

HMRC investigations: code of practice 9

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CATEGORY:

ARTICLE

CLIENT TYPES:

HIGH-NET-WORTH INDIVIDUALS

PROFESSIONAL ADVISORS



HMRC's policy is to deal with fraud through the cost effective civil investigation of fraud (CIF) procedures wherever appropriate. Civil investigations are conducted in accordance with the principles set out in Code of Practice 8 and Code of Practice 9. Criminal investigation is reserved for cases where HMRC needs to send a strong deterrent message or where the conduct is such that only a criminal sanction is appropriate. However, HMRC reserves complete discretion to conduct a criminal investigation in any case and across a range of offences and in all of the areas for which the Commissioners of HMRC have responsibility.

HMRC use the Contractual Disclosure Facility (CDF) in circumstances where they suspect serious tax fraud, but where they don't think that a criminal investigation is necessary or appropriate. Under the CDF, HMRC offers not to pursue a criminal investigation into any tax fraud which the taxpayer may disclose, provided that the taxpayer admits fraud and makes a full disclosure of all irregularities in their affairs and the affairs of any entities which they are responsible for.

HMRC conduct an investigation under Code of Practice 9 with a view to the imposition of a civil penalty for fraudulent conduct if their suspicions are confirmed. The purpose of the enquiry is to determine the outstanding tax liabilities and interest and HMRC will impose civil penalties for fraudulent conduct if appropriate. HMRC will undertake the investigation with or without the taxpayer's voluntary co-operation. If the taxpayer decides to cooperate with HMRC, the investigation will proceed more quickly, efficiently and advantageously for both parties.

How we can help

We have extensive experience of helping taxpayers in Code of Practice 9 enquiries to regularise their tax affairs with HMRC on a civil basis. We support and guide the taxpayer through what is a stressful investigation with minimum disruption to their lives. We will prepare the disclosure report on your behalf and work with accountancy firms to ensure that your tax affairs are regularised as expeditiously as possible.

Wither's tax investigation team has had extensive experience in Contractual Disclosure Facility Code of Practice 9 investigations and has advised clients in relation to those investigations as well as Criminal Investigations appertaining to both direct and indirect tax investigations.

Our experience in this area includes:

- Acting for a number of high net worth tax payers who are FCA regulated, arising from HMRC's investigation into the Montpelier group.
- Advising professional intermediaries arising from HMRC's investigation into Blackstar.
- Advising a legal professional who had failed to disclose overseas bank accounts to HMRC.
- Numeorus other individuals who have used the process to avoid a criminal investigation.

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