

With the exception of any taxes withheld under the European Union Savings Directive²¹⁵ or the equivalent agreement between the European Union and Liechtenstein, no tax deduction, relief or allowance is possible for the past or the future under the CRO.²¹⁶ The CRO has to be selected for the whole period (1999 until 2009) or not at all.²¹⁷ Losses cannot be carried forward under the CRO. Only losses within a given year can be aggregated.²¹⁸

The relevant period from 1999 to the year of application was a strong benefit in the first years of the LDF due to the huge difference from the normal 20 year lookback period. Nowadays, this benefit is reduced, since the relevant period is still from 1999 until today. A rolling 10 year lookback period would be more advantageous for the LDF but is not negotiable.

The CRO is a simple and efficient opportunity for calculating the tax rate of eligible persons. This opportunity saves time and reduces advisors' fees. Therefore, it is incomprehensible that HMRC does not offer a CRO for the tax year 2009/2010. The fixed starting point and the missing CRO for 2009/2010 may be rightly seen as a disadvantage for the LDF. Hosp identified the CRO as one of the most important elements of the LDF, due to its simplicity and because all taxes, as well as national insurance contributions, inheritance tax, stamp duty, corporate income tax, personal income tax and capital gains, are covered.²¹⁹

2.3.3.9.2 Punishment

Penalties are reduced to 10%²²⁰ before 2009 and 20%²²¹ after 2009 and the persons are assured against criminal investigations. A person under investigation by HMRC or already contacted is not an eligible person.²²² The term "under investigation" applies to individuals who have received notification from HMRC, which declares that their tax affairs are under investigation under the regulation of the Code of Practice 9, which covers cases of suspected fraud.²²³ An individual is formally notified if the individual or his advisor receives a notification by post, by hand or by telephone.²²⁴ Individuals who were

²¹⁵ Council Directive 2003/48/EC

²¹⁶ HMRC, LDF FAQ, March 2013, sec. 7.3.

²¹⁷ HMRC, LDF FAQ, March 2013, sec. 7.6.

²¹⁸ HMRC, LDF FAQ, March 2013, sec. 7.12.

²¹⁹ Hosp, 2009 (1), p. 723.

²²⁰ Memorandum of Understanding, 2009, schedule 6, no. 1, sec. e.

²²¹ HMRC, LDF FAQ, March 2013, sec. 6.2.

²²² Memorandum of Understanding, 2009, schedule 6, no. 3.

²²³ Berwick, 2010, p. 45.

²²⁴ HMRC, LDF FAQ, March 2013, sec. 1.23.