



E-Update: January 2010

This month Robert Bradley takes a look at dealing with H M Revenue & Customs under the new tax investigations regime.

H M Revenue & Customs (HMRC) have now been given increased powers to investigate. If you arrange to meet a HMRC investigator who is looking into your affairs you may think you are having a meeting with him to help resolve the outstanding issues and bring the investigation to a quicker conclusion. As far as the Tax Officer is concerned it is actually an interview which might uncover more issues he would like to investigate further. This is likely to prolong the investigation.

HMRC employ a carrot and stick approach to interviews. The carrot is that the investigation may be solved quickly if the investigator has the chance to meet the taxpayer and talk with them directly. The stick is that refusing to attend can be interpreted as non-cooperation and a penalty may then be applicable.

Both the carrot and stick are actually illusionary. A meeting in the early part of an investigation will not speed up an enquiry. Investigators use meetings to open up avenues of investigation and to test known facts to see whether or not you are being truthful. .

The HMRC manual tells their inspectors that interviews are "vital" to a tax investigation but the taxpayer should be aware that interviews are entirely for the benefit of HMRC.

So what about the "stick"? there is no doubt that there is no legal obligation to attend an interview with HMRC. Taxpayers should be aware that an interview is voluntary – most don't realise this and feel compelled to attend.

As far as the penalty is concerned the relevant Code of Practice, Number 11, states that "in calculating the amount of the penalty we will take into account the extent to which you have been helpful".

With this in mind if you answer the written questions in full and on time, then it would be reasonable to argue that full co-operation has taken place and that no penalty for non-attendance should be levied.

My advice is that under no circumstances should anyone attend an interview with HMRC personnel without appropriate representation. HMRC staff are incentivised to maximise the tax take therefore it's in their interests to skew records of meetings in their favour.

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