to come forward under the first Offshore Disclosure Facility in 2007 but failed to do so, will face a fixed penalty of 20%.

Q. For how many years does a disclosure need to be made?

No disclosure should go back more than 20 years.

Q. Are there any risks?

Extreme care must be taken to ensure that disclosures are accurate and complete. There is no guarantee of immunity from prosecution. However HMRC states it is extremely unlikely that anyone making a full and accurate disclosure would be subject to prosecution other than in very exceptional circumstances involving a very serious crime.

Q. What if affected individuals choose not to disclose?

HMRC will target those with offshore bank accounts who choose not to come forward. They can expect a full investigation and possibly even criminal prosecution in certain circumstances. They will face minimum penalties of 30% rising to 100% of the tax evaded.

Q. Does the NDO just apply to holders of offshore accounts?

The first Offshore Disclosure Facility made provision for disclosures that did not relate to offshore accounts. Guidance is currently awaited from HMRC regarding whether there will be a parallel disclosure route with a 10% penalty etc., subject to adherence to the terms of the NDO, for any other 'domestic' tax disclosure.

**Individuals are advised not to make any disclosures without first taking professional guidance from our specialists in this area.**

If you would like any further information on the 'New Disclosure Opportunity' or any other tax investigations-related issues, contact Sean Wakeman or Doug Sinclair in our London office:

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