



HMRC Reviews & Enquiries

A guide for clients

HMRC Reviews & Enquiries

HMRC has the right to investigate any tax return submitted by any taxpayer. The department has considerable powers to inspect documents and to question the taxpayer.

The biggest misconception is that HMRC purely investigates matters relating to income tax. It doesn't- HMRC probes all kinds of other tax including, and not limited to:

- Capital gains tax
- Corporation tax
- Landfill tax
- National insurance contributions
- VAT.

HMRC does not need a reason for an investigation. It selects some returns at random so an investigation does not necessarily mean that you are suspected of doing anything wrong.

The procedures for tax investigations are formal and subject to a code of conduct. They can often arise from a 'discovery'. This includes situations where HMRC has discovered information not properly entered on your tax return. A discovery can extend the period allowed to HMRC to investigate.

If you are contacted by HMRC about a tax return, you should contact us to ensure that the matter is dealt with properly.

How likely is an investigation?

There are no concrete figures on how likely it is that a business will be investigated, because the Revenue guards this information closely.

For quite understandable reasons, it doesn't want people to know exactly how likely an investigation is, or what the triggers might be. The fact is, as with most law enforcement, its work depends on the fear of being caught as much as on actual prosecutions.

There are some statistics that HMRC is willing to share, however, which give a sense of its activity:

- Since 2010, it has secured £185 billion in extra tax through investigation and prosecution.
- It is successful in more than 90% of criminal cases it brings to trial, and in 2018 secured more than 830 criminal convictions for tax and duty fraud – more than 80% of those charged.
- Since 2010, HMRC investigations have resulted in more than 5,000 individuals being criminally convicted.

Avoiding an investigation

As some investigations are conducted at random, you can never completely escape the possibility of an inspection. However, most investigations, particularly the more detailed ones, arise because HMRC has concerns about a tax return.

The following steps should help avoid an unnecessary enquiry:

1. Make sure your returns are correct

Ensure that the arithmetic is correct, that the amounts relate to the right year and that all figures have been put in the appropriate box. If sending a paper return, make sure you have signed it.

2. Keep copies

Keep a copy of the return with working papers to say how every figure on the return has been taken from your records.

3. Retain documents

Retain your copy of the return, the working papers and the supporting accounts and documents for at least six years.

4. Record queries

If you have raised a query with HMRC, keep a note of it with your tax papers. If the query was made by telephone, record the name of the tax officer, their department, the date and time and a note of what was said.

5. Check your figures

Compare the figures for turnover and profit with the previous year and with comparable trades. If there is a significant difference, ensure that you know why.

6. Contemplate full disclosure

Consider if any disclosure needs to be made in the 'white space' on a tax return. This is where you may disclose any other information. If you make a full disclosure in this space, it can restrict the right of HMRC to investigate, as HMRC cannot 'discover' what you have already told them.

7. Check your bases

Check the bases you use for determining the tax treatment. Do not assume that a basis is correct just because you have used it for many years without HMRC querying it.

8. Disclose mistakes immediately

This is likely to shorten any investigation and reduce any penalties that may be imposed.

9. Avoid artificial tax avoidance schemes

HMRC routinely challenges such schemes and is successful in more than 80 per cent of cases. Artificial tax avoidance schemes rarely save the tax they are supposed to and can, sometimes, increase the amount of tax. We can discuss with you the difference between proper lawful tax planning and artificial schemes.

Stages

There are three levels of HMRC inquiry:

Random

Just to keep businesses of all sizes on their toes, HMRC has the ability to select and investigate your enterprise entirely at random. There's usually no rhyme or reason to this.

Aspect

HMRC is worried about a particular part (or parts) of your accounts and wants more detail.

These are usually straightforward mistakes or misunderstandings rather than deliberate attempts at tax evasion, such as forgetting to include all your savings income on your self-assessment tax return.

These types of inquiry may appear less stressful than full investigations, but they should still be treated seriously.

If HMRC uncovers anything else during its inquiry, they may upscale it to a full inquiry.

Full

A full inquiry looks at cases where HMRC believes there is significant risk of error in the tax return.

If you're subject to a full inquiry, you can expect the Revenue to undertake a comprehensive review of your records.

For businesses, this may include scrutinising the personal financial records of directors or the business owner as well as all business-related records.

The process

First contact

HMRC will initiate contact with you, usually by letter or phone, with a query over your accounts.

If you receive a brown letter through the post, don't panic. It's perfectly acceptable to ask them to contact us at this stage as we're happy to liaise with HMRC on your behalf.

We will find out the severity of the inquiry (full, aspect or random) and the information HMRC requires to resolve its investigation.

Information

What details HMRC requires will depend on the severity of the inquiry, but you will be expected to supply the information which formed the basis of the tax return being scrutinised.

If there is any information missing in your tax return, you may be required to track down replacement copies to back up your claim.

This should also be the stage of the investigation to hold your hands up and inform HMRC if you have knowingly made a mistake. Owning up now will stand you in good stead further down the line.

Investigation

The Revenue will formally commence its investigation once it has all the records it needs. In many cases where minor discrepancies are involved, these can be resolved fairly quickly.

For example, you're a sole trader with no income protection policy who required two months out with a broken leg after falling from a ladder.

Your annual income for the financial year in question declined by a sixth as a result, but HMRC will be unaware of this until you inform them.

HMRC may request further information when more complicated investigations are under way.

In such cases, HMRC may ask to meet you at your business or accountant's office. You can ask us or your legal adviser to attend and request a pre-agreed agenda.

Outcomes

What happens next depends on what HMRC finds. Some of the more common resolutions include:

Underpaid tax

If the investigation finds you are short on your tax bill, you will have 30 days to settle it with HMRC.

Failure to do so will result in you incurring a penalty, which is calculated as follows:

- lack of reasonable care: a penalty of up to 30% of the extra tax due
- deliberate errors: a penalty of between 20% and 70% of the extra tax due
- deliberate and concealed errors: a penalty of between 30% and 100% of the extra tax due.

Overpaid tax

You may receive a tax rebate through the post in the event you have paid too much tax.

If you don't, and you have overpaid tax, you will need to make a claim with HMRC for a tax repayment.

Deliberate wrongdoing

In the most serious cases where HMRC believes you have committed fraud, you may be subjected to criminal proceedings.

You may also have to pay a penalty depending on:

- why you underpaid tax
- if you told HMRC about any mistakes as soon as possible
- if you were fully cooperative during the inquiry.

Resolution

HMRC will formally conclude its investigation by a decision notice or agreeing a contract settlement.

A **decision notice** arrives in the form of a letter, which outlines HMRC's assessment plus any penalty notices and its final stance.

A **contract settlement** legally binds you to pay the money owed to HMRC, which agrees not to use its powers to chase you for the settlement.

How to survive an investigation

The following should help you when being investigated:

1) **Be calm, polite and co-operative**

A taxpayer who is agitated, impolite or uncooperative could be seen as having something to hide. Such behaviour undermines the credibility of evidence. Politeness makes it more likely that HMRC will listen sympathetically to what you have to say. Cooperation can reduce the amount of any penalty, sometimes to zero.

2) **Be honest and complete in disclosures**

If you are open in admitting your mistakes, you make it more likely that your other comments will be believed. One of the worst things to do is to make a partial admission while holding something back.

HMRC may have information about you that it has not disclosed, such as other shareholdings or properties.

3) **Get your facts straight**

Do not change your story or be vague. For example, if money has been paid to a director, be clear whether this is salary, dividend, loan, loan repayment, rent, expenses or something else. Ensure that your records support this.

If a document is missing, recreate the original, stating that it is re-created, and include as much detail as can be provided.

Remember that verbal evidence is still evidence. Normally your accountant will speak for you but ensure that you have someone who has a good command of the facts. It is helpful to produce a timeline of what happened and when. You should know why all decisions were made. Have your documents ready in an indexed bundle.

4) **Insurance cover**

Tax investigations can be expensive, even if you are cleared or are subject to a random inspection. In addition to your own time and the disruption to your business, there can be accountants' fees, which can become significant. The length of the investigation and the number of individual queries from inspectors is beyond your control, or that of your accountant. It is not uncommon for them to roll on for more than a year, and cost thousands of pounds. It is possible to arrange insurance cover to meet the cost of HMRC investigations (see below).

How we can help

If you're worried the way you've handled your tax affairs in the past hasn't been correct the first thing to do is talk to someone.

HMRC advise those who have failed to declare income, or to pay tax on it, to make full disclosure to them at the earliest opportunity.

Depending on the size and complexity of your disclosure, however, talking to us as your accountant could considerably reduce the stress.

We will help you work through the issue and pin down the numbers, and we can counsel you through potentially difficult conversations with HMRC.

We at BWM have considerable expertise in defending clients under enquiry by HMRC. If you are selected for a tax enquiry or an HMRC visit, we will aim to settle matters quickly and minimise the final tax liabilities.

After reviewing the main providers of extended fee protection we have taken out an insurance policy with Abbey Tax. The Abbey Tax investigation protection package has been designed to provide cover for our participating clients to combat the wider powers now held by HMRC.

Should you become a client of BWM and take advantage of our fee protection service our fee for handling any Revenue business records check, VAT/Paye Review, Aspect Enquiry or Full Enquiry would be covered.

Please let us know if you would like to discuss any aspect of the above advice regarding tax enquiries or if you require further details of our fee protection service. Contact [Sue Stephens](#)

FOR GENERAL INFORMATION ONLY

Please note that this guide is not intended to give specific technical advice and it should not be construed as doing so. It is designed to alert clients to some of the issues. It is not intended to give exhaustive coverage of the topic.

Professional advice should always be sought before action is either taken or refrained from as a result of information contained herein.

About Us

Professional, Personal, Affordable.

We are one of the leading, independent chartered accountancy practices in Liverpool. At BWM we provide a wide range of accountancy and business support services to organisations and individuals throughout the North West of England and beyond. Our experienced and skilled partners and their teams are ready to support you with high quality, individual yet affordable services however complex your personal or business needs.

For more details of how we can help you transform your organisation, please visit www.bwm.co.uk or call us on 0151 236 1494.