BUSINESS RECORDS REVIEW – DON'T GET CAUGHT OUT

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HMRC have now launched a new style of visit which is intended to see just how good a business's records are. The policy is that a letter will be sent out, giving seven days' notice of such a review.

The law (Schedule 36 of Finance Act 2008) allows an officer of HMRC to enter a person's business premises and inspect statutory business records, where that is reasonably required for the purposes of checking that person's tax position. Any premises on which the statutory records are kept are, for these purposes, 'business premises' (but this power does not cover entry to any part of premises used solely as a dwelling).

SO WHAT IS HMRC'S INTENTION?

Quite simply they are using newly trained staff, the majority of whom have what is known as a Compliance background taken from Direct/Indirect taxes (Income tax/VAT officers) along with employer compliance. The object of the exercise is to ensure that the correct standard of records is being kept to ensure that the business is keeping them and that failure to do so is not going to lose money for the Exchequer.

Generally where there is representation by an accountant, this will already have been brought to the proprietor's/owner's or director's attention. This team will become the 'eyes' of HMRC and if there are areas of concern then a report will be made and it could instigate the grounds for an official enquiry or review of records as a result of what is found by this visit. This is not really that new, as many years ago when Employer Compliance reviews were undertaken, the reviewer would comment on the standard of records seen and notify the 'Inspector' of such concerns. However, under the new Corporation Tax/Income Tax (Self Assessment) legislation, all enquiries needed to be formalised so that the Revenue's position was made clear to the business or individual whose return is being looked into.

WHAT IF MY RECORDS ARE NOT GOOD ENOUGH?

The reviewing officer will point out the areas of concern. This will be followed up by letter, and HMRC would undertake another visit to ensure the record keeping has improved.

WHAT HAPPENS IF THESE IMPROVEMENTS ARE NOT UNDERTAKEN?

This is where it could become costly. There are penalties that can be imposed for the failure to maintain adequate records; these can be up to a maximum of £3,000. It is all very new and it is expected there could be a sliding tariff as HMRC have stated there is no intention of imposing the maximum tariff.

***As a result, the circumstances in which HMRC must impose a penalty where there has been a significant record keeping failure might include*:**

- As a result of a Business Records Check
- Following an enquiry into a direct tax return which does not show an inaccuracy in a return
- Following an enquiry into a direct tax return which does show an inaccuracy in a return, (and in addition to any Schedule 24 FA 2007 penalty for an inaccurate return, whether or not collection of the Schedule 24 penalty is suspended)
- Following a VAT audit in which no VAT underpayment or over-claim is identified
- Following a VAT audit in which VAT is shown to have been understated or over claimed, (and in addition to any Schedule 24 FA 2007 penalty for an inaccurate return, whether or not collection of the Schedule 24 penalty is suspended)

ARE THERE ANY OTHER IMPLICATIONS

These officers will be the eyes of HMRC, in a privileged position to cast a beady eye over all of the business's records. So not only will they be looking at potential loss of tax revenue from poor records being maintained, but whilst on site, say, at an operator's office, may make observations on payments to, say, 'sub contract' drivers who may be deemed to be 'employees', especially where this entails drivers using the operator's own cars, doing the same runs (i.e. contracts) and being paid virtually the same amount each week. This could in turn bring about an official Employer Compliance review which may uncover another area of concern.

SO THE MESSAGE IS YOU NOW HAVE AMPLE WARNING TO GET YOUR RECORDS IN TIP TOP ORDER.

HMRC ALERT FOR TAXI DRIVERS

Taxi drivers with offshore bank accounts have been identified by tax inspectors as part of a crackdown on evasion.

They have been surprised by how many middle-class people appear to have joined the super-rich in putting their assets into foreign tax havens.

One official said that "chip shop owners, taxi drivers and landladies from Blackpool" were among the individuals under investigation.

Any found to have illegally dodged paying their dues face stiff penalties and HMRC hope to raise billions in tax, interest and fines.

The potential offenders have been identified through enforced data-sharing with banks and whistle-blowers. Individuals have also been checked on a new IT system that allows their pay, lifestyle and assets to be compared with tax paid.

Eight arrests have been made and five people interviewed in recent weeks but officials expect many more to follow.

Treasury Minister David Gauke told the Scottish Herald: "The options for hiding money offshore to evade UK tax are narrowing all the time and I would strongly urge anyone who is at all concerned that they may not have been paying the right tax on their offshore investments to talk to HMRC.

"The Government has made £917 million available to HMRC to tackle tax cheats and this money is being effectively deployed against offshore tax evaders."