



Taxing Matters

"The Common Reporting Standard: An HMRC game changer?" with Dawn Register

Alice	<p>Hello, and welcome to Taxing Matters, your one stop audio shop for all things tax brought to you by RPC. My name is Alice Kemp and I will be your guide as we explore the sometimes hostile and ever-changing landscape that is the world of tax law and tax disputes. Taxing Matters brings you a fortnightly roadmap to guide you and your business through this labyrinth. In case any of you miss any crucial information or just want some bedtime reading, there is a full transcript of this and indeed every episode of Taxing Matters on our website at www.rpc.co.uk/taxingmatters.</p> <p>Today taking us through the "Common Reporting Standard", or "CRS", and to how HMRC are using the information to look at various tax issues, is Dawn Register. Dawn is a Partner and Head of Tax Dispute Resolution at BDO, the accountancy firm, where she helps clients to resolve all manner of knotty issues and tax disputes. Dawn is a previous winner of the prestigious "New partner of the year" award at the "British Accountancy Awards". She is a regular commentator on all things UK personal-tax and cross-border and a self-described reluctant baker where she helps to fuel the staff of her local hospital with industrial quantities of baked goods!</p> <p>Dawn, welcome to Taxing Matters!</p>
Dawn	<p>Great to see you, Alice. Thank you.</p>
Alice	<p>So, what is the Common Reporting Standard and how did it come about?</p>
Dawn	<p>So, yes, this is something that people may remember because it was talked about way back when. It was first introduced in 2014 and, actually, the first data exchange was quite a few years ago back in 2017; but, like a lot of things in tax, there're consultations, there is legislation, there is debate and we only then see in practice - four, five, six years down the road - and, of course, that is what is happening now in 2020 and 2021.</p> <p>So, it is an international scale of data exchange and it's driven by the OECD; and many countries, including the UK, are signed up to that. For those of you who may have forgotten what that stands for - we have a lot of anacronyms in tax - that is: the "Organisation for Economic Cooperation and Development". So, most countries, certainly that want to be seen as a cooperative, clean - I guess, in colloquial language - tax authority, want to, and do, sign up to the OECD standards; and one of them now is CRS. To say that, if you want to be seen as a cooperative tax authority, you should be exchanging data and you should sign-up to the standards set by the OECD for the "Common Reporting Standard". So, it is an automatic exchange of data.</p> <p>Of course, data exchanges happened prior to this between tax authorities, but usually is was either the old fashioned way: on request - back in the day where there were singular requests for information - or on a more sporadic, ad-hoc, data where, I am sure you will be aware, or listeners will be aware of data leaks - where one tax authority gets, you know -back in the old days - some CDs posted thought their letterbox, then kindly send on to another tax authority that might be interested in them. And, of course, that kind of thing still happens, but this is an industrial scale that covers most of the globe and, I think, is probably far bigger than most people realise.</p>
Alice	<p>So, how exactly does the "Common Reporting Standard" work, how does it operate in practice?</p>
Dawn	<p>So, the principle of it is that you have to identify, or businesses need to identify, whether they are a "Financial Institution" - so an "F.I." for the purposes of the "Common Reporting Standard". And, typically - I'm sure most of you will realise - that will cover banks, investments firms, trust companies, exchange bureaus - so those organisations involved in finance, generally, will fall into the definition of a Financial Institution. And if you are an F.I. operating in a country signed up to the "Common Reporting Standard" then you will need to identify account holders, within a certain jurisdiction, and you will need to report fixed amounts of information to your local tax-authority; your tax-authority will then transfer that data to the relevant countries. So, for example, if I'm a British national and I have an investment account in Spain then that Spanish bank will report that information to the Spanish authorities and they will then exchange that information to the UK tax authorities.</p>

Alice	So, what is the scope of this Common Reporting Standard, how many countries have signed up to it?
Dawn	<p>Well, it is increasing year-by-year but the big change happened in 2019 where we got up to 97 countries around the world and, as at current counting, it's up to 105 in 2021.</p> <p>So, we have 105 countries annually collecting the data and then looking at all the relevant countries; so, if you're a national of that country, if you are a resident of that country, if you clearly have an address in that country - so you may just own property - they will send the data to your tax authority.</p> <p>So, again, giving an example: if you are a British national but you have assets in three or four countries around the world, it's likely that that data will now be given to HM Revenue and Customs as part of the CRS exchange.</p>
Alice	So, what kind of information does it cover? What is being sent?
Dawn	<p>So - interesting because that is probably one of the most common questions I get from clients who start to get really nervous!</p> <p>I mean, certainly, it's your name, it's the name of the Financial Institution where you have an account or an asset. It will be the type of asset, - I mean, I have had examples in practice where people have had their pension fund in another jurisdiction and, obviously, it does identify that it is a pension fund - maybe a bank account; maybe a crypto asset - just to get it into the modern world! And, also, an identifying number - so, there will be the bank account number or some form of identification, locally. It will give a balance of the account, or the value, or the "cash value", or whatever is listed as the value of the asset - which, if you think about some jurisdictions where you don't report worldwide asset - that may be the first time a tax authority becomes aware of, if you like, how wealthy you actually are - when they can see the collection of the value of the your assets. And then, also, there will be some reporting of income, or dividends received, or the value of proceeds - if it was linked to a sale. And, again, even if, for example, this has caused some concern, I know, for beneficiaries of trusts - where even if you have never received a distribution the value of that trust is reported under CRS. So, it may be that, actually, you have received no value, or money, or cash - if you like, from that asset but it obviously may be very valuable and that information is sent to the tax authorities.</p>
Alice	So, what have HMRC been doing with the information that they have received?
Dawn	<p>So, this is where we get, I guess, into a bit of a hot-topic and slightly contentious area, if you like. Clearly some of this information has been used for enquiries that have already been ongoing. So, if you are high up on the HMRC 'hit-list', as it were, and you've already got a big tax investigation then, clearly, it's no surprise that - when the CRS data arrives each year - if your name is on it, that is going to filter through the HMRC computer system and form part of the enquiry.</p> <p>For those people who are not under enquiry already, we get to the issue of 'nudge-letters' and for those of you who are not familiar with this it's, actually, a government policy used by many government departments to, if you like, send you a warning letter that we have information that suggests you have 'offshore income and gains' that you may need to report for tax purposes, how about checking your tax position? Basically writing out to you to ask you and your adviser, if you have a tax accountant - so for example we have had clients who have had these letters ourselves and BDO prepares their tax returns; and I know other accountants have had them as well - to say: 'maybe you should check your client's tax position because we have information that they definitely have, certainly assets offshore and they may be impacting their tax compliance'.</p> <p>So, this nudge approach is, if you like, putting all the work and the responsibility onto the tax payer and the accountant - and why I say it's slightly contentious is that some of those letters have actually resulted in "no problem whatsoever". So, a kind of: "so what?". To give you an example, Alice: A lot of people clearly have holiday homes in other countries and just because you have a holiday home doesn't mean that generates any tax reporting obligations - it doesn't produce any income, you don't rent it out, you haven't sold it, you haven't generated any capital gain. Yet, it will be reported under CRS and you may end up with an often scary nudge letter from HMRC saying, you know, bold letters, underlined: "...Check your tax position, we have information". So, in that kind of example, I think it does cause quite a lot of upset and angst for people and, you could argue, additional work where there actually is no tax problem at all.</p> <p>To counter that, there are other examples where the 'nudge letter' definitely does need to be taken seriously and there is an underlying problem and - I'm sure if you were to ask a representative from HMRC - they would say well, of course, that justifies our approach because there are people who have got historical tax problems and CRS is highlighting this.</p>

Alice	So, to what extent can HMRC share this information, that they obtain, with other investigative agencies who might be looking into someone's assets globally?
Dawn	Well, they certainly can share that information. Part of the OECD structure and network of signing up to CRS is that a country is saying '...this information can be transferred automatically, without the individual's consent, without the individual's knowledge', the Financial Institution has to legally transfer that information as part of the structure of signing up to CRS. Is it then used by other government agencies? I am sure it is. It's not something I'm involved in myself but, certainly, we seen government data flowing into HMRC that is then used for tax purposes, so I'm sure tax data then flows out of HMRC to, for example, other government agencies. You can think of the fraud investigations, the border Agency, all sorts of other government agencies that might be interested in it.
Alice	So, what can I expect to see from HMRC and other agencies, going forward, in terms of their use of this data?
Dawn	I think it will increase. The biggest exchange happened last year for HMRC, so each year the amount of data, the number of individuals covered by this increased and the big steps up was last year where HMRC says it received 84 million details of bank accounts
Alice	Wow!
Dawn	And it covered one in 10 individuals in the UK - which is pretty staggering, actually!
Alice	Wow!
Dawn	One in 10 individuals are covered by this and, I'm sure, one-in-ten individuals are not aware of this! In terms of knowledge, I think there is a lot of blissful ignorance out there!
	So, one-in-ten people in the UK are covered by this and, increasingly, it will be used to inform, not only serious tax investigations, but, if you like, this 'nudge-approach' of just saying to people '...you need to check your offshore income and gains because we do have the information. So, if you get it wrong, we can check it...' And also things like penalties are now much more severe for offshore errors. One thing I noticed, for example, for those people who filled in their tax return online themselves - or if they have a personal tax account online with HMRC - there is a specific warning about CRS under where you fill in the information, because it asks you a question: "Do you have any foreign income or gains?" and if you tick "No", it actually comes up with a warning saying 'We do have data about offshore income through the CRS'. So, it actually gives you - this warning box pops up, which is an interesting approach and that is new in recent years.
	I think, increasingly, it will be used, if you like, as both a 'carrot' and a 'stick' to try and get people to come forward voluntarily, get their taxes right, but also: '...if you get it wrong, we are going to really come down on your heavily because we have got the information'.
Alice	So, how is this informing the approach that HMRC has taken of what we might have regarded traditionally as tax havens?
Dawn	What I think HMRC would say - and they certainly did say in their strategy for dealing with I guess, 'tax havens', they [would say] 'low tax jurisdictions' to be politically correct - they would say that it's a game changer because they now have access to data that they have never had in their history and, also the secrecy, or the privacy, that has always surrounded some jurisdictions is now blown open by this. In a lot of countries it is becoming in their interest to participate in this because, otherwise, they are left behind. The whole transparency, tax compliance, anti-money laundering agenda which, of course, goes beyond tax goes into other areas of dealing with criminality and all sorts of issues that we are trying to tackle on a global agenda. So, I think HMRC would very much say it's a 'game-changer' and, really, makes their work much easier to really target their resources to genuine problems.
Alice	Great! So, what might businesses want to take away from knowing about this information exchange through the Common Reporting Standard?
Dawn	I think there are a few things to be aware of in practice. One thing that I've noticed in the last year is, actually, this data is not always accurate. So a few of the cases I have dealt with in practice - and this is where thankfully I don't think computers will ever replace humans - is that some of the data that has been led to an HMRC either 'nudge-letter' or enquiry, when we have mapped it back and we have had to get either the business or the individual to go back to their Financial Institution - because what's come out, you know, everyone's been scratching their head going "...this just can't be right" - is actually the computer program that

sent the data, that then transferred the data to the tax authority, that then sent the data to HMRC - somewhere along the line the numbers have got muddled.

Now, you can imagine, in practice, Alice, this happens with exchange of currencies, just the UK tax year - the fact that we have a 6 April to 5 April and then everybody else around the world operates on a calendar year basis - means that some of the numbers are really skewed for the UK. So, just simple things like that. I had one case where all the numbers somehow had been doubled...

Alice Oh, wow!

Dawn ...and so the individual concerned was just like "that just can't be right!" So, he had to get a letter from the Financial Institution.

We had other cases where the business had changed jurisdiction so, actually, by the time HMRC got the information it was, effectively, out of date. So, I think lots of practical issues are coming out through the HMRC use of this data. For businesses, I would say just really have an awareness of this - particularly if you are operating internationally, particularly if you are going into a new country - setting up new investments or new business or new assets. You do need to work with your F.I. I would say it is in your interest to get this data reporting as accurate as possible. And then, of course, unfortunately, if you end up in the situation of an HMRC intervention, however that happens - again most people underestimate in my experience the amount of data that HMRC has - so, don't do that. I really would encourage people to, because some people almost stick their fingers in the air, this can't be right, they don't know this and, of course, that doesn't get you anywhere. That doesn't bring resolution in practice. So, cooperation is the key, checking information, having an awareness of this and certainly being alive to it if you're conducting international business.

Alice Great!

Well, thank you very much Dawn for taking us through the complex world of cross-border tax and reporting! As ever a big thank you goes to Josh McDonald who does all the work pulling each episode together. Our music is from musical genius Andrew Waterson who also produces each episode; and, of course, a big thank you to all of our listeners for joining us.

A full transcript of this episode together with our references can be found on our website at www.rpc.co.uk/taxingmatters.

If you have any questions for Dawn or for me or any topics you'd like us to cover in a future episode please do email us on taxingmatters@rpc.co.uk. We'd love to hear from you.

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