

Dealing with the opening full letter (Lecture B1344 – 21.15 minutes)

This session will consider a practical example of an opening enquiry letter for a full enquiry and provide advice on how to deal with such a letter.

Sample letter

The following letter is typical of the type of correspondence an individual taxpayer may receive when HMRC starts a full enquiry.

Indv and Small Business Compliance HM Revenue and Customs, BX9 1LE

Phone 03000 xxxxxx

Email xxx.xxx@hmrc.gov.uk

Web www.gov.uk

Date 28 January 2022

Our Ref

UTR

Dear xxxxxx

Check of Self-Assessment tax return for the year ended 5 April 2020

Thank you for your return for the year shown above, which we received on 29 January 2021.

Every year we check a number of returns to make sure they are correct and that our customers are paying the right amount of tax. I am checking your tax return. I can do this under Section 9A of the Taxes Management Act 1970.

What I am checking

I am checking the whole of your return to check it is accurate and complete.

My colleague has also written to the company, xxxxxxxx Limited, of which you are a director and shareholder, to advise that HMRC has decided to undertake an enquiry to check that recent returns for the business are complete and correct.

This follows a review of information that HMRC holds for the business and its owners. The enquiry will be a full review of accounting and tax records across the whole of the business and its owners for all taxes and duties.

What I need from you

To help me with my check, please let me have the items lists on the enclosed schedule.

Please send what I have asked for by 28 February 2022. If you need help or more time to do this, please phone me on the number shown at the top of this letter.

Completing my check

When I have finished my check, I will tell you if there is any additional tax to pay, or

Content issues

Where there are issues in the content of the enquiry letter, including, for example, the date of issue, advisers should challenge the investigating officer, and ask them to clarify, or justify, any points as necessary. This is particularly important where it is considered that the enquiry notice may not be valid (including where it is considered that HMRC have missed the statutory deadline for the issue of an enquiry notice).

It is not possible to deal with every potential scenario in this session, and letters received from HMRC may, for example, include a request for a meeting with the client or a visit to the business premises.

Advisers should undertake various basic checks to satisfy themselves that the enquiry notice is valid.

The principles discussed in the previous session referenced above apply to a full enquiry. In practice, opening enquiry letters will also include any relevant factsheets, and standard information regarding the disposal of documents sent to HMRC.

Information request

I have also included a sample information schedule with the enquiry letter. The following document is typical of the type of correspondence an individual taxpayer may receive when HMRC requests information and documents a part of an enquiry.

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

Please provide the following documents and information for the period 6 April 2019 to 5 April 2020 inclusive. If there is no information/documents available or the question is not applicable, then please explicitly state this in your response.

1. Bank, building society, savings, loans, credit cards and store cards

For all your bank, building society, savings, mortgages and loans, credit cards and store card accounts, and all other financial assets and liabilities such as trusts and pension schemes held in the UK or abroad in your name, or in joint names, and/or those over which you had the power to operate and/or beneficial control, please provide:

- (a) The financial institution you held the account with
- (b) The date the account was opened

- (c) The sort code
- (d) The account number
- (e) The name(s) of the account holder
- (f) The name(s) of any signatories on the account
- (g) The name(s) of the beneficial owner(s) of the funds held in the account
- (h) The source of the capital
- (i) The gross interest
- (j) Statements
- (k) Passbooks
- (l) Cheque book stubs
- (m) Paying-in slips
- (n) Any other documents that are held which show any transactions into or out of those accounts

For the avoidance of doubt, this request covers all accounts held anywhere in the world by you personally or held on your behalf by another person.

2. Cryptoassets

- (a) Please provide details of any cryptoassets held or disposed of, for example, bitcoin or ether. Please include full details of all cryptoassets held personally or in any other capacity.
- (b) In the event of any disposals, including disposals for other cryptoassets, please give full details of the relevant transactions, which should include:

- The date of purchase
- The original purchase price
- The source of funds for the purchase
- The date of disposal
- The consideration received on disposal

3. UK and overseas land and property

- (a) A schedule showing the full address of all UK and overseas properties and land owned either solely or jointly during the period.
- (b) For each property detailed under point (a), please provide a copy of the completion statement in respect of the property purchase and sale.
- (c) For each property detailed under point (a), provide the following details:
 - a. Acquisition date
 - b. Acquisition cost

- c. Sale date, if applicable
- d. Sale value, if applicable
- e. A schedule of incidental expenditure linked to the purchase and sale of the property. Please send the documentary evidence to support the items listed on this schedule
- f. A schedule of all enhancement expenditure incurred on the property showing the amount, date and a description of the expenditure. Please send the documentary evidence to support the items listed on this schedule
- g. An explanation as to how the property purchase was funded, supported with the relevant documentation such as mortgage or loan schedules and statements
- h. If you received rental income from the property, please provide a statement showing the amount received
- i. If you occupied the property as a residence at any time during your period of ownership, please confirm the dated you occupied the property and provide documentary evidence to prove you were resident

1. Investment and dividend income

Please provide details of all investments, including, but not limited to, shares, securities, bonds, held in any capacity either in the UK or abroad and any income received during this period.

This should include:

- (a) A list of all investments held
- (b) The date the investment was purchased
- (c) The source of funds used to purchase the investment
- (d) The type of investment
- (e) The amount(s) of income received
- (f) The date(s) the income was received
- (g) All dividend vouchers/counterfoils held
- (h) Full details of any apportionment of income and from which accounting periods they are derived
- (i) Details of any waivers made

2. Non-taxable income

Please provide details of any income received such as windfalls, inheritance, gifts and loans received that is believed to be non-taxable. Please provide any supporting evidence for each item, for example, loan agreement.

6. Companies, business and directorships

Please provide full details of each of the companies and/or businesses (including sole trader businesses, partnerships and limited liability partnerships) in which any interest was held in any capacity worldwide. This should include:

- (a) The name of the company and/or business
- (b) The capacity in which the interest was held, for example, director, shareholder, partner, trustee, etc
- (c) A detailed explanation of the roles and responsibilities
- (d) Amounts of income received from each company/business specifying whether they were final or interim payments
- (e) The date the income was received
- (f) Details of any waivers made in respect of dividends
- (g) The amount originally invested, and the source of funds used
- (h) A full breakdown of all director's loans made and received, to include opening and closing balances, and all movements throughout the period with a narrative description for each transaction along with evidence of all credits made
- (i) Confirmation of any other transactions between you and any of the companies of which you were a participator of during the period which have not entered the director's loan account and details thereof
- (j) Details of any shareholdings in companies of which a directorship is held or was held during the period

7. Trusts

Please provide details of all involvement with any trust either in the UK or worldwide. Please include:

- (a) The title and reference number (or UTR) for each trust
- (b) A description of the role within the trust, for example, settlor, trustee, beneficiary
- (c) A copy of each trust deed, or will, that created each trust and any amendments thereafter
- (d) If you were a settlor in any trust, please provide:
 - a. A detailed description of each asset transferred into the trust
 - b. The date each asset was transferred
 - c. The value of each asset on the date of transfer
 - d. Details of any later additions to the initial settled assets

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.

Before considering the information request

The adviser should establish that the enquiry letter is valid, as noted above, before considering the information request.

The accompanying information schedule is extensive, but not uncommon, and I have seen many such schedules which are far longer. It is important for the adviser to review each information request in the context of the client. The adviser needs to consider whether the items requested are relevant and reasonably required by HMRC to check the taxpayer's position.

It is not possible to cover every scenario, and the information schedule received by your client may, or may not, cover all the areas included on the sample document. In addition, other areas which are specific to your client's circumstances may be included.

Advisers should remember that an essential part of dealing with an enquiry letter is to discuss the position with the client, before sending any response to HMRC. Where the 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. 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 their client facing a criminal investigation.

In these sessions, I frequently refer to advisers seeking input from an investigations' specialist. That is equally important when dealing with an opening enquiry letter. The recommendation comes from many years of dealing with situations where advisers have, for example, missed that an enquiry notice was invalid, or failed to robustly challenge an information request.

Contributed by Phil Berwick, Director at Berwick Tax