

Timeline: HMRC information powers

How HMRC's powers have evolved since its creation



Stephen Whitehead is a Senior Manager with KPMG in London specialising in corporate taxation and tax administration law and practice. He also deals with international tax and EU law issues, partnership taxation and tax disputes. Email: stephen.whitehead@kpmg.co.uk.

Date	Narrative
2 July 2003	The Chancellor of the Exchequer, Gordon Brown, announces a review of the Revenue Departments to be led by Gus O'Donnell, Permanent Secretary to the Treasury.
17 Mar 2004	Publication of Gus O'Donnell's report, <i>Financing Britain's Future</i> . As was widely predicted, this recommends a merger between the Inland Revenue and HM Customs and Excise. Among other things this is expected to contribute to reducing the 'tax gap' by enabling a more focused approach to compliance across the taxation system. The Chancellor accepts the report and announces the creation of the new department. The two existing departments start working together to prepare for the merger. In the same Budget the Chancellor announces the introduction of a new requirement for the disclosure of tax avoidance schemes (DOTAS), to be included in the Finance Bill.
1 Aug 2004	FA 2004 Part 7, requiring disclosure of certain specified types of tax avoidance scheme to the Inland Revenue, and VATA 1994 new Sch 11A, requiring disclosure of certain VAT avoidance schemes to HM Customs and Excise, come into effect.
16 Mar 2005	In his Budget, the Chancellor announces a consultation on the powers that will be available to the new merged revenue department. This is to consider the scope for aligning and rationalising the different powers that apply to different taxes, and how best to obtain the information needed for better risk assessment and better targeted compliance activities.
24 Mar 2005	Publication of an initial consultative document, <i>HM Revenue and Customs and the taxpayer: Modernising powers, deterrents and safeguards</i> .
7 April 2005	The Commissioners for Revenue and Customs Act 2005 (CRCA 2005) receives Royal Assent. As an interim measure, under ss 6 and 7 of the Act, officers of the new department are to have the same functions as officers of the predecessor departments, but each department's functions are 'ring-fenced' so that they can only be exercised in relation to the matters that were previously dealt with by that department.
18 April 2005	Formal establishment of the new department, HMRC.
1 Aug 2005	DOTAS requirements extended to cover certain schemes involving SDLT on commercial property. The scope of the VAT avoidance scheme disclosure requirements is extended by amendments in the F(No.2)A 2005 and in regulations.
1 Aug 2006	New regulations under FA 2004 Part 7 extend the DOTAS requirements to the whole of income tax, corporation tax and capital gains tax where certain hallmarks are present.
1 May 2007	DOTAS provisions extended to cover NICs.
19 July 2007	HMRC now has power under FA 2004 s 308A to require additional information from a promoter of a notifiable tax avoidance scheme.
8 Nov 2007	HMRC's new criminal investigation powers come into force in England, Wales and Northern Ireland under FA 2007 ss 82-84. In place of the powers inherited from the predecessor departments, HMRC now has powers to obtain orders for the production of documents, to search premises and copy or remove documents and other material, and to make arrests, under the Police and Criminal Evidence Act 1984 (PACE) and the Police and Criminal Evidence (Northern Ireland) Order 1989. Some existing document production powers are retained, but are limited to cases in which the PACE powers do not apply. As a result of these changes, the 'ring fence' under CRCA 2005 ss 6 and 7 no longer applies to criminal investigation powers.
1 Dec 2007	FA 2007 s 85 and Sch 23 come into force, giving HMRC similar criminal investigation powers in Scotland under the Criminal Law (Consolidation) (Scotland) Act 1995.
15 Feb 2008	HMRC's existing powers of surveillance under the Regulation of Investigatory Powers Act 2000 and associated legislation, which previously applied only to Customs-related investigations, are extended by the Serious Crime Act 2007 to cover all HMRC functions.
1 April 2009	FA 2008 Sch 36 comes into force. This replaces existing information powers for direct taxes and VAT with a new harmonised scheme of information and inspection powers. These extend the existing powers in various ways: <ul style="list-style-type: none"> ■ Notices to taxpayers no longer require prior approval by a General or Special Commissioner or Tribunal, even in direct tax cases where the return is not under enquiry; ■ Third-party information powers now extend to information not already contained in an existing document; ■ Inspection powers, previously applying to VAT, are extended to direct taxes. The right of appeal is extended to all taxpayer information notices but is excluded where the notice relates to statutory records.

13 Aug	2010	Various specialist information powers, now superseded by FA 2009 Sch 36, are repealed by Treasury order.	26 Mar	Following consultation as part of the Review of Powers, Finance (No.4) Bill Sch 39 part 3 provides for HMRC to have power to obtain a tax agent's files where it is established that the agent has engaged in dishonest conduct. If enacted, this is expected to take effect from 1 April 2013. Clause 222 of the Bill would enable HMRC to obtain information to trace a taxpayer where it does not currently know the person's identity but holds information from which his or her identity can be ascertained.
1 April		Extension of information powers in FA 2008 Sch 36 by FA 2009 Sch 48: <ul style="list-style-type: none"> They now cover other taxes including IPT, IHT, stamp taxes, PRT and environmental duties There are new powers to inspect premises of 'involved third parties' and to inspect premises for valuation purposes. Tax avoidance scheme disclosure requirements are extended to stamp duty land tax schemes involving residential property.	1 April	HMRC's existing bulk and specialist information powers are replaced by new data-gathering powers in FA 2011 Sch 23. FA 2011 Sch 24 amends provisions in FA 2008 Sch 36 so that HMRC can now: <ul style="list-style-type: none"> issue third-party information notices relating to foreign tax liabilities where the taxpayer's identity is not known; impose a penalty where a person fails to inform them of an inaccuracy in a document or information produced in response to an information notice; and apply for an increased daily default penalty where a person fails to comply with an 'identity unknown' information notice.
1 Jan	2011	Various measures to strengthen the DOTAS regime, introduced by FA 2010, take effect. Changes include earlier disclosure, increased penalties, extended hallmarks, and a requirement for promoters to provide a list of clients to HMRC.		
6 April		DOTAS extended to cover inheritance tax.		
21 Mar	2012	Budget 2012 announces consultation on a further extension of the DOTAS regime for income tax, capital gains tax and corporation tax.		

Did you know?

Your Tax Journal magazine subscription now includes webcasts from leading experts on hot topics affecting UK tax professionals.

The latest webcasts include:

- **John Whiting**, on the work of the OTS
- **Heather Self**, on the reform of the controlled foreign companies rules
- **Stephen Fiamma**, on the tax issues resulting from FATCA

They're all free to view for a limited time only, and last no more than 10 minutes.

To view them, simply visit
www.taxjournal.com/tj/webcast

	<p>Tax Journal webcast</p> <p>The OTS & Tax Simplification</p> <p>John Whiting, Tax Director, OTS 1 May 2012</p>
	<p>TAX JOURNAL</p> <p>CFC Reform: Finance Bill update</p> <p>Heather Self, McGrigors</p>
	<p>TAX JOURNAL</p> <p>The worldwide reach of the US FATCA regime</p> <p>Stephen Fiamma, Allen & Overy</p>



