

CLAIMS EXAMPLES

“Nudge Letters” and offshore income and Gains enquiries

Following the implementation of the Common Reporting Standard (CRS), HMRC now receive a substantial amount of information about UK taxpayers from overseas tax authorities. However, not all the information received by HMRC is correct or even related to unpaid UK duties.

As part of a formal enquiry into a client’s Self-Assessment tax return, HMRC requested detailed information and a full analysis of all offshore holdings, including company shareholdings, share disposals, offshore income and gains and clarification of residency position. Following negotiations with HMRC, we defended the accuracy of the return, including our client’s residence position and the enquiry was closed with no further tax due. **Accountancy fees of over £20,000 were incurred.**

In another case, HMRC’s Worldwide Disclosure Facility (WDF) team opened a tax enquiry based upon incorrect information received as part of the CRS. We promptly engaged with HMRC and robustly defended our client’s position. The enquiry was closed with no tax settlement required.

“HMRC are actively targeting the tax affairs of High Net Worth Individuals and have set up a dedicated, well trained and resourced team of Inspectors. HMRC will continue to focus their attentions on this area and have been proactively sending out so called “nudge letters” prompting a taxpayer to make a tax disclosure. These nudge letters must always be responded to correctly and promptly. The letter normally includes a tax position certificate that we advise should not be signed, a position supported by the professional accountancy and tax bodies”

Graham Caddock
Tax Investigations Director

Offshore Tax Penalty negotiations

Where additional taxes are due, HMRC normally charge higher penalties if the disclosure was prompted (i.e. HMRC contacted you before you contacted them!) or relates to an offshore matter. For unreported offshore income or gains, potential penalties could be up to 200% of the extra tax due. If not handled correctly, HMRC could also publish a taxpayer’s details on their website. In a recent case, we disputed HMRC’s interpretation of the penalty legislation, achieved full penalty mitigation and saved our client over £600,000. We fully understand our clients’ statutory rights and we are not afraid to (gently but firmly) remind HMRC when they have overstepped the mark. **Tax enquiry fees were more than £30,000 and fully covered by our Tax Investigation Service.**

ATED enquiry into offshore company

HMRC opened an enquiry into an ATED rental relief claim made by a non-UK incorporated company owning a UK residential property. With substantial amounts of tax at stake, we successfully argued that although the property was not yet generating rental income, the delay was unavoidable as it was caused by factors “wholly outside the control or influence of the owner of the property”. HMRC backed down and no tax was paid in this instance. It is important that HMRC are told all the facts, background and circumstances of a case to ensure a client’s position is fully defended. **Fees in this case, fully recovered, exceeded £5,000.**

Group subject to a PAYE, CIS & VAT Compliance Visit

HMRC targeted a group of companies, opening full enquiries into each of the group member’s tax returns. This included the directors’ personal tax returns, as well as undertaking a PAYE, CIS and VAT Compliance Review. Significant accountancy fees were incurred providing the books and

records, submitting further detailed information in respect of each of the entities under enquiry and attending long and detailed meetings with HMRC. On completion, it was concluded by HMRC that no significant adjustments were required. **Tax and accountancy fees exceeded £10,000.**

Employer Compliance Review including IR35, expenses and benefits in kind

Following the review of the accounts of a large employer, HMRC undertook an in-depth PAYE enquiry that also questioned the validity of payments made to non-executive directors (NEDS), consultants and individuals' personal service companies (PSC's). Although all payments to the NED's had been correctly recorded via the company's payroll, HMRC wanted evidence to support the "gross" payments made to the PSC's were made in accordance with the changes to the IR35 regime in April 2021. They had! HMRC requested all the books and records and then raised questions regarding expenses in relation to entertainment, staff lunches, parties and even the office cleaner. At the conclusion of the enquiry, HMRC identified approximately £12,000 of underpaid tax, due to overstated expenses (down to bookkeeping errors). However, HMRC accepted a negotiated settlement of £6,000. **Accountancy fees exceeded £20,000 and were paid in full by the Tax Investigation Service.**

Property developer subject to a VAT Compliance Review

Following a VAT compliance review, it was determined that given that the client was making both exempt and VATable supplies, they should not have recovered 100% of input tax in previous years. We successfully disputed the assertion on the basis that the client was below the partial exemption minimum limit, avoiding a potential liability in excess of £20,000. **Accountancy fees of £3,500 were incurred.**

Husband and wife subject to an HMRC Aspect Enquiry

A husband and wife with a portfolio of four properties each received an aspect enquiry notice under S9a TMA 1970. HMRC challenged the rise in expenses for one year. In addition, HMRC questioned the loan interest deduction, legal expenses in relation an evicted tenant and claims for travel and subsistence. All details were provided to HMRC who then challenged whether some the expenses should be treated as capital or revenue. After providing the necessary evidence including invoices, we were able to satisfy HMRC of the validity of each expense. **Accountancy fees of £3,500 were incurred.**

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