

## REQUIREMENT TO CORRECT

### Don't get caught out by overseas assets

Where undeclared taxes from overseas assets are discovered after 30 September 2018, HMRC will seek to charge a minimum penalty of 100% (possibly more) of the lost taxes. The only obvious way to avoid these penalties will be to claim a 'reasonable excuse'.

The legislation says "where [a person] relied on any other person to do anything that cannot be a reasonable excuse unless [the person] took reasonable care to avoid the failure". This would therefore preclude reliance on the historic professional advice.

Action now taken by individuals, Trusts or companies [the person] to check their positions during the Requirement to Correct period would assist a 'reasonable excuse' defence. Any firm involved in giving the original advice, the appointment of Trustees or assisting in any way with the establishment of a structure, will be regarded as an 'interested person'. If the check is conducted by an 'interested person', it will be treated as 'disqualified' advice and hence disregarded. Any review should therefore be conducted by a third party firm other than the original advisors and, may require fresh legal opinion from unconnected Tax Counsel to see if the 'arrangements' remain robust or otherwise.

If you would like to know more then please contact

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