

Opening aspect enquiry letters (Lecture P1340 – 14.34 minutes)

This article will consider a practical example of an opening enquiry letter for an aspect enquiry and provide advice on issues arising.

Reference should be made to a previous session, 'Dealing with the opening enquiry letter', where I covered various aspects of the subject, including statutory provisions and guiding principles to apply when responding to HMRC's letter.

Sample letter

Over the page is an extract of a sample letter, typical of the type of correspondence a, individual taxpayer may receive when HMRC starts an aspect enquiry.

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

Phone 03000 xxxxx

Email xxx.xxx@hmrc.gov.uk

Web www.gov.uk

Date 12 October 2021

Our Ref UTR xxxxx

Dear xxxxxx

Check of Self-Assessment tax return for the year ended 5 April 2021

Thank you for your return for the year shown above, which we received on 7 July 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 now checking this return under Section 9A of the Taxes Management Act 1970.

What I am checking

I will be looking at gains on property disposal. This follows a review of information that HMRC holds, including details received from my colleagues in the Valuation Office Agency.

When I look at this area, I may find that I need to extend my check. If this happens, I will let you know.

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 11 November 2021. If you need help or more time to do this, please phone me on the number shown at the top of this letter.

What will happen if you do not give me what I have asked for

If you do not give me what I have asked for, or we are unable to agree the amount of any additional tax you owe, I may make an assessment of how much I think you should pay. To do this, I will use the information available to me.

Completing my check

Once I have worked out whether there is any additional tax for you to pay, I will let you know. I will also let you know about any interest and penalties that may be due.

You may want to consider making a payment on account of any tax that you think you may owe, to stop the amount of interest from increasing.

Information request

Below is an information request with the enquiry letter:

Schedule of information and documents needed to carry out our check

Customer name: xxxx

Our reference number: xxxx

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 2020 to 5 April 2021 inclusive. If there is no information/documents available or the question is not applicable, then please explicitly state this in your response.

Property

1. A schedule showing the full address of all UK and overseas properties and land owned either solely or jointly during the period.
2. For each property detailed under point 1, please provide a copy of the completion statement in respect of the property purchase and sale.
3. For each property detailed under point 1, please provide the following details:
 - a. Acquisition date
 - b. Acquisition cost
 - c. Sale date, if applicable
 - d. Sale value, if applicable
 - e. A schedule of all 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 dates you occupied the property and provide documentary evidence to prove you were resident

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.

Many of the principles discussed in the previous session referenced above apply to an aspect enquiry. An adviser is likely to see more aspect enquiries than opening letters for full enquiries. In practice, opening enquiry letters will also include any relevant factsheets, and standard information regarding the disposal of documents sent to HMRC.

Aspect enquiry

It is easy to be lulled into a false sense of enquiry when faced with this type of HMRC compliance check. The reality is that, if other areas of concern emerge for the enquiry officer, the enquiry can be extended to a full enquiry. In addition, where the officer considers that a correct and complete response has not been provided by the taxpayer, the enquiry can be switched to a fraud investigation, whether under Code of Practice 9 or a criminal investigation with a view to prosecution.

Information request

It is important for the adviser to review each request for information and documents in the context of the particular client. The adviser needs to consider whether the items requested are relevant and reasonably required by HMRC to check the taxpayer's position, or whether they are part of a "fishing expedition" by HMRC.

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. That is as important when dealing with an aspect enquiry as with a full enquiry. 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.

As noted above, aspect enquiries should not be underestimated, as they can, in appropriate circumstances, become a full enquiry, or, a fraud investigation, including one in which HMRC use their criminal investigation powers.

Contributed by Phil Berwick, Director at Berwick Tax