Amendments to HMRC’s civil information powers

Management of taxes

29 October 2020

The CIOT has commented on draft legislation amending HMRC’s civil information powers.

The draft legislation introduces a new Financial Institution Notice (FIN) that will be used to require financial institutions to provide information to HMRC about a specific taxpayer without the need for approval from the First-tier Tribunal. It also gives HMRC a new power to issue an information notice to collect a tax debt.

The driver for change is requests for financial information from overseas tax authorities, but UK law and some international treaties require HMRC to obtain information in the same way for both domestic and international requests. Therefore, the FIN will be available for both overseas and domestic requests for information. There is to be no right of appeal by the financial institution against the issue of a FIN. This raises questions about how the new power will operate in practice, particularly for domestic cases, as under existing FA 2008 Sch 36 powers, HMRC must now obtain tribunal approval before requesting the information unless the taxpayer has agreed to HMRC contacting the third party, and there is a right of appeal if it would be unduly onerous to comply with the notice. We ask that HMRC’s intended approach to these questions is covered in guidance. Our submission is here: www.tax.org.uk/ref706.