

VAT Agenda

Senior Accounting Officer (SAO) requirements

HMRC has now published the final guidance, following recent consultations and an Open Day held in July. This guidance explains the duties of the SAO of qualifying companies liable to taxes and duties in the UK, in ensuring that they establish, maintain and certify appropriate tax accounting arrangements as required by Schedule 46 Finance Act 2009.

Qualifying companies

- Charities are within the scope of the provisions if they meet the qualifying conditions.
- Foreign branches of UK companies are within the scope. However, whilst HMRC would expect reasonable steps to include a check that foreign tax has actually been paid, an in-depth assessment of the branch's foreign tax processes would not normally be expected provided these are carried out by suitably qualified and competent individuals.
- UK-incorporated but non-resident companies will only be in scope to the extent that they have taxable activity in the UK. Detailed consideration of their foreign tax processes is unlikely to be required.
- Dormant companies are in scope but are generally unlikely to have tax accounting arrangements that the SAO needs to consider.
- For companies in administration or insolvency, where there is no individual who meets the definition of the SAO, the legislation will not apply.
- Reflecting the importance of the CRM to the SAO process, HMRC has undertaken to assign a CRM to those companies which qualify but which do not currently have a CRM.

Qualifying test

- Confirmation that, for both the turnover and balance sheet asset tests, the amounts for UK entities are simply aggregated, with no adjustment for inter-company amounts.
- The turnover test considers only the amount shown as turnover or revenue on the face of the statutory accounts, so excludes adjustments made in tax computations.
- As banks and insurance companies do not normally show turnover on the face of the accounts, the asset test alone will be relevant in determining whether they fall within the measure.
- No formal notification to HMRC is required if a company or group ceases to meet the size criteria.

Taxes covered

- Air passenger duty is included as an excise duty.
- Where the qualifying company administers third party liabilities in respect of the in-scope taxes, the processes are covered by the legislation. For example, for stamp duty reserve tax (SDRT), this extends to brokerage activities.

Taxes excluded

- NIC and other employer responsibilities such as student loans and national minimum wage.
- Tax reporting under the construction industry scheme (CIS); and for income tax on forms such as CT61 or SX1 for manufactured overseas dividends.
- Environmental taxes - landfill tax, aggregates levy and climate change levy.

Commencement

- An SAO who starts a review in the first financial year will be treated as having taken "reasonable steps" in respect of that year and therefore any failure in the main duty would not attract a penalty.
- However, this concession is only available to companies which fall within the legislation for their first financial period starting after 21 July 2009.

Reasonable steps

- Where outsourcing arises intra-group, for example where tax is dealt with by a group tax director, the guidance suggests that the principles of what constitutes reasonable steps are similar to those for outsourcing to third parties. Thus, they would include an assessment of the qualifications and competency of the individual, but would be unlikely to require detailed checking of the work delegated.
- Where an SAO changes during a year, HMRC does not expect the new SAO to check the work of their predecessor where the tax accounting arrangements appear to be in order. If the arrangements turn out to be inappropriate, provided this could not have been known by the new SAO, no penalty would arise.
- The examples of "reasonable steps" have been extended to include two relating to customs duties.

Further information

The guidance, and other relevant information, is available from the SAO page on the HMRC website: [click here](#).

If you require further information regarding any of the points above please do contact us.

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