South Africa Requirement to Correct (RTC) Press release:

As part of the British Government's "Requirement to Correct" legislation UK taxpayers must make sure that all their foreign income and assets, where there might be tax to pay, have been declared to HMRC before the 30 September 2018.

From the 1 October 2018, new, substantially higher penalties will apply for those who have failed to pay all the tax due on foreign income and assets.

The vast majority of people and businesses pay the right amount of tax. The requirement to correct legislation is aimed at those who fail to pay tax on their offshore income or assets.

However, many people may not realise that some straightforward actions, such as renting out a property or transferring income and assets from one country to another, could mean having to pay tax in the UK. This includes having income from or an asset in South Africa or anywhere else in the world. These must all be declared to HMRC.

HMRC is therefore urging people to check they have paid the right tax on their offshore assets, before tougher penalties are introduced from 1 October 2018.

Although the Requirement to Correct applies to people who pay tax in the UK, it could still affect people if they live abroad and pay tax outside the UK, for example people who rent out their UK home whilst living in South Africa or another country.

If you are concerned that you haven't told HMRC about foreign income assets, or that you have transferred income abroad without paying the UK tax on it, you should make a disclosure to HMRC before the 30 September 2018. You could also consider taking independent professional advice before deciding what to do next.

Further guidance on how to inform HMRC via the Worldwide Disclosure Facility, including how to register and when payment is due, can be found on the HMRC website at www.gov.uk/guidance/worldwide-disclosure-facility-make-a-disclosure.

10 Things about offshore assets and income:

1. What is offshore income?

Income is considered 'offshore income' if it comes from a territory outside the United Kingdom. It includes:

- interest from overseas bank or building society accounts
- dividends and interest from overseas companies
- rent from overseas properties
- wages, benefits or royalties earned outside the UK

2. It is important for UK taxpayers to declare offshore income

If you are a UK resident, you are breaking the law if you fail to tell HM Revenue and Customs (HMRC) about your taxable offshore income. HMRC is getting tougher on those who try to evade tax by hiding their assets or income offshore. We are increasing the size and range of penalties charged, and increasing the number of prosecutions of serious evaders.

3. If you're unsure, we're here to help

If you're having trouble working out whether you have paid the right amount of tax or have offshore income you need to declare, you can either get help from HMRC or consult a tax adviser. For further information please read Get help with tax.

4. Previous advice may be outdated

Because laws and specific circumstances can change, advice that you took in the past may no longer be valid. HMRC has unfortunately seen taxpayers who've sought guidance in good faith, get caught out because they received poor or even incorrect advice. It's important to check your tax affairs regularly.

5. Where do you normally pay tax?

If you're not resident in the UK for tax purposes you won't usually be liable to pay tax in the UK on your offshore incomes and gains but it's important to check your residency status and what's taxable from offshore income.

6. There are ways to tell HMRC about any untaxed worldwide income

If you're concerned that you are not paying the right amount of tax you can tell HMRC and may be able to use one of our disclosure facilities. You will still pay the tax that is legally due in full, alongside penalties and interest.

7. We're bringing in tougher penalties for evasion

Requirement to Correct enables H M Revenue and Customs (HMRC) to tackle those who do not declare the correct amounts of tax due on their offshore income and assets.

The legislation, which is included at Section 67 and Schedule 18 of the Finance [71] (No. 2[72]) Act 2017, requires any person who has undeclared UK tax liabilities in respect of offshore interests to correct that situation by disclosing the information to HMRC or face tougher new penalties for their Failure to Correct (FTC).

If you have declared your taxable income and gains then you have nothing to worry about. But if you haven't, and HMRC finds out you will face an investigation and will have to pay the undeclared tax, a penalty of up to double the tax you owe, and could even go to prison.

Using the Worldwide Disclosure Facility (WDF) to make a full disclosure of all undeclared offshore liabilities may avoid the need for an investigation in the future where you may pay a higher penalty. If you're concerned, now is the time to come forward. You have until 30 September 2018 to correct this before the tougher new penalties are introduced.

8. A new international agreement will make it harder to evade tax on offshore income

HMRC has started receiving more information about international investments and financial structures held offshore by UK tax residents. Over 100 countries and jurisdictions have already committed to exchange this data.

9. HMRC is cracking down on those who help others to evade tax offshore

New laws will punish the enablers of evasion, not just the evaders themselves. Enablers can face civil penalties, criminal prosecution and public naming.

10. There is nothing wrong with having investments overseas

As long as you declare all taxable income and gains on your UK tax return you have nothing to worry about. If you are confident that your tax affairs are up to date, you don't need to do anything further. If you are unsure, we recommend that you speak to an adviser.

Q&A on the Requirement to Correct:

1. What is the Requirement to Correct?

The RTC is legislation that legally obliges taxpayers who have undeclared UK tax liabilities in respect of offshore interests in the past, to put things right by telling HMRC about outstanding tax due in order to avoid higher penalties. The consequence of not meeting the requirement and carrying out the necessary correction by 30 September 2018 would see the taxpayer subjected to a new set of tougher sanctions for a Failure to Correct.

The legislation sends a strong message that this signifies a step change in HMRC's approach to offshore tax evasion. It will strongly penalise those who do not meet the obligation to put their past affairs in order.

2. Why was this introduced?

HMRC are beginning to receive an unprecedented volume of data on taxpayers' offshore investments and accounts via the automatic exchange of information between more than 100 jurisdictions under the Common Reporting Standard.

The Requirement to Correct sets a period in which taxpayers must make any corrections necessary to their position with respect to offshore tax affairs.

This is a final period for customers to become tax compliant voluntarily before the penalties for offshore evasion become much higher and HMRC uses the CRS data to launch investigations.

3. What are Failure to Correct penalties?

The new Failure to Correct (FTC) penalties will come into force in October 2018. The penalties will apply in cases where individuals' offshore tax affairs are found to be non-compliant and where they should have made a correction during the RTC period but did not do so. They may avoid penalties if they can demonstrate they have a reasonable excuse.

These penalties are much tougher than existing penalties and start from a minimum penalty of 100% of the tax owed. There is also an Asset Based Penalty of up to 10% of the value of the underlying asset for serious cases; and an additional penalty for situations in which HMRC can show the taxpayer moved their assets to avoid reporting.

4. What should people do?

If they are confident that their tax affairs are up to date, then they do not need to make a disclosure.

If they are not sure that their tax affairs are up to date they should consider taking independent professional advice before deciding what to do next.

If there's something wrong, they should update their tax affairs as soon as possible. To use the WDF under the current terms, customers need to have registered and disclosed by 30 September 2018.

If needed for customers, further information is available at www.gov.uk/guidance/worldwide-disclosure-facility-make-a-disclosure

5. **How much time are you giving people to check their circumstances, and pay anything that's owed?**

The WDF opened on 5 September 2016. After 30 September 2018, new sanctions under Requirement to Correct will be introduced that reflect HMRC's toughening approach. You can still make a disclosure after that date but those new terms will not be as good as those currently available.

- Further guidance regarding the WDF, including how to register and when payment is due, can be found on our website at www.gov.uk/guidance/worldwide-disclosure-facility-make-a-disclosure

6. **Why is there not a grace period?**

The RTC provides a period in which customers can make a voluntary disclosure under the existing penalty regime before tougher penalties are introduced.

Since 2007 HMRC has provided several offshore disclosure opportunities, offering customers favourable terms to make a voluntary disclosure. So customers have had several chances to put right something which should not have occurred in the first place.

The Government/HMRC is getting much tougher on offshore tax evasion. This is the last chance to put things right before tougher sanctions are introduced in 2018.

Those who persist in dragging their feet will face increasing penalties and a greater chance of prosecution.

7. **I have onshore and offshore income. Is the RTC and/or WDF limited to offshore matters only?**

Under the Requirement to Correct, customers are legally obliged to correct any offshore issues.

An offshore issue includes:

a) Unpaid or omitted tax relating to:
- Income arising from a source in a territory outside the UK
- Assets situated or held in a territory outside the UK

- Activities carried on wholly or mainly in a territory outside the UK, or
- Anything having effect as if it were income, assets or activities of a kind described above.

b) Or where the funds connected to unpaid or omitted UK tax have been transferred to a territory outside the UK.

However, HMRC would expect any disclosure to be full and include complete disclosure of any issues taxpayers may have with their UK tax compliance. In any situation it will always be better to tell HMRC as early as possible and the WDF provides a way for taxpayers to do this.

8. Why are the penalties for failing to correct so high? Surely this is disproportionate?

The government is getting tougher on those who continue to hide their assets and evade UK tax through the use of offshore structures. The Requirement to Correct plays a key part in this.

While they are high in comparison, it is worth noting that these penalties are being charged after a taxpayer has failed to correct. Taxpayers in this situation will have committed an original offence, they will have failed to come forward under any previous disclosure facility and will now also have failed to correct under the new legislation.

This is a significant failure on the taxpayer's part and we feel it should therefore attract increased rates of penalty compared with the standard penalties for offshore evasion.

However, we believe that there should be no failure to correct penalty if the taxpayer has a reasonable excuse for not having met the obligation to correct in the defined time period.

9. You are charging a new penalty on compliance issues in the past, isn’t that retrospective?

No. This is not retrospective.

The Requirement to Correct is a new requirement for taxpayers to put their tax affairs in order settle past compliance issues.

The new penalties relate to the failure to complete this new obligation, not the original inaccuracy.

The message is clear, taxpayers who are concerned they have compliance issues should come forward as soon as possible.

10. **What will happen to those who have a reasonable excuse for not taking this opportunity to correct any outstanding tax liabilities?**

The government believes that there should be no penalty if the taxpayer has a reasonable excuse for not having met the obligation to correct in the defined time period.

Clarity is provided by the legislation which allows for a reasonable excuse in cases in which a taxpayer has been poorly advised by an independent person with expertise or whom the taxpayer reasonably believed to have expertise.

The legislation makes clear however, that a decision to knowingly rely on sub-standard advice does not provide a reasonable excuse.

11. **Doesn't a 'reasonable excuse' just allow people to avoid the charges. How will you stop abuse of this?**

We are clear that the reasonable excuse provision will only be used in the most appropriate cases.

The government will use existing models and established principles and provisions for applying a reasonable excuse in law (such as paragraph 23 of Schedule 55 FA 2009) as the basis for the Requirement to Correct.

A taxpayer can only claim a reasonable excuse if they took reasonable care to avoid failure; including steps to ensure that any person they relied upon for advice had suitable expertise.

12. **How does this new requirement fit with the Worldwide Disclosure Facility?**

The higher Failure to Correct penalties provide a strong, legislative incentive to correct offshore non-compliance. The WDF will provide a convenient route through which to comply with the Requirement to Correct.

13. **Who does this new requirement apply to?**

The new requirement applies to anyone with non-compliant tax affairs relating to an offshore matter or offshore transfer.

14. **Doesn't this unfairly penalise those people who aren't 'real' evaders/ those with only very small foreign incomes?**

The Requirement to Correct only affects those who are not tax compliant. If customers are confident they have declared all their foreign investments, income or other assets and paid all of the tax due they have nothing to worry about.

Failure to Correct penalties will only apply where customers have not made any necessary corrections before the 30th September 2018. We are giving customers an opportunity to comply voluntarily before introducing these tougher penalties.

HMRC doesn’t turn a blind eye to those who “only” fail to pay a small amount of tax. The penalties are proportionate because they are based on the potential lost tax.

15. I am not sure of my UK compliance position with respect to my offshore investments. Does the RTC apply to me? What should I do?

If you have any doubt at all you should review your UK tax affairs before the requirement to correct window ends. In any situation it will always be better to discover any issues and tell HMRC as early as possible.

The RTC provides a window of opportunity for taxpayers to correct any issues they have with their offshore matters and taxpayers should take this opportunity to review their position to satisfy themselves they are fully tax compliant. For those who do not take this opportunity, HMRC will be using the information provided under the Automatic Exchange of Information agreements to find them and when caught they will face substantially higher Failure to Correct penalties.

16. Why extend the time limit to raise an assessment charging tax to two and a half years after the end of the correction period?

It is absolutely necessary to extend the normal assessing time limits as otherwise it would be impossible for HMRC to take any action against some of those who fail to correct.

HMRC will be actively using the CRS data to pursue those who do not come forward.
It will take some time to analyse the CRS data to detect and challenge those who have ignored the Requirement to Correct.

Having consulted on the matter, the government believes that two and a half years after the end of the requirement to correct period is an appropriate period for the temporary extension of the time limits.