

TAX INVESTIGATIONS – SMALL BUSINESSES

Tax Investigations and Enquiries (the words are interchangeable) can be stressful and expensive – our aim is to assist you in defending yourself against HMRC for a minimum of expense and cost.

Why are enquiries opened

There can be various triggers for tax investigations:

- low business profits or drawings, prompting questions on what the owner of the business is living off
- ratios in the accounts not agreeing to perceived norms (remember HMRC see the accounts for just about every business in the country)
- an industry crackdown by HMRC
- third party information received (routine reports from banks, building societies, land registry etc)
- intelligence activities (eg cross checking residential addresses given on tax returns to electoral roll)

HMRC do open a few enquiries on a random basis – but not that many.

It will normally be apparent as the enquiry progresses what the trigger was.

Types of enquiries

There are two types of tax enquiry:

- aspect enquiries – simply checking one point or entry from your return/accounts
- full enquiries – checking your complete tax return plus accounts etc

Most enquiries are full enquiries.

How is the enquiry progressed

The normal pattern for a tax enquiry is:

- Receipt of opening letter from Inland Revenue and request for information, often all business books and records
- Supply of above to Inland Revenue by us on your behalf
- Initial queries from Inland Revenue plus possible meeting(s). This step can last several months.
- Closure – either by (a) agreement no amendments are needed to your return (b) an agreed settlement if discrepancies have been found and you/we agree with HMRC or (c) formal action in the event of a dispute.

Typically the above process will take any where from 9 months to 2 years.

If it is felt HMRC are unnecessarily dragging their heels then we can apply to the General Commissioners to have the enquiry closed.

Settlement

If HMRC find problems with your affairs and allege extra tax is due, there are various options for settlement:

- Small errors may simply be dealt with by asking us to amend your tax return – typically there would be no penalty and only normal late payment interest
- More major irregularities, where agreed between us/you and HMRC, will normally be the subject of a contract settlement which is a agreement to pay a sum of money to HMRC in lieu of tax/NI due, interest and penalties.

- Formal action. If HMRC allege irregularities which you do not agree to, then normally HMRC will proceed by making compulsory amendments to your tax return, plus the imposition of penalties and interest. These amendments can be appealed to the General Commissioners.

Appeals

The first line of appeal is to the General Commissioners, who are an independent tribunal, similar to a Magistrates Court but more informal.

Typically appeals to the General Commissioners cover either:

- Closure applications – where we feel the enquiry is being prolonged unnecessarily by HMRC
- Compulsory amendments – where we appeal against amendments HMRC have made to your returns at the closure of an enquiry.

Meetings

In full enquiry cases HMRC will nearly always endeavour to hold a meeting with you. There is no compulsion on your part to do this, although HMRC will press hard, and often we recommend that no meeting be granted. So long as other information is provided promptly HMRC are barred from alleging that a refusal to hold a meeting is a lack of co-operation.

In meetings – or even telephone contact - with HMRC remember they are trained to put you at ease and create a false sense of security. They are not being nice, they have a job to do and are priming you up to enable them to do it easily.

Representing you

Garbetts Limited are experienced in both tax investigations, and unusually for a smaller practice, General Commissioners hearings. We have also worked at Special Compliance Office level.

We will correspond with HMRC on your behalf and represent you at any formal interviews. We ask that you do not contact HMRC directly, as this can compromise our handling of the enquiry.

We will copy all significant correspondence to you, and seek your approval on our proposed actions/responses as the enquiry progresses.

Please be under no illusion – tax investigations are dirty things, and whilst HMRC may seem friendly they will have but one object – to extract extra money from you. To this end a firm – sometimes aggressive – stance is needed in our representation of you.

If at any time you want to make voluntary disclosure of irregularities then you should advise us as soon as possible.

Costs

Tax investigations are costly – typically from £400 for the simplest to £2000 or more for more complex cases.

We have three options for charging you:

- Hourly rate - we will charge you quarterly for work on the investigation at our normal rates, which vary between £120 and £40 per hour, plus vat, dependant on the seniority of the staff involved. Invoices are due for payment within 14 days.

- Fixed rate - we offer you a fixed retainer, payable on a monthly basis by standing order until the end of the enquiry. The amount of the retainer is assessed according to our experience of your business and the likely costs of the enquiry. The retainer covers all of our staff time for correspondence, meetings and representation up to and including General Commissioners level. Representation in further appeals is not covered (unlikely in most cases).

- Insured - we recommend that all of our clients consider tax enquiry insurance. We have a product available in association with Qdos consulting. Premiums range between £40 and £180 per annum. Full details are at <http://www.garbetts.com/download/teiinsurance.pdf>

For most clients, who are uninsured, the fixed rate will be more economic, but it is not compulsory.

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