Recognition and role of appointed tax agents in compliance work

Technical

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There have been a few instances recently where members have pointed out to the CIOT that the role of agents has not been adequately recognised by HMRC in compliance work. Since it is generally accepted that the tax system would not function properly without agents, who strive to ensure their clients are compliant, we thought that this should be raised as a serious issue with HMRC. A few other bodies have raised similar issues. We therefore suggested that HMRC should consider agreeing a protocol for working with tax agents.

A discussion through the Compliance Reform Forum (CRF), whose minutes are posted at: **www.tinyurl.com/PAYEpapers**, has resulted in the following protocol.

In response to concerns that HMRC staff are increasingly bypassing appointed agents and communicating directly with clients, HMRC confirmed it has no wish to marginalise the role of tax agents.

Where a taxpayer wants an agent to act in relation to their tax affairs and has authorised that agent to do so, HMRC will respect that agent's right to represent their client, as set out in the HMRC Charter. HMRC recognises the value that agents can add in guiding their clients through a compliance check and helping them to respond to queries fully and accurately.

HMRC has made it clear in the notes to the authorisation form 64-8 that it may have to deal with the customer as well as, or instead of, the agent. HMRC sometimes has to exercise this right to recognise statutory obligations, for example where a notice has to be served on a customer or if it believes that an agent is not representing the best interests of the customer.

One area where HMRC thinks it is right to go direct to customers is where it is using 'nudge' techniques to encourage taxpayers or claimants with a history of late filing,

late payment or other non-compliance to change behaviour. HMRC believes this approach is helpful to customers and can also help agents to encourage their clients to comply. It may even encourage unrepresented customers to seek help.

Another area where there may be a good reason to bypass agents is in relation to aggressive tax avoidance schemes, partly due to confidentiality, as the scheme may have been sold direct to the taxpayer through a third party, and partly to ensure that the taxpayer is aware that HMRC does not think the scheme works. There may be other specific situations, but as far as possible HMRC have said that they will give CRF representatives advance notice so that they are aware of HMRC's approach and the reason for it and can advise their members accordingly.

We have welcomed the reassurances given by HMRC. In particular, proposals are in hand to amend the single compliance process to take account of our views – so that initial contact will be via the agent, and only if the agent does not reply will the contact be direct to the client. This seems fine provided that:

- where HMRC writes to a represented taxpayer directly, HMRC send a copy of the letter to the agent; or
- if the taxpayer confirms that they want their appointed agent to act that HMRC subsequently communicates directly with the agent.

HMRC confirmed that they would expect staff to act in accordance with the HMRC Charter.

We understand that HMRC will look at new guidance for staff to reinforce the importance of the role of agents, including the possibility of shadowing an agent as part of a tax professional's training.

Agent representatives said it would be simpler if a client could authorise an agent to act for them on all tax/HMRC matters. This may be considered as part of the proposed agent self-authorise system.