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## The key features

The key features of the ODF, which ran from 17 April 2007 to 26 November 2007, were as follows:

- The ODF was open to those who hold or had held an offshore account that was in any way connected with an undisclosed tax liability, including irregularities connected with offshore trusts and companies. In practice, it was possible to disclose any UK tax irregularity, for example undisclosed rental income from UK property.
- To participate in the facility you had to register an intention to make a disclosure by 22 June 2007 and the actual disclosure had to be submitted by 26 November 2007 together with a payment in respect of any tax, interest and penalties due.
- Penalties of 10% were guaranteed which was substantially less than that normally levied by HMRC.
- There was no requirement to enter into correspondence or to have any meetings with HMRC; unlike other forms of investigation.

- The forms to be completed under the ODF were relatively simple to complete and the process far less onerous than a traditional investigation.

- HMRC undertook to accept or reject the disclosure by 30 April 2008. In practice most disclosures were accepted.

## Was the ODF a success?

62,000 people came forward during the initial registration stage and around 45,000 of these decided to disclose and pay the tax, interest and a fixed 10% penalty by the 26 November 2007 deadline.

HMRC is pursuing those with offshore accounts who did not come forward under the arrangements where there is a risk that the full amount has not been declared. In the most serious cases, criminal investigation may follow.

The ODF has so far recovered around £400m in unpaid revenue. The cost to the Exchequer of running the ODF has been approximately £6.5m.



# ODF Case Studies

## Case study 1 – Undisclosed investment income

- UK resident and domiciled individual
- Offshore bank account established with funds which had already been taxed
- Taxable on interest arising from the offshore account

**Disclosure covered 14 years**

**Total settlement £17,400**

**KPMG fees (excl VAT) approx £3,000**

## Case study 2 – Diverted proceeds from buy-to-let properties

- UK resident and domiciled individual
- Undeclared UK capital gains from sale of second home and buy-to-let properties; proceeds deposited into an offshore account

**Disclosure covered 4 years ended 5/4/06**

**Total settlement £10,400**

**KPMG fees (excl VAT) approx £3,500**

## Case study 3 – Income taxable on a remittance basis

- UK resident non-domiciled individuals with a number of offshore bank accounts
- Original source of funds established as non taxable
- Foreign investment income taxable on remittance basis
- Taxable remittances to UK identified

**Disclosure covered 19 years to 5/4/06**

**Total settlement £35,000**

**KPMG fees (excl VAT) approx £9,000**

## Case study 4 – Diverted business profits

- UK resident and domiciled individual
- A number of offshore bank accounts with income from a UK business diverted offshore
- UK and offshore income taxable on an arising basis

**Disclosure covered 13 years**

**Total settlement £130,000**

**KPMG fees (excl VAT) approx £11,000**

## Case study 5 – Offshore trust

- UK resident and domiciled individuals with offshore bank accounts and an offshore discretionary trust
- IHT liabilities arising from settlement of trust and on estates of deceased family members
- Offshore investment income of individuals taxable on an arising basis

**Disclosure covered 7 years to 5/4/06**

**Total settlement £800,000**

**KPMG fees (excl VAT) approx £19,000**



#### Case study 6 – Offshore company

- UK resident and domiciled individual
- Interest arising from offshore bank accounts of an offshore company taxable on the individual

**Disclosure covered 19 years**

**Total settlement £142,000**

**KPMG fees (excl VAT) approx £18,000**

#### Case Study 7 – Swiss Foundation

- UK resident and domiciled family involving 4 disclosures
- Beneficiaries of offshore foundation
- UK income taxable on arising basis

**Disclosure covered 19 years ended 5/4/06**

**Total settlement £900,000**

**KPMG fees (excl VAT) approx £19,000**

#### Case study 8 – Previous investigation

- UK resident and domiciled individual
- Undeclared UK self-employment income diverted to offshore bank accounts
- Previous HMRC enquiry concluded by signing a Certificate of Full Disclosure (therefore falling into one of HMRC's heinous category offences for Criminal Prosecution)
- Following representations, immunity from prosecution agreed with HMRC
- Claim made for additional capital allowances and deductible expenses
- Also taxable on interest arising from offshore accounts

**Disclosure covered 9 years ended 5/4/06**

**Total settlement £61,000**

**KPMG fees (excl VAT) approx £7,500.**

#### Case study 9 – Large offshore structure

- UK resident and domiciled individual
- Settlor of offshore trusts, some with underlying overseas and UK companies
- Offshore accounts in own name
- Some offshore companies managed and controlled in the UK
- Range of technical arguments successfully advanced to minimise tax exposures

**Disclosure covered 18 years ended 5/4/06**

**Total settlement £1.5m**

**KPMG fees (excl VAT) approx £50,000.**

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