BUSINESS PANEL

OUR EXPERTS SHARE THE KNOWLEDGE...

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CRS: good for Guernsey

A more level playing field: The CRS has had a positive effect for Guernsey with other jurisdictions now applying the same high standards, says Estera's David Larkin. **(Picture by Adrian Miller, 21618069)**

WHAT is CRS and should I be worried about it?

David Larkin, director of trust & corporate services at Estera Guernsey, replies:

LOTS has been written about CRS recently, but the chances are that you don't need to be worried about it if your tax affairs are up to date. CRS stands for the Common Reporting Standard, which aims to prevent tax evasion by sharing people's financial details between countries.

The CRS was developed by the Organisation for Economic Cooperation and Development in 2014, and was based on a similar initiative before that in the US, called the Foreign Account Tax Compliance Act or Fatca.

Fatca required all non-US banks to search their records for US customers and report the assets of those customers to the US government.

CRS is the new global version, with nearly 100 countries now signed up and information sharing having started last year.

Some believed Fatca and CRS would unearth large-scale tax evasion taking place in respectable financial centres such as Guernsey, but it turned out (as we knew it would) that Guernsey was not sheltering tax evaders. In fact, CRS has had a positive effect here, where we have long argued for better global standards. Now that so many jurisdictions have signed up to CRS, all countries are applying the same high standards that we have been when taking on new clients, and there is more of a level playing field.

Other initiatives, like the EU money laundering directives, are further forcing EU countries to strengthen their checks on new customers, so the scrutiny taking place when people put money in bank accounts outside their home countries has never been higher.

For those acting legally, there is nothing to worry about. These initiatives have created a lot of extra work – and cost – for financial services firms such as ours but Estera has never supported tax evasion, so for us it is business as usual.

How do I handle a harassment accusation?

A CLIENT has accused a member of staff of harassment at a recent joint staff/client event. The employee in question is a high performing and valued employee with no prior employment issues on file. In addition, the employee doesn't recall the incident. The client is asking for the employee to be dismissed. What do I do?

Hana Plsek, senior associate at Collas Crill, replies:

WITHOUT knowing much more about the incident, the following is a general outline of the process you could undertake.

I recommend that you do an investigation in the first instance. Meet with the client and employee separately and gather their version of events. During this meeting I suggest asking if they can recall any witnesses to the incident. If so, interview these individuals as well.

Should there be a case to answer, the normal disciplinary process should be followed.

If there are no witnesses, or none that will corroborate the client's story, you may be in a situation where it is one person's view as opposed to another. This is compounded by the client wishing to see your employee's employment terminated.

In this instance, and not knowing the full details, the best outcome may be that a written warning is placed on the employee's record with a view to having it removed in six months. Rather than terminating the employee's employment, you may wish to suggest to the client that the employee in question will no longer work with them nor attend any client entertainment.

Are charities taxed differently?

ARE charities taxed in the same way as other organisations and is tax relief available on charitable giving?

Andre Trebert, tax director, BDO Guernsey, replies:

CHARITIES must be registered in Guernsey in accordance with The Charities & Non-Profit Organisations (Registrations)(Guernsey) Law, 2008 which provides charitable status from the Guernsey tax authorities. There is an exemption from registration if the organisation has gross assets and funds of less than £10,000 or gross annual income of less than £5,000.

If qualifying conditions are not met, the charity cannot claim the tax on donations and it may be taxed on income received. A company will be taxable at the company standard rate of 0% (or 20% on income arising from Guernsey property). If established as a trust, trustees will be taxable at the rate of 20% if beneficiaries are tax resident in Guernsey. Partnerships are transparent for tax purposes so income will be taxable at 20% if partners are tax resident in Guernsey.

Unlike in the UK, there are no inheritance or gift taxes in Guernsey.

Charities are exempt from Guernsey Income Tax under s.40(k) Income Tax (Guernsey) Law, 1975.

Tax relief is unavailable to the donating individual but the charity can claim a 20% tax repayment of the grossed up donation providing conditions are met.

Donations must be from an individual out of Guernsey-taxed income. They must be made in the form of cash, cheque, bank transfer or debit/credit card.

Relief is available on minimum annual donations of £500 up to a maximum of £5,000 per annum (£10,000 for a married couple) to all charities.

A donation of £5,000 for instance is treated as paid net of 20% tax and the charity can claim a repayment of £1,250. The donor must make a written declaration to the charity that the donation is paid out of income taxed at the rate of 20% using form CH1.

The charity can claim the tax after the year end by sending form CH2 to the Income Tax Office.

What is tax relief?

I READ your article about the tax relief limit for contributions to a Guernsey-approved pension being reduced to £35,000 per year, but can you explain exactly what tax relief is?

Sean Gillease, business development manager, Sovereign Trust (Channel Islands) Ltd, replies:

TAX RELIEF on pension contributions is the States of Guernsey's way of encouraging and incentivising people to make savings for their retirement.

In simple terms, for every £100 paid as salary, only £80 is received by you as 20% Guernsey income tax is deducted by your employer. This 20% is not deducted for contributions made into your pension, therefore £100 paid from your salary equals £100 received into your pension.

Essentially the 20% tax that would usually be payable on your salary is not paid for contributions into your pension, up to a certain limit.

At the time you ultimately choose to take benefit from your pension scheme (minimum age 50), you will be entitled to a pension commencement lump sum of up to a maximum of 30% of the value of your pension, this will be paid tax free up to a maximum pension value of £646,667 (i.e. maximum tax free lump sum of £194,000). Any lump sum amount above this level and ongoing regular income drawn down from your pension will be subject to 20% income tax, which will be withheld at source by the pension provider.

By providing tax relief on the contributions made into your pension and then taxing the income paid to you out of your pension at a later date, you will have received the benefit of a higher amount being held in your pension from which to accumulate interest and additional investment returns. This ultimately gives the most opportunity for you to build as significant a pension pot as possible.

The current annual tax relief limit in Guernsey is £35,000, but there are provisions for married couples and for anyone who has not used their full entitlement in previous years. Further information can be found on the following website: https://www.gov.gg/taxpensions.

If you had further questions, I would recommend that you speak with an independent financial adviser.