



# The Profit Diversion Compliance Facility - a new approach by HMRC aimed at avoiding investigations in the UK

The Profit Diversion Compliance Facility ('PDCF') opened in January 2019 to enable businesses, not already under enquiry, to disclose any profit-diverting arrangements and structures that might be caught by Diverted Profits Tax rules and to get their affairs up to date without an HMRC investigation.

## Why businesses should consider the PDCF

For those businesses that decide to register for the PDCF:

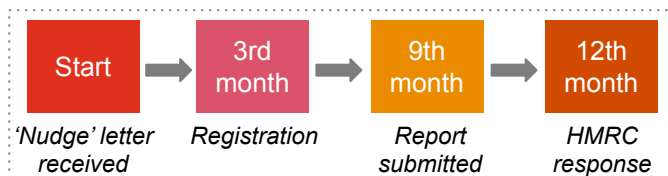
- They are able to manage the process - what evidence to gather, who is interviewed, what comparables are used, and how the analysis is presented
- HMRC has indicated its intention is to accept the majority of reports and settlement proposals
- Where HMRC accepts a proposal this will give a business certainty for the past and a low-risk outcome for profit diversion in the future
- There is protection from penalties.

## What are the implications of entering the PDCF?

The PDCF is a voluntary facility which requires collaboration and transparency. A business must be comfortable with providing information to their advisers, which may then be requested by HMRC.

As the PDCF is an accelerated process, businesses should carefully consider the resource and cost implications in meeting the short timeline.

## The PDCF is an accelerated process



By way of contrast, an investigation by HMRC can be a lengthy, invasive and costly process often lasting more than 2 years.

The PDCF has been designed to be an accelerated process lasting for approximately one year, provided HMRC accepts the report and settlement proposal.

## The changing landscape

HMRC is now focusing more resource to transactions and structures they see as diverting profits from the UK to low-taxed jurisdictions. This can be seen in recent legislation:

- Diverted Profits Tax
- Extension of Withholding Tax on royalties
- Offshore tax receipts in respect of intangible property

HMRC has adopted an evidence-based approach to its investigations relying heavily on 'the facts on the ground'. This puts increasing emphasis on contemporaneous evidence - such as emails.

## Voluntary registration: A clean bill of health and low risk status going forward

HMRC has advised us that the PDCF will also be open to businesses who wish to register on a voluntary basis if they have not yet received a 'nudge' letter and provided that they are not already under enquiry

### Receipt of "nudge" letter

Speak to your tax advisor for initial advice and perform a high level risk assessment to identify any potential profit diversion issues

### Registration within 90 days

Go / no go decision on whether or not to register. Registration is quick and straightforward and no disclosure has to be made at this stage.

### Post-registration meeting with HMRC

This will take place within a month of registration. Potential areas of risk will be discussed and a work plan will be agreed

### The report due 6 months after registration

Will set out the facts around the areas of risk agreed at the post-registration meeting and will include a proposal to settle any additional tax liability

### Submission of the report

HMRC will respond within 3 months of submission to accept or reject the report. We expect the majority of reports to be accepted

### What are 'nudge' letters?

HMRC has compiled a list of potential profit diversion cases by identifying those businesses that may not have filed a DPT notification, analysing CbCR data and general risk profiling using internal and external data sources.

Businesses are then chosen to receive a 'nudge' letter, suggesting that they may want to consider entering the PDCF.

### When are 'nudge' letters being sent?

HMRC issued its first tranche of letters in January, the second tranche appeared in June and the third tranche was issued at the end of September.

HMRC have confirmed that further tranches of 'nudge' will be issued throughout 2020, but have not yet confirmed when they are expecting to close the PDCF, therefore there is the possibility of tranches being issued into 2021.

### Are any particular industries being targeted?

No. Businesses that have received letters to date have been in a wide range of business sectors (including financial services), have ranged from mid to large-sized with their top company located both in and outside the UK.

### What happens if you receive a 'nudge' letter and decide not to register?

HMRC has advised us that businesses that do not register for the PDCF after receiving a letter have a high risk of a profit diversion investigation. We have seen cases where this is now happening.

### Let's talk

We can help you consider your profit diversion risks and provide advice in the event you receive a nudge letter.

For more information please contact your usual PwC contact or:



**Diane Hay**  
Special Advisor

M: +44 (0) 7590352451  
E: [diane.hay@pwc.com](mailto:diane.hay@pwc.com)



**Ravi Ahlawat**  
Senior Manager

M: +44 (0) 7710033615  
E: [ravi.ahlawat@pwc.com](mailto:ravi.ahlawat@pwc.com)