

Treasury
Customs and Excise Division

Notice 160 MAN

Enquiries into Indirect Tax Matters



September 2007



Isle of Man
Government

Reilrys Ellan Vannin

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1. Enquiries into Indirect Tax Matters

This Notice explains what happens during an enquiry into indirect tax matters if we suspect conduct involving dishonesty.

1.1 Introduction

We make enquiries into tax matters for a number of different reasons. This notice deals only with cases where we have reason to believe dishonest conduct has occurred. Our practices in relation to other enquiries is set out in Notice 989 for indirect taxes in general and Notice 700 in relation to VAT. This notice covers all indirect taxes other than those covered by Notice 300 (Customs duties and import VAT).

2. How does this affect me?

We will normally ask you and your professional adviser, if you have one, to attend a meeting with us. Please tell us in advance if you need an interpreter or have any special needs so that we can take these into account when we prepare for the meeting.

We will tell you:

- the enquiry if not being conducted with a view to prosecution in relation to the matters that are the subject of our enquiry;
- the matters that are the subject of the enquiry. This means the behaviour(s) and period(s) under enquiry, rather than the specific information we hold that gives rise to our suspicion of dishonesty.

You will have an opportunity to disclose any irregularities or matters in relation to your tax affairs. We will listen to any explanations that you or your professional advisers give and keep an open mind to the possibility that there may be an innocent explanation for the suspected irregularities. We make notes of all meetings and can give copies of the notes to you or your adviser if you ask for them.

If you wish to disclose irregularities or matters in relation to your tax affairs in areas that are not the subject of our enquiry we may not be able to deal with these as part of the enquiry. However we will consider any disclosures that you make, or additional matters that we may uncover during the enquiry, to determine how they should be treated. Any irregularities outside of the matters under enquiry may be investigated with a view to prosecution if appropriate.

We expect you to be truthful, to tell us all relevant facts and to co-operate fully in putting your tax affairs in order. If you are unsure whether particular facts are relevant, you should tell us anyway.

It may be necessary to make further enquiries. If this happens, we will explain to you the enquiry process and the steps that need to be taken to establish the relevant facts. It may be necessary to use our standard information powers, including contacting third parties.

We will invite you to make payments on account towards any tax arrears, both at the initial meeting and throughout the enquiry. This will reduce any interest charges.

When the enquiry is completed if we believe that the tax arrears are due to conduct involving dishonesty on your part we will consider the imposition of a civil evasion penalty.

2.1 **Do I have to co-operate with your enquiry?**

The extent to which you co-operate with us and provide us with information is entirely a matter for you. In making your decision, you may wish to get help from a professional adviser. If you do, your adviser can accompany you to all meetings held with us. He or she may correspond with us on your behalf.

We would welcome your co-operation with our enquiry and in establishing the correct amount of tax due. Such co-operation can significantly reduce the amount of any penalties due.

2.2 **How do you work penalties out?**

If we identify irregularities due to conduct involving dishonesty, a civil evasion penalty will normally be applied.

The penalty figure will be a percentage of the tax under declared or over claimed. The penalty can be 100 per cent of that amount but the level can be significantly reduced in certain circumstances.

2.3 **How can penalties be reduced?**

It is for you to decide whether or not to co-operate with our enquiry. However if you choose to co-operate and disclose details of your true liability then you can significantly reduce the amount of any penalties due.

You should tell us about anything you think is relevant when we are working out the level of the penalty. At the end of the enquiry we will take into account the extent of your co-operation.

The maximum penalty of 100% tax evaded will normally be reduced as follows:

- up to 40% - early and truthful explanation as to why the arrears arose and the true extent of them
- up to 40% - fully embracing and meeting responsibilities under this procedure by, for example, supplying information promptly, disclosure and quantification of irregularities, attending meetings and answering questions.

In most cases, therefore the maximum reduction obtainable will be 80% of the tax on which penalties are chargeable. In exceptional circumstances however, consideration will be given to a further reduction, for example, where you have made a full and unprompted voluntary disclosure.

2.4 **What happens after your enquiry?**

Having considered all the facts and evidence gathered during the course of the enquiry we will make a decision on whether or not a civil evasion penalty is due and, if so, how much that penalty will be.

In appropriate cases, we will issue a civil evasion penalty assessment. This will be in addition to any tax that may also be due.

False statements can result in a criminal investigation with a view to prosecution.

2.5 **What if I cannot pay?**

If you agree the amounts of assessment and penalty to be paid, but cannot pay the full amounts straight away, it may be possible to arrange payment by instalments. You will be given the address of our debt management section with whom you should correspond on this matter.

2.6 **Can I appeal against your decision?**

You can ask for a local reconsideration of, and/or appeal to the independent VAT and Duties Tribunal against, the quantum of any tax assessment and other related assessment issues. You can also appeal in the same way against the imposition, and amount of, any civil evasion penalty.

3. **Your rights under our service commitment to you**

3.1 **During our enquiries**

We will always be courteous, fair and professional. If you or your professional adviser writes to us we will aim to respond to the questions or issues you raise within our published service standards. This includes matters such as your legal rights and obligations under the law.

We will undertake any further enquiries promptly and keep you informed as to what we expect from you.

3.2 **Your costs**

You have to pay for any costs that you incur in dealing with our enquiry, including the fees of an accountant or other professional adviser. We know that dealing with our enquiries can cost you time and money, so we will make sure that our enquiries are reasonable and necessary to your case. We will close our enquiries as soon as we are satisfied that your tax affairs in relation to the matters under investigation are in order or settled.

3.3 **Complaints**

To help you avoid any further inconvenience, we have a straightforward and easy to use complaints procedure. You can complain in writing to the Collector, Isle of Man Customs and Excise, PO Box 6, Custom House, North Quay, Douglas, Isle of Man, IM99 1AG. We will try to settle your complaint as quickly as possible.

4. Glossary

Returns

All Indirect Tax declarations, statements, disclosures, tax returns or claims etc, are referred to as "returns".

Indirect Taxes

VAT, all customs duties and excise duties including those applicable to alcohol, tobacco, gambling and oils, Air Passenger Duty and any other indirect taxes matters for which responsibility is laid to Customs and Excise.

Tax Assessment

A legal method of establishing a debt due to the Crown by a trader who has made an error, an understatement or an overclaim of tax.

Do you have any comments?

We would be pleased to receive any comments or suggestions you may have about this notice. Please write to:

Isle of Man Customs and Excise
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

E;mail: customs@gov.im

If you have a complaint or suggestion

If you have a complaint please try to resolve it on the spot with our officer. If you are unable to do so, or have a suggestion about how we can improve our service, you should contact the Collector. You will find the telephone number in the telephone book. Ask Isle of Man Customs and Excise for a copy of our code of practice on complaints and putting things right.

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