

PRESS RELEASE

NEW INDIVIDUAL PENALTIES FOR FINANCIAL DIRECTORS RAISES SPECTRE OF A 'UK SARBANES-OXLEY'

London, 15 June 2009 – The UK Government is expected to make changes to tax regulation that will in effect give us our own 'Sarbanes-Oxley' – a move that has major implications for all insurance company leaders, warns leading outsourcing tax compliance firm FiscalReps.

The currently-discussed proposal by Her Majesty's Revenue & Customs (HMRC) to hold the senior account in a firm personally liable for accurate tax reporting is directly parallel to Section 404 of the US fiscal regulatory framework Sarbanes-Oxley, whose introduction imposed significant compliance burden.

If a company's accountant is found by HMRC's inspectors to have made a "careless or deliberate" mistake over the accounts, he or she could be fined and their employer could also face a financial penalty.

If the move goes ahead, a whole new area of risk for any companies not on top of key taxes like Insurance Premium Tax (IPT) opens up – with the only way to avoid heavy costs being for businesses and insurers alike to immediately take steps to ensure that their tax systems and processes are robust, FiscalReps advises.

"Insurers are increasingly concerned that governments worldwide, and in the UK especially, are looking for ways to increase revenue collection and are therefore toughening their whole auditing process," warns Chris James, the independent taxation services provider's Chief Executive. "Tax must be properly calculated and accounted for – or the organisation will end up failing its compliance obligations and now individuals could be targets of penalties."

The risk is particularly acute in less well-known and indirect taxes like IPT. Achieving Insurance Premium Tax compliance is a key challenge for insurers and insureds alike, especially for complex, multi-state corporate policies: since insurance premium tax is not subject to a standard EU code, insurers have to deal with each country individually.

The challenge is only magnified when considering global policy solutions. In the EU the tax is calculated upon the location of the risk, rather than of the insurer or payee. It is therefore as applicable to a US corporation or Bermudian captive as to a

European insurance company. Added to this, tax rates and regulations vary widely between states, requiring specialist local knowledge and tailored filing arrangements. And yet in the eyes of tax authorities, the scale of the task is no excuse for non-compliance. Governments are keen to find additional revenue at the best of times, but in the current climate indirect taxes are a harvest ripe for the picking.

“More than ever, insurers and businesses alike face heavy costs if they fail to address their IPT requirements. The economic and regulatory pressures on clawing back the money Whitehall has laid out to save the banks mean insurers caught in the firing line could be facing increasingly costly litigation, extra auditing burden or even worse,” concludes James.

“Don't let a reputation that may have taken decades to build be lost in hours as a result.”

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About the HMRC proposals

Under the proposal introduced in this year's Budget, senior accounting officers (SAOs) of large UK companies will be required to certify personally that adequate accounting systems are in place to ensure the accuracy of their tax reporting. For this purpose, large companies are defined as those that meet at least two of the following three criteria for the financial year:

- Turnover exceeding £22.8 million;
- Balance sheet total exceeding £11.4 million;
- More than 250 employees.

The proposal applies to ALL taxes (including employment taxes and indirect taxes) and will apply to all large companies liable to UK taxes and duties. This will include UK subsidiaries of foreign companies. The proposal draws on the example of SOX 404 and the obligations placed upon office holders of US corporations with respect to internal controls over financial reporting processes. Whilst it is hoped that this change will not replicate the compliance cost imposed by SOX 404, it will understandably raise concern for senior company officers.