

Dealing with information requests (Lecture P1380 – 21.31 minutes)

This article provides two practical examples of information requests from HMRC in the context of an enquiry into a tax return.

The session focuses on HMRC's civil information powers at Schedule 36, Finance Act 2008.

This article cannot cover every piece of information, or document, that can be requested, but is intended to raise an adviser's awareness as to the points they should be considering when dealing with an information request from HMRC.

Reference should be made to the connected session, 'Dealing with information requests from HMRC', where I covered various aspects of the subject, including statutory provisions and guiding principles to apply when responding to an information request.

Sample information requests

The examples have been compiled from documents sent to me when providing support to advisers and are typical of the information and items that are requested by HMRC.

Please remember that each case is different, and any information request you receive should be considered by reference to your client's circumstances, and the associated facts. What is considered reasonably required in one case, may not be so in another.

Advisers should verify that the enquiry letter is valid before dealing with the information request. Another important caveat to include is that where your client indicates that there is a disclosure to be made, it will not usually be appropriate to simply provide the information requested by the enquiry officer. In such circumstances, reference should be made to my session on making a voluntary disclosure. In particular, advisers should proceed with extreme caution where a client indicates that they have a substantive disclosure to make, and to also refer to the session on the Contractual Disclosure Facility. Failure to do so may result in your client facing a criminal investigation. Formal Notice requests under Schedule 36 require that any items requested by HMRC must be reasonably required to enable them to check the taxpayer's tax position. This is also a useful starting point when dealing with an informal information request.

Example 1

This example relates to a self-employed individual who has also had part-time employment during the year. We are assuming that a valid enquiry is being made into the 2021/22 tax return.

Here is an extract of a letter received from HMRC, requesting various bits of information:

Schedule of information and documents needed to carry out our check

Customer name: xxxxxxxxxxxx
Our reference number: xxxxxxxxxxxx

To help us with our check we need the following information and documents:

Information and documents

1. All forms P60 held for the year ending 05/04/2022.
2. Statements from all bank accounts operated by the business for the year ending 05/04/2022, including paying-in books and cheque counterfoils.
3. All books and records used in the year ending 05/04/2022 including Cash Books, Sales Day Book, customer receipts, etc.
4. Please list all bank/building society accounts held either solely or jointly in the period, providing all account and sort code numbers.
5. Statements from all interest-bearing bank/building society accounts held either solely or jointly in the period.
6. Details of any further income received during the period not already covered here, for example cash or online sales.
7. Any other information or documentation that you consider should be brought to my attention.

It is tempting to read through the list and assume that all of the items requested should be sent to HMRC. It is worth looking closely at each item in turn.

Item 1 – The P60 is information that HMRC should already have and so it would not be harmful to send this information to HMRC again.

Item 2 – It is not unreasonable to request bank statements as they could be argued to form part of the statutory records. However, before sending, it is important to understand why HMRC want to see these statements and what in particular they are looking to understand.

Item 3 – Requesting the business books and records is a fairly typical request and not one to challenge.

Items 4 and 5 – Before agreeing to send this information, it is important to establish why HMRC want this information and how it ties into what appears on the tax return. If HMRC are looking to verify interest received, it would be more appropriate to send in Certificates of Interest for the relevant accounts. This information should only be supplied once you are clear what HMRC's concerns are and then, only if appropriate to do so.

Item 6 – Here HMRC are effectively challenging figures included on the tax return and inviting a disclosure. Before doing anything, it is important to establish with your client whether there is such a disclosure to be made.

Item 7 – Extreme care is needed when responding to this 'catch all' request. There is a danger that the more information that you give HMRC, the more questions they will come back with. Information that clarifies matters might be helpful but otherwise, it is probably best not to volunteer any additional information.

Example 2

This second example concerns a valid company enquiry into the return for the accounting period ended 31 March 2021.

Schedule of information and documents needed to carry out our check

Customer name: xxxxxx Limited
Our reference number: xxxxxxxxxx

To help us with our check we need the following information and documents:

Information and documents

Please provide the following documents and information for the period 1 April 2020 to 31 March 2021 inclusive. If there is no information/documents available or the question is not applicable, then please explicitly state this in your response.

1. UK and Overseas Land and Property

- a. Please provide a list of all land and property owned in the UK or overseas during the Account Period Ending (APE) 31 March 2021, whether let or not, whether owned jointly or solely, directly or indirectly and its use.
- b. Full details of when the property was acquired, from whom and how the purchase was financed.
- c. The date the letting of the property commenced.
- d. A full breakdown of all rental income the company received or was entitled to receive in the APE 31 March 2021.
- e. Copies of all Tenancy Agreements for all property let by the company in the APE 31 March 2021.
- f. Full documentation in respect of all disposals by the company during the APE 31 March 2021, including documentation in support of the consideration received and the acquisition costs claimed. Please provide a full description of the land and/or property sold.
- g. State for what purpose the land or property was intended to be used at the time of purchase and how the land or property was utilised.
- h. A Capital Gains computation for the company for the APE 31 March 2021 including a full breakdown of the allowable expenditure with supporting documentation, eg receipts, invoices, etc.
- i. Please advise if the land or property sold was disposed of to a connected party, and, if so, provide details.
- j. If any professional valuations were used when the land or property was sold, please provide the supporting documentation.

2. Loans due to Shareholders
 - a. Please provide Loan Agreements for all loans between the company and its shareholders.
3. Other Debtors
 - a. Please tell me how the £185,625 figure was calculated.
4. Dividends
 - a. Please provide a copy of all Notes of Meeting or written resolutions where dividends were declared in the APE 31 March 2021.
 - b. Please provide copies of the dividend vouchers in support of the dividends issued by the company in the APE 31 March 2021.
 - c. Please confirm how and when the dividends were paid/credited to the shareholders.
 - d. Please provide a full history of all shareholdings in the company in the APE 31 March 2021.
5. Directors and Directors' Control Accounts (DCA)
 - a. Please provide a chronological analysis of all non-cash transactions through the company's DCAs in the year ending 31 March 2021 for each director, along with an explanation of what has been introduced or withdrawn by the directors.
 - b. Where funds have been introduced by the directors, please provide evidence of the source of funds.
 - c. Details of any interest paid or accrued in respect of money lent to the company by the directors or shareholders.
6. Bank and Building Society Accounts
 - a. Please provide an analysis of all bank and building society accounts in the APE 31 March 2021 held solely or jointly in the UK or overseas. The analysis should include:
 - i. Bank/Building society account name.
 - ii. Bank/Building society account number.
 - iii. Account sort code.
 - iv. Type of account.
 - v. The date each account was opened and/or closed.
 - vi. Confirm details of any other accounts on which the company had power to draw upon in the APE 31 March 2021, providing all the same information as requested in 6,a,i to 6,a,ii.

Notes

In this context 'documents' means anything in which information of any description is recorded. This includes any records held on computer, magnetic tape, optical disk (CD-ROM/DVD), hard disk memory stick, flash drive, floppy disk or other recording media.

Item 1 – Information requests in respect of land and property may or may not be an onerous request. The information actually supplied will, once again, depend on why HMRC are requesting the information. If the request relates to property purchased or let during the accounting period, that may well be considered to be a reasonable request. Information requested for prior periods would need some kind of justification from HMRC as to why the information was needed. Where the request covers a large number of properties, it may be possible to agree a basis for supplying a representative sample rather than the information for the property portfolio as a whole.

When considering the information request, as well as considering each item in turn, it is also important to look at the information request as a whole. This could impact on your ability to meet the usual 30-day time limit that has been set. Where there is a significant volume of information to collect, it is sensible to go back to HMRC and agree a revised timeline.

With any of the items where you are unclear as to why HMRC are requesting those items, or you cannot agree that it is reasonably required, then you are entitled to challenge HMRC.

Item 3 – It is worth considering whether it might be less onerous to provide a summary of small debtors and only provide detail for debtors above an agreed threshold.

Item 4 – This is an area where you may well want to discuss what concerns HMRC have regarding dividends. It may be that the details on the company's returns are not consistent with information shown by the individual shareholders.

Item 5 – Care is needed here as a director is separate from the company. Item 5.b. concerning funds introduced by directors should be requested from the director, rather than the company.

In summary, remember you can challenge HMRC where you are not sure and consider seeking a second opinion. Where a formal information notice has been issued, there is a right of appeal.

Adapted from the seminar recorded by Phil Berwick (Director at Berwick Tax)