UK Income From Its Offshore Disclosure Facilities

Kluwer International Tax Blog
August 3, 2015

William Byrnes (Texas A&M University Law)

Please refer to this post as: William Byrnes, 'UK Income From Its Offshore Disclosure Facilities', Kluwer International Tax Blog, August 3 2015, http://kluwertaxblog.com/2015/08/03/uk-income-from-its-offshore-disclosure-facilities/

Please contact us to assist in our research Prof. William Byrnes & Haydon Perryman
In 2011, HMRC forecast that it would receive "billions" from the Swiss Disclosure Facility. In 2012, HMRC stated that this number would be five billion sterling, and another three billion sterling from the Liechtenstein Disclosure Facility (LDF). This implies that at least a couple hundred thousand United Kingdom tax residents are non tax compliant through not disclosing income and income-producing assets overseas, in offshore countries. As of that HMRC report of data up to 2012, 50,000 taxpayers had come forward through all offshore disclosure facilities, generating one billion in tax, interest, and tax penalties, thus on average 20,000 sterling per disclosure.

Like the United States, the United Kingdom has non-compliant taxpayers evading tax via offshore accounts, and from a tax-burden equity and tax administrative perspective, it needs to stop. But how large a population are these non-compliant taxpayers, and what portion of lost tax revenues do they represent? Is it enough to produce five billion from Switzerland, three billion from Liechtenstein, or billions more from rectifying offshore non-compliance in general? Probably not.

The offshore noncompliance problem in the context of all non-tax compliance, and all taxpayers, requires first asking how many individual taxpayers file in the UK? For 2014-15, it's approximately 29.7 million, of which 4.65 million pay the higher rate of 40 percent for income between 31,786 and £150,000 sterling. 332,000 filers report more than £150,000 income and pay the highest applicable rate.

The next interesting issue is what portion of noncompliance is estimated to be offshore non-compliance. According to HMRC:

> *The tax gap, which is the difference between what we collect and the tax that is theoretically owed, was £35 billion in the tax year 2011 to 2012, or 7 percent of total tax liabilities.* ***Tax evasion accounted for £5.1 billion****, the hidden economy accounted for £5.4 billion and criminal activity £4.7 billion of the tax gap. Nearly half the tax gap, 47.7 percent, is down to non-payment by small and medium-sized enterprises (SMEs), and while much of this is due to error, there is a significant risk of evasion among a small minority of SMEs, which we are tackling.*

By my estimation then, approximately 16 percent of the £35 billion tax gap is from tax evasion and 1.4 percent of potential tax income to the state. Not all the £5.1 billion tax evasion results from offshore non-compliance. How much though ?

On 12 February 2015 HMRC disclosed that it had collected a total of £2 billion from offshore evasion disclosure and other compliance initiatives – primarily from the Swiss Disclosure Facility (SDF) and the Liechtenstein Disclosure Facility (LDF) – thus an additional billion since the 2012 report, approximately £333 million additional per annum.

Based on my table constructed below from HMRC, 5,400 disclosures brought in one billion sterling, and it is unclear how many disclosures have been made in Switzerland. HMRC stated in 2012 that it had received 57,000 offshore disclosures from all disclosures. Thus disclosures are falling – hopefully because most have come in from the cold.

HMRC reported that between 2010 and 2014 it secured more than 2,650 criminal prosecutions and 2,718 years of prison sentences for all tax crimes, approximately 530 annual prosecutions, with an average 1.2 years prison sentence (one was reported to be for 11 years and thus, several must be for less than a year). The HMRC only prosecuted one Swiss leaked account, as explained below:

> *The HSBC Suisse data initially revealed 6,800 'entities' – individuals, businesses and trusts – but this contained duplication (some people had multiple accounts). Removing duplication left us with 3,600 entities, all of which we have examined.*
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> *We have investigated and challenged more than 1,000 account holders, and collected £135 million from them in unpaid tax, interest and fines. In many of these cases, people chose to disclose their offshore income through the Liechtenstein Disclosure Facility, set up by international agreement, which gave them an exemption from criminal prosecution if they fully disclosed all information.*
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> *In 150 of these cases, we sought to collect evidence for criminal prosecution. To do this successfully, we needed to demonstrate criminal intent (rather than error, for example). In addition, because stolen data is considered 'dirty' it needs additional corroborating evidence.*
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> *With these tests of evidence, and with the exemptions arising from the Liechtenstein Disclosure Facility, we could only prepare three cases for submission to the Crown Prosecution Service. Having examined the evidence, the CPS considered only one case to be strong enough to take forward, and that was successfully prosecuted in 2012.*
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> *In around 2,000 cases, we found no evidence of evasion and believe the account holders to be compliant, although we continue to monitor them.*
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> *We are still examining around 100 cases and 400 cases were untraceable.*

	disclosures	**# settled**	**settled**	**unsettled**	**avg settlement**
IOM	186	149	£3,700,000.00	£1,900,000.00	£24,832.21
Guernsey	37	25	£700,000.00	£1,900,000.00	£28,000.00
Jersey	181	131	£2,200,000.00	£3,500,000.00	£16,793.89
Crowns	404	305	£6,600,000.00	£7,300,000.00	£21,639.34
LDF	5483		£1,075,000,000.00	£94,000,000.00	£171,195.00
Swiss (est)			£1,000,000,000.00		
Total	**5887**		**£2,081,600,000.00**	**£101,300,000.00**	