President's Page, April 2015

Welcomes

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Plus ça change

Ideas come, and ideas go. One idea that seems somewhat persistent within HMRC is that tax advisers who prepare tax returns for clients routinely carry out forensic analysis on the numbers which are provided by the clients to make sure that there has been full declaration. This isn't even a requirement for auditors: ISA 240 states that '[u]nless the auditor has reason to believe the contrary, the auditor may accept records and documents as genuine', although the auditor is expected to be a professional sceptic. The Professional Conduct in Relation to Taxation (PCRT) code, which is part of our standards, arguably has a similar level of expectation for tax advisers, in that a tax adviser 'must take reasonable care when making statements or asserting facts on behalf of a client' and 'should not be associated with the presentation of facts he knows or believes to be incorrect or misleading'. That's still a long way from doing HMRC's job for them.

In a recent issue of Tax Journal, Jim Harra, one of the Directors General at HMRC, floated the idea that practitioners who submitted clients' tax returns would have the option to do additional compliance checks to save HMRC having to do them. Clients would need to pay for this, of course, and it was suggested that tax advisers who meet some standard set by HMRC (well, hopefully there would be a specific standard set) could have their clients marked as 'compliant' or 'low risk'. HMRC seem to think that clients might be willing to pay to obtain additional confidence that their returns would less likely be challenged.

This is an idea that has been raised before in our discussions with the Revenue, but we had the impression that it had not been very fully thought through. We still don't have the impression it's been fully thought through now. However, we need to consider it carefully as it may move forward in some form. I believe that variations of this are happening in some other countries so it is not completely off the wall.

The proposal seems to be mainly aimed at small or medium-sized businesses. Let us suppose that the normal fee for such a client, drawing up a set of accounts from the information provided and submitting the tax return, is £500. (And yes, that's just as an example – of course, the actual fees will depend on the complexity of the client and what part of the country you are in.) Let us imagine the extra work will cost another £250 for the purpose of discussion (and that's likely to be on the low side). What would attract the client to paying the extra fee?

First, it will be necessary to define what checks our practitioner will need to carry out in order to satisfy HMRC and enable the client to be flagged as 'compliant' or 'low risk' on HMRC's systems. I think it will need to be specific actions on some form of checklist rather than a general instruction such as 'make sure it's right'. Many of the businesses will have some or all of their sales in cash so, in practice, benchmarking will probably be an important factor. Any more general requirement – or something like a requirement to audit client processes etc where there is no statutory audit requirement – would put absurd pressures on costs, and professional indemnity insurance would become prohibitive. If this is, in effect, a suggestion that more businesses should have some form of statutory audit, then it should be framed as such.

Then there is the question of what value this would have for the client. If there is a guarantee that no challenge will be made to the entries on the tax return you can see that there could be an attraction depending on price. The decision may also be affected by how concerned the client is about the correctness of the return in the first place. Why would someone who is confident that all entries on their return are correct bother to pay an extra fee to confirm it – and why should they be treated as potentially non-compliant if they choose only to have a basic tax return service (or, indeed, choose to do their own)? If an absolute guarantee is not on the table, then what? Clients' cheque books can be closely held.

We do not have any of the answers yet and I think HMRC probably do not either. I am looking forward to further discussions, including one on the status of clients of tax advisers who follow the PCRT and are already regulated by their membership of a professional body. In respect of which, have a look at Stephen Coleclough's article on regulation.