

## HMRC information sources (Lecture P1330 – 16.00 minutes)

This session will consider some of the information sources available to HMRC.

### *'Open source' material*

HMRC has issued the following public statement about its use of publicly available information (including social media):

'HMRC may observe, monitor, record and retain internet data which is available to anyone. This is known as 'Open Source' material and includes news report internet sites, Companies House and Land Registry records, blogs and social networking sites where no privacy settings have been applied'.

HMRC may get lifestyle indicators for taxpayers from their social networking sites. There can be a tendency for some people to provide significant details of their lives, including the purchase of assets or luxury holidays, through social media, and that information is available to HMRC if that information is not restricted.

### Information powers

Advisers will be familiar with HMRC's extensive information powers, covering first and third parties, as well as their use of informal requests. This can generate information, not only about the taxpayer under enquiry, but also other taxpayers. HMRC's inspection powers can produce the same results. HMRC will consider any such information obtained, and deal with it as considered appropriate.

### *Informers and informants*

Informants have always been a source of information for HMRC. They tend to provide information of varying degrees of quality, from non-specific reports to highly detailed accounts of, for example, fraudulent activity, undeclared business interests, and assets held. HMRC operates a telephone hotline to enable reports of suspected tax evasion to be made. Informants can include disgruntled employees, former business partners and ex-spouses.

In addition to informants, HMRC also use informers. An informer is referred to as a Human Intelligence source (or "Humint"), and is defined in HMRC's manuals, at SIOG2110, as "A person who gives information to the Department relating to a possible criminal offence or regulatory breach (including any offence that may be dealt with under civil provisions)". Any such individuals should be treated as a Covert Human Intelligence Source ("CHIS") under the Regulation of Investigatory Powers Act, depending on the nature and frequency of the contacts with the informer.

In certain circumstances, criminal conduct by the informer can be authorised, providing such conduct is necessary and proportionate, and compatible with obligations under the European Convention on Human Rights.

### *The international angle*

HMRC's information sources are not restricted to the domestic arena. The international dimension includes FATCA (The Foreign Account Tax Compliance Act), a US initiative, and the Common Reporting Standard ("CRS"). The CRS is a global standard for the automatic exchange of information regarding financial accounts.

In addition to the formal exchange of information, HMRC has benefitted from various data leaks over the last ten or so years, including from HSBC, Geneva, and LGT, Liechtenstein.

#### *Other sources*

These include:

- HMRC investigations
- Comparison with other businesses
- Online marketplaces (ebay, etc)
- Credit card data
- Bank accounts
- Traditional media
- Suspicious Activity Reports

#### *Joining the dots*

There is not any point in HMRC having significant volumes of information, if it cannot be used. In 2010, HMRC introduced a computer program, “Connect”, which enables the tax authority to analyse data held. The software can analyse seemingly disparate and unrelated pieces of information. A key advantage for HMRC is that Connect enables the quicker processing of data, and permits analysis that may previously have taken much longer, or may not have been possible.

#### *What does HMRC do with the information?*

The information held by HMRC can be used to risk-assess taxpayers, and determine which cases will be investigated, whether by its civil or criminal powers.

Where permitted, HMRC will share its information with other bodies, including other government departments, overseas tax authorities, the police and the courts.

#### *Practical considerations*

It is all very well for advisers to know the extent of HMRC’s information sources, but there are important practical considerations.

Advisers should treat any tax enquiry or intervention (including nudge letters) seriously, and consider whether HMRC has information beyond that supplied by the client. It may be appropriate, where a client is reluctant to talk about any potential issues, to discuss HMRC’s varied and extensive information sources, particularly in relation to HMRC’s monitoring of social media. It may be helpful to review a client’s website, and ask them to consider whether there is any misleading or incorrect information – is all the information up-to-date? An internet search of the client’s name and their business may provide an indication of information that an HMRC officer has researched.

*Contributed by Phil Berwick, Director at Berwick Tax*