

TAXING MATTERS

In the third of a series of articles designed to help the taxi driver understand various tax related subjects, here we look at HMRC interventions, commonly known as tax enquiries

Self Assessment, as they say, does what is written on the can. You self assess, then HMRC accept at face value and they then select returns for checking to make sure what is in the can is correct.

Policy is, if the return is correct then all is well. However, If HMRC find any errors then depending on what the errors are they will seek to adjust the year's return that is being checked. If this results in extra tax to pay they will seek additional penalties and interest; rule of thumb is this adds as a minimum another 45 per cent on top of the extra tax they are seeking. If HMRC suspect earlier years' returns are incorrect for reasons established during their review, then normal practice is to assume that they have lost out on taxes in previous years. HMRC can then go back up to 20 years to seek a recovery. So, I hear you ask, how will this affect me?

Well, one alarming statement made by the government last year when they came into power, was that there was a commitment to collect approximately £16.1 billion pounds in tax revenue - some 33 per cent more than the previous year. It is expected that part of this will be through heightened compliance activity, which quite simply means more enquiries into self assessment and company returns, or 'interventions' as they are now known. It is a money earner for the government, and we can all see how they are making various cutbacks, so common sense prevailing, perhaps they could be looking at more checking of returns and launching more enquiries, to help swell the coffers.

Another well known fact is that HMRC's risk profiling (selection procedure) has not been particularly productive in recent years therefore, in order to satisfy the new government's demand to see immediate results, are we going to see trades and professions targeted? That I leave to others to think about, but why take any risk when there are solutions around to help prove that your hard earned cash reflected on your self assessment return is correct.

Paul Taylor (PBT Tax Solutions) has brought all of this expertise to create Taximanager. This will help the taxi driver simply and effectively deal with their record keeping and self assessment returns and, more importantly, help protect themselves against HMRC intervention with recorded additional information to help support their self assessment return. In what is an innovative way forward the user can now record all of their income and expenditure online, have it saved immediately on Taximanager's secure server, revisit this whenever they log in and this will culminate in the production of a set of accounts. These in turn will form the basis of the self assessment return. Additional return information can then be entered at the year end and, once approved by the user, Taximanager will then submit to HMRC online.

There is an optional screen to help the user record additional information that generally in the past has rarely been recorded. The information provided in this screen will assist in helping to prove that a driver's income is accurate, should HMRC launch an intervention into that year's return.

SO WHY DO HMRC OPEN ENQUIRIES?

As mentioned earlier, self assessment is exactly what it says; one self assesses but HMRC reserve the right to check the accuracy of the return. There are many reasons for a return being selected; however these rea-

sons are never divulged by HMRC. It may be a random enquiry; this is to show that the system is fair, so that every return is open to being checked. There is also third party information (the aggrieved individual/neighbour/jealous business competitor/informer who acts as a provider of specific information). There is the Proceeds of Crime Act where banks and financial institutions are compelled by law to make a report of suspected money laundering. There are also projects run by HMRC which target certain industries/trades and 'profiling' of the returns. Have you ever wondered what all those box numbers detailed on the return help to do? The information in these boxes is very carefully profiled and interrogated and this can, in return, provide reports for the specialist Risk Units within HMRC. Additional criteria, in conjunction with profile reports, can provide HMRC with avenues of enquiry.

COULD IT BE ME?

All self assessment returns are potentially open for checking for whatever reason. HMRC will look at all returns; there is even a compulsory random selection which is designed to make the checking system fair. Even the Prime Minister's and MPs' returns are potentially under scrutiny.

HOW WILL I KNOW?

By law HMRC need to formally advise you in writing by issuing a notice. If you have an accountant they will send a copy of the notice to them. If you ignore the notice you will be charged penalties for failing to comply which can be as much as £300 per day for every day you withhold the required information. Quite simply HMRC will want to check all of your business records and look at your financial circumstances. They will already be privy to various financial activities going on in your household. In conjunction with this they will look critically at what profit your return is showing. HMRC will probably have already contacted the likes of credit search companies, such as Experian, to obtain an idea of what outgoings are shown within the household. They will ask for all underlying and supporting records, receipts, bank and credit card statements used or having any connection with the business. They will then conduct an in-depth review of your annual personal and private expenditure, to basically see if there is sufficient money available to cover your living costs, monies saved or any assets purchased. They generally ask you in to a meeting, but you do not have to go but must answer any of their questions should they write to you instead.

HOW WILL THIS AFFECT ME?

Almost certainly they will have built up a mass of information on you, as this is the new style of enquiry. HMRC are far more professional than in the past, when enquiry discussions tended to centre only on fuel-to-takings ratios, and fuel consumption. You would not expect old methods of policing to catch modern day criminals. Just like modern policing techniques, HMRC investigation techniques have moved on a long way. By serving notices HMRC can obtain information from Licensing Authorities which will undoubtedly include mileage details of the registered vehicles. Together with information which may be obtained from the records, they generally will know what mileage the taxi has covered over the year. If this does not tie in with expected income then the accounts will undoubtedly be challenged. If the records are found to be "broken" i.e. not accurate, then HMRC will raise an assessment for the year they are enquiring into, in a figure they think is more appropriate. If they have reason to believe errors also occurred in previous years, then they will make assessments in figures they think are appropriate for these years also. These assessments will go back over four years but, in cases where dishonesty is proven, this can be up to 20 years. However there is an appeal system so all of the facts of the case can be heard at a tribunal.

HOW LONG DO ENQUIRIES TAKE?

This all depends on both the speed of the Inspector and that of the person handling the investigation on your behalf. You can also represent yourself, many do, as accountancy fees in enquiry cases can become extremely expensive. It has been known for some unscrupulous accountants to use an enquiry to generate more fees and stretch out the whole procedure. Never be afraid to ask your accountant at the outset as to

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whether they will charge for representing you and if so how much. This is something all should consider, when signing up with an accountancy practice. So getting back to the original question, it is like saying how long is a piece of string. On average you are probably looking at 12-18 months from start to finish although some enquiries have extended to 2/3 years or longer in extreme cases.

WHAT HAPPENS AT THE END?

If there are no required changes or only minor ones, then a closure notice is issued by HMRC to bring the enquiry to an end. You are invited to accept and agree this notice.

If there are issues, these will have been made quite clear in correspondence or during/after any meeting you have had with HMRC. You can agree the additions, if so the Inspector will calculate what you owe with possible interest and penalties as mentioned before. If you both cannot come to an agreement HMRC will issue closure notices, with adjustments in keeping with what they believe to be correct, for as many years as they also think fit. You have the right to challenge these by appealing, in which case the whole case is then reviewed by an appeals unit, before it then goes to tribunal. This latter process generally is a last resort if negotiations for a compromise settlement have not been possible. If it goes to tribunal, then HMRC will have reviewed the whole case internally and feel there are good grounds to win at a tribunal

OK, I ACCEPT I OWE MORE, WHAT NEXT?

HMRC will request an agreement with you through what is known as a contract settlement. Both parties agree to this and it is legally binding. HMRC normally demand payment within 30 days of the agreement being accepted; however if HMRC accept there are hardship grounds then they may incorporate 'time to pay' within the settlement. Generally you have to prove there is no way you can raise funds by other means, such as a remortgage, loan etc to qualify. It is always better to try to come to an arrangement if you know you cannot pay the debt rather than let HMRC's Debt Management arm take court, or high court action that can result in the visit of bailiffs, or at worst bankruptcy proceedings. Please note your taxi is no longer the tool of your trade and will get snatched.

SO WHAT CAN I DO TO HELP PREVENT PROBLEMS OF THIS NATURE IN THE FUTURE?

Keep good concise records. Record takings on a regular basis. Note your mileage details and record non-business mileage. Make notes of anything that may happen that has affected trade, inclement weather conditions, car repairs keeping your vehicle off the road etc. It is imperative that the use of the car is critically looked at. It has tended to be overlooked in the past as accountants have never brought this to their clients' attention. There is a belief by some tax professionals that to state nil or minimal use of the taxi is doing their client a favour, so as not to incur 'add backs' to tax computations. This is foolhardy or ill advised at worst.

Each driver will use their vehicle privately in a different way. Examples of this are that some drivers travel a considerable distance before they 'sign in', or ply for hire, make trips back home, use the car for all sorts of private uses such as hobbies, holidays and seeing relatives. All of this mileage simply does not generate income for the business. Yes, it does constitute private use of the vehicle, and a proportion of the running expenses are then added back to the profit. However this is not takings-generated mileage. What is then left after taking all of this into account, is the 'business' use of the vehicle. Again, this should be further sub-analysed to record for example, contract work done at special rates, operator deals that may well be permanent or seasonal, and finally normal mileage rate income. All these variables are very important but from my vast experience of enquiry work are virtually non-existent within drivers' records.

Taximanager optional screens provide a very simple solution to record all of this information, which in turn will help support your self-assessment return entries.

Enquiries or interventions once launched by HMRC can take a considerable length of time to resolve, particularly when record keeping is somewhat suspect. Enquiries can cause stress to both the driver and their family. The simplest way to avoid as much of this as possible is to be prepared in the first place.

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