

Analysis

HMRC's whistleblower reward scheme: what we know so far

Speed read

The UK is set to introduce a new tax whistleblower scheme for 'serious non-compliance' later this year. Although specific details are yet to be announced, the new scheme will apparently take inspiration from US and Canadian whistleblower models. With informants receiving potentially 'significant' amounts, proper vetting will be required to identify any bad faith or frivolous claims.



Jack Prytherch

Osborne Clarke

Jack Prytherch is a Partner in the tax disputes team at Osborne Clarke. He represents both corporate and private clients on a variety of UK and international tax disputes. Email: jack.prytherch@osborneclarke.com.

Last month, as part of a speech marking the 20th anniversary of HMRC, Exchequer Secretary to the Treasury James Murray MP announced that HMRC will launch a new reward scheme for informants to target 'serious non-compliance in large corporates, wealthy individuals, offshore and avoidance schemes'. This was also confirmed as part of the Spring Statement 2025.

Specific details of the new scheme, to be introduced at some point in 2025, are yet to be announced. However, Mr Murray stated that the scheme would take inspiration from US and Canadian whistleblower models and would 'complement' HMRC's existing rewards scheme, with informants rewarded with a percentage of any tax taken as a result of their actions.

While HMRC currently invite reports of suspected tax evasion or avoidance and can make payments in certain circumstances (under CRCA 2005 s 26), this is entirely discretionary and not guaranteed. Details of any discretionary payments are not published but reports suggest that they may represent relatively small amounts. In contrast, a press release published alongside the latest announcement indicated that informants could expect to receive 'significant' amounts.

Inspiration from across the Atlantic

HMRC are understood to be considering what level of any tax-gated rewards might be appropriate under the new scheme. Under the US equivalent scheme, for example, the IRS currently pays 15-30% of the relevant proceeds collected (including penalties and interest) if certain financial thresholds are met. In other cases, rewards will be considered under a general discretionary power. This might be similar to the way in which any new UK scheme might 'complement' the existing HMRC reward process.

Under the US process, whistleblowers submit a claim to the IRS including for example:

- a description of the alleged non-compliance;
- supporting information (or a description of

documents/evidence outside their possession or control); and

- an explanation of how and when they became aware of the information submitted, and their relationship to the taxpayer.

The claim form must be signed by the whistleblower under penalty of perjury. Once received, the dedicated 'Whistleblower Office' vets any claims and those that are deemed to warrant further consideration are referred to the appropriate IRS department.

The award percentage granted by the IRS decreases for claims based on information from public sources or if the whistleblower planned and initiated the actions that led to the non-compliance in question. Assuming that is mirrored in the UK, it would for example prevent a former director of a company from receiving a payment to the extent that they were involved in the relevant non-compliance. As well as being common sense, this would also be consistent with other rules that can make a director jointly and severally liable for amounts in certain circumstances: for example, penalties for deliberate tax errors where the relevant behaviour can be attributed to the director (FA 2007 Sch 24 para 19).

Serious non-compliance

What is meant by 'serious non-compliance' has not been specifically defined, but the references to avoidance schemes in the announcement make clear that the new scheme will not be limited to tax evasion (and this would be consistent with HMRC's current discretionary reward scheme, which also applies to tax avoidance). If 'serious' non-compliance also includes 'deliberate' behaviour for civil tax purposes, this would also increase the potential scope of the scheme considerably: for example, this might capture circumstances where a taxpayer deliberately fails to take necessary advice or turns a blind eye to the correct position.

It will be important for the UK to have in place its own US-style 'Whistleblower Office' that is properly staffed and resourced to ensure that claims are appropriately vetted

Bad faith or frivolous claims

The test of what constitutes tax avoidance is not always straightforward. In the context of the complex tax affairs of large corporates in particular, it is not difficult to see how legitimate tax planning might be misconstrued as tax avoidance by well-meaning informants. However, it is assumed that the vast majority of informants are likely to be disgruntled current or former employees.

If implemented properly, HMRC's proposal has a clear public benefit by incentivising those with evidence of serious tax non-compliance to make a report while overlooking genuine risks to their careers or even personal safety. On the other hand, offering large sums of money may inevitably incentivise bad faith actors to provide misleading or frivolous information. At the extreme end, this has been illustrated in the US (in a non-tax context) with the banning of individuals from the SEC's whistleblower programme for reportedly filing hundreds of award applications.

It will, therefore, be important for the UK to have in place its own US-style 'Whistleblower Office' that is

properly staffed and resourced to ensure that claims are appropriately vetted as far as possible.

Responding to whistleblower claims

Responding to any complaint can result in businesses incurring large costs in terms of both management time and money, even if a claim is ultimately dismissed.

Companies should also be alive to the added reputational risks posed by the proposed regime

HMRC do not have to provide reasons for opening a self-assessment enquiry or compliance check. It may not, therefore, always be obvious when HMRC is investigating in connection with a whistleblower claim. If there are reasons to suspect that an investigation is a result of a whistleblower making misleading claims, the taxpayer should consider with their professional advisers whether

it is appropriate to raise this directly with HMRC.

If companies suspect or become aware of any individuals within their business making reports, they should take appropriate professional advice to ensure that they do not fall foul of broad legal protections given to whistleblowers. For example, the dismissal of an employee can be deemed automatically unfair if the reason or principal reason for the dismissal is that the employee has made a relevant disclosure.

Companies should also be alive to the added reputational risks posed by the proposed regime. While HMRC would not publicly disclose the existence of any ongoing investigation, there is potential for a whistleblower to 'tip off' the media having filed a claim, as part of a broader campaign against a company. Companies should take advice as to their options if/when they receive a media enquiry in such circumstances. ■

 For related reading visit [taxjournal.com](https://www.taxjournal.com)

► News: Murray announces new measures to ease administration and reduce tax gap (12.3.25)