The HMRC Standard for Agents update

General Features



21 March 2023

The updated HMRC Standard for Agents was published on 23 February 2023 and includes a number of obligations on agents not previously included. CIOT and ATT will be feeding back to HMRC on this, and the interaction with Professional Conduct in Relation to Taxation.

The HMRC Standard for Agents (the Standard) sets out HMRC's guidance on minimum standards expected of tax agents, and the update, developed in 2022 and issued on 23 February 2023, is part of HMRC's work around raising standards in the tax advice market tinyurl.com/425cn5c3.

The Standard sets out a number of requirements on agents that were not previously included and in particular includes the following requirements:

- provide HMRC with relevant information when asked or when appropriate (s 2.1);

- provide clients with relevant and material information before, during and, when necessary, after their engagement (s 2.1);
- report suspicions of tax fraud or evasion to HMRC (s 2.2);
- offer a period of at least 14 days in which a client can cancel any agreement (s 2.3.3); and
- have clear terms of engagement with clients and confirmation that the client understands and accepts them (s 2.3.3).

In general, where members are meeting the requirements placed on them under Professional Conduct in Relation to Taxation (PCRT) (tinyurl.com/yckn8yzx), HMRC say that they are likely to be meeting the requirements of the Standard. However, there are some areas where we are considering carefully how the requirements interact not only with PCRT, but also with other legal requirements. One example is where the Standard requires agents to 'report suspicions of tax fraud or evasion to HMRC' (s 2.2). Members have a legal obligation (and therefore legal protection when doing so) to submit a suspicious activity report (SAR) to the National Crime Agency where there is knowledge or suspicion of money laundering. They would potentially risk breaching client confidentiality (a fundamental principle set out in PCRT) if they reported these suspicions directly to HMRC without the client's permission.

Another area where clarification is required is the 14 day cancellation period. At first sight, this seems to be drawn from consumer protection legislation, but it ignores the caveats of that legislation for urgent work and the limitation of scope of that legislation to individual consumers.

HMRC recognise that the Standard sets out minimum standards for all agents, but 'in particular, those that are not related to any professional body'. Effective enforcement will be key in raising standards across the profession and, in particular, where agents are not subject to PCRT requirements and associated professional body disciplinary processes. The recent HMRC action taken against Tax Credits Ltd (tinyurl.com/bdd3rcdb) illustrates the powers that HMRC can use where agent standards and legal requirements are not being met.

The CIOT and ATT are planning further liaison with HMRC in relation to various aspects of the Standard and its interaction with PCRT, and we will provide further updates to members as these discussions progress.

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