

HMRC TAX ENQUIRIES

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Risk-Led Enquiries

HMRC has a legal right to investigate the tax affairs of any taxpayer. These rights are accompanied by comprehensive powers to inspect and enquire.

HMRC does not have to justify a decision to inspect a tax return or tax records. It may select a return/records at random. Consequently if your records are selected for inspection, it does not mean that there is any suspicion of wrongdoing or non-compliance.

Any investigation by HMRC is subject to a strict code of conduct, so they can't just do whatever they like. An investigation will often arise as a consequence of errors on a tax return including RTI (previously P35 returns) or self-assessment tax return. This is normally termed a 'discovery'.

Minimising the Risk

Whilst you can't avoid being chosen at random, it is possible to minimise the risk of an enquiry. As stated above many investigations arise from a discovery, so to avoid this possibility you should take the following steps.

Ensure returns are accurate

Check that you have completed all the questions and supplied all the information requested that apply. Double check your maths, source figures (i.e. correct year) & if completing a paper self-assessment return, make sure you sign it.

Keep records

Make a copy of the return & keep it with your working papers so that you can demonstrate how you calculated your figures. Retain your records for a minimum six years.

Communications with HMRC

If you write to HMRC make sure you keep a copy & that it's dated. If you speak to them on the phone make sure you record details of the department, tax officer's name, date, time & content of the conversation.

Significant year on year movements

If your turnover, profit or income varies significantly from the previous year or similar trades or businesses, then make sure you have a credible explanation with supporting evidence.

Full disclosure

The standard tax return contains a blank space to enter any additional information. Making a full disclosure usually limits HMRC right to investigate as having already told them, they can't play the 'discovery' card.

Check the basis for tax treatments

Always check that the basis for any tax treatment you are relying upon is current and valid. The fact that you have "always done it that way" won't cut any ice with HMRC if it's wrong. Even if they haven't challenged it in the past.

Mistakes

If you have made a mistake, then own up straightaway, this will likely shorten any investigation & likely reduce any penalty.

Tax Avoidance Schemes

Tax schemes that are clearly artificial should be avoided, HMRC regularly challenges these & wins 80% of the time. By the time you have paid all the fees they rarely make the promised savings. The watchwords "Get Greedy Get Caught" are sound advice.



Investigations - What Happens

If you receive an enquiry from HMRC, it's a good idea to contact an accountant; they will ensure any questions are answered fully & promptly.

HMRC has the right to impose penalties for mistakes & the size of the penalty depends on whether the mistake is judged to be careless or reckless, whether the error was hidden or voluntarily disclosed & how much cooperation HMRC receives during its investigation. Interest is also likely to be charged.

HMRC will usually tell you what records they want to look at, they cannot simply go on a fishing expedition hoping to find something.

Enquiry Conduct

Where HMRC suspects fraud, fraud & avoidance or serious fraud; it will carry out a full enquiry. You will be invited to "come clean" & should always do so, as the alternative is criminal prosecution & possible imprisonment.

Surviving an Enquiry

Cooperate, remain calm & be polite

If you are rude & uncooperative it could look like you are hiding something & undermines the validity of answers & evidence. A high level of cooperation is a key factor in determining the level of penalty.

Disclose & be honest

HMRC may have information you are not aware they have, so admit any mistakes & make a full disclosure.

Be consistent

Be clear concise & don't change your story & make sure the evidence supports what you say. Have all requested documents readily available, if you have lost some & had to re-create then say this is the case.

