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HMRC Interventions

As you may know, HM Revenue and Customs has recently started to pilot what it calls 'interventions'. Interventions are voluntary reviews, during which HMRC discusses directly with taxpayers particular areas and situations. The purpose is to make sure an individual's tax affairs are in line with tax laws and rules, without the formality of the current enquiry procedures. HMRC thinks that this may bring about a swifter resolution of issues.

There are six types of intervention being tested.

1. Real time record review:

Under this review HMRC takes a look at the quality of business records and procedures and advises where it considers improvements are needed.

2. Short risk review:

This is a questionnaire, based on what HMRC knows about the risks associated with the trade or industry in which the business operates.

3. Self audit:

This requires the taxpayer to look at a specific entry on his/her return, adjust it as necessary and inform HMRC of the adjustment made.

4. Telephone contact:

HMRC staff, using prepared scripts, outline why they consider an error has been made on a taxpayer's return and how any underpayment can be settled.

5. Correction challenge:

This is used where HMRC holds reliable information that an error has occurred. Here a

“ ... but if you buy it, your licence will not be valid ... ”

correction will be made to a return or a PAYE code changed to recover the underpayment. The taxpayer will be told about this and a reason sought for the omission.

6. Real time 'Health Check':

Taxpayers within specific groups are contacted. The selection process means that contact is based on a risk assessment that a return is wrong. They are told

about the risks of error and non-compliance related to their particular group and asked to consider their own returns for errors.

At present, these interventions are an experiment. HMRC has no legal powers, for example, to check records and systems in real time and participation is voluntary.

As a taxpayer, of particular

concern is the fact that, unlike a traditional enquiry, there is no legal protection for those who participate in interventions. We would stress that these interventions are voluntary and suggest that you contact us to discuss all the implications should you receive an intervention - no matter how simple the request may appear to be.

How to stay on the right side of the law with software

Too good to be true?

We've all seen the rock-bottom prices, and the question is, when you see software advertised online, how do you know it is what it claims to be? The prices will often tell you what you need to know - if it is too good to be true, it probably isn't true.

When you're faced with the product in real life, it's often easy to spot a fake. You might get a CD-ROM that has been copied to order on a home PC, with the product name written on in marker pen. Even if the product is more professionally produced, a fake is usually easy to spot if you compare it to one you know to be genuine.

You can't see the product itself on the internet. The most obvious way of ensuring that your software is authentic is to either buy it direct from the

software company itself, or from an authorised reseller.

Otherwise, go to reputable companies that you trust.

If you see that a website is offering software 'for installation with new PCs only', then watch out. This is what is known as OEM software, sold only to companies who build PCs, not to consumers or businesses. It's legal for the retailer to sell it, but if you buy it, your licence will not be valid.

One place where fake software has often been sold at knock-down prices is the internet - particularly on auction sites. It can be hard to distinguish between the real and fake when an auction has five minutes to run and you are hoping for a bargain. Use the same principles - think about who is selling, whether it's local, and if the licence is appropriate - before being tempted.

Manage your assets

Unless you know what software your business is using, you can't know if you have the correct licences. So step one is to run a software audit. It's like any other audit - in fact it's easier, because there are a number of commercial software tools to do the job.

Microsoft has also developed a handy resource to assist in this process, the software asset management (SAM) toolkit. Available to anyone via the Microsoft website www.microsoft.com/uk/business/sam, the toolkit is built around an easy to follow three-step guide on implementing SAM. It features tips on policy and procedure development, a search tool for software to meet your specific needs, and a directory of SAM implementation specialists.

“ ... a greater emphasis on preventing fires ... ”

The easiest way to keep out of trouble is to use a SAM specialist who will ensure that everything is legal, will constantly monitor the systems and ensure that all software is kept up to date and compliant with regulations. This means

you don't have to spend time and effort chasing the latest upgrades, or trying to find the cheapest licensing options; and you'll never have to spend time justifying your licensing to a software provider.

Whether you use a company to audit what software you own, or use one of the commercially available tools, knowing what software you have helps businesses to train their staff effectively and provide the right equipment and support.

VAT on Cancellation Charges

In the past, deposits and other charges arising in respect of cancellation of services ordered or booked have, arguably, been outwith the scope of VAT on the basis that these represented compensation to the business for loss suffered due to the default of the customer.

Following a request from the French tax authorities, the EU

has considered the case of Société Thermale d'Eugénie-Les-Bains (the company) about sums paid as deposits in relation to the provision of hotel services which are subject to VAT. The opinion of the Advocate General is that, where the purchaser makes use of a cancellation option available to him, such deposits must be regarded as

remuneration for the reservation service and therefore subject to VAT.

This opinion relates to the specific facts of the case and how HMRC will interpret it in the UK is at present unclear. If your business is affected by cancellation charges, you may wish to discuss the VAT treatment with us.

Fire Safety in Business Premises

It seems that new pieces of legislation are hitting businesses almost monthly. A recent important, but perhaps easily overlooked, law came into effect on 1 October of this year. This is the Fire Safety (Scotland) Regulations 2006.

The aim of the new legislation is to reduce death, injury and damage caused by fire, and the thrust is to place a greater emphasis on preventing fires and largely puts the onus onto the business in this area.

The Scottish Executive has produced a helpful booklet

which can be found at www.infoscotland.com/firelaw. The basics of the new requirements however are that the 'responsible person' (usually the employer) is now responsible for carrying out a fire risk assessment in the business premises.

After hazards and risks have been identified these should be evaluated and then steps need to be taken to eliminate or reduce these risks as far as possible. The degree of documentation is affected by the number of employees, but

normally identified risks and hazards, details of the personnel at risk and the action taken all require to be recorded. You should also consider procedures in place for temporary staff or visitors to your premises, and if your business premises are shared, these other occupants should be consulted.

The Regulations also state that the assessment should be reviewed over time and updated as necessary. Staff should be kept informed and briefed when changes are made.

“ ... four major differences compared to the current scheme ... ”

Loans to Company Directors

A recent Court of Appeal decision considered the prohibition in the Companies Act 1985 on a company making loans to its directors. It was held that a director who knew that his company operated a prohibited loan account in favour of another director was equally liable to compensate the company for any loss incurred - e.g. on a company liquidation - even though he did not know the details of the individual loans.

This is a complicated area and there are also tax implications. If you wish further advice, please let us know.

Construction Industry Scheme Update

The new Construction Industry Scheme is finally due to come into force on 6 April 2007.

The new scheme has four major differences compared to the current scheme:

1. Contractors will have to make a declaration as part of monthly returns that the subcontractors who have been paid are not employees.
2. The existing CIS 4 card and CIS 5 and 6 certificates are

being replaced. If you have not used a subcontractor in the current or previous two tax years you will have to speak to HMRC to find out how he should be paid.

3. Submission of monthly returns detailing payments, deductions and confirmations that you have checked the subcontractor's status will be required. A nil return, when relevant, must also be made where no payments have been made to subcontractors in a month.

4. Statements must be produced for subcontractors where tax has been deducted after 5 April 2007 for each month ending on the 5th of the month. This must be produced within 14 days of the end of the tax month. It can be issued electronically where the subcontractor agrees.

HMRC has produced a helpful booklet CIS340 and factsheets which give more information and help and you can contact us for further assistance.

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BUSINESS



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