

## **Are your business records robust for tax purposes?**

### **Background**

HM Revenue & Customs ('HMRC') have announced that they intend to introduce a programme of Business Record Checks that will review both the adequacy and accuracy of business records within the 'small and medium enterprises' ('SME') sector. HMRC have produced a consultation document seeking views on how best to implement the programme to achieve a major improvement in the standard of record keeping in SMEs. It is important to note that, HMRC are not seeking views on whether to introduce the programme, it will happen, rather they are seeking views on how to implement.

No new legislation is required as HMRC will use existing law regarding both record keeping requirements and penalties for failure to comply with those requirements. HMRC state that penalties will be imposed for significant record keeping failures. However, significant is not, as yet, defined, this is part of the consultation process.

### **Who will be impacted?**

Any SME defined as a business with a turnover of less than 50m Euros and less than 250 employees.

### **What has prompted this?**

HMRC undertook a random enquiry programme which indicated that poor record keeping is a problem in around 40% of all 5 million UK SMEs. Research indicates that poor business record keeping typically leads to an under assessment of tax.

### **Objectives of the Checks**

HMRC state that their objectives are as follows-

- To check business records in up to 50,000 cases;
- To impose penalties for significant record keeping failures;
- To bring about an improvement in record keeping where it is currently below standard;
- To reduce the tax losses to the Exchequer that result from poor business records.

### **How will the penalties be calculated?**

The penalty regimes for failure to comply with record keeping obligations differ between Direct Tax and VAT.

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For Direct Tax, the law states that failure to comply can lead to a penalty ‘not exceeding £3,000.’

For VAT, the penalty is an amount per record equal to the ‘prescribed rate’ multiplied by the number of days on which the failure continues (up to a maximum of 100 days) of £50, whichever is greater.

The prescribed rate is between £5 and £15 depending on the history of failures.

As there are different penalty regimes for each of the taxes, for both the record keeping requirements and the failure to comply, it is possible to receive more than one penalty. However, HMRC have stated that it would not be their intention to raise more than one penalty but instead will apply whichever penalty is higher.

The consultation period closes on 28 February 2011. The consultation document can be found on the HMRC website with details of the address to which you direct your response contained therein.

If you would like to discuss this or any other tax matter, please contact us.

**Elysian Associates**

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