

Case defeats cost HMRC millions in legal costs

HMRC spent more than £2m in legal costs following lost cases in 2019/20, according to research by law firm Pinsent Masons. This represented an 88% hike in the amount HMRC shelled out in legal costs to taxpayers for the period.

In the 2018/19 tax year, the taxman settled 34 cases, costing HMRC some £1.34m. In 2019/20 that had jumped to 43 cases, costing it more than £2.5m.

Pinsent Masons' research found that the jump in court costs awarded suggests that HMRC is pursuing more disputes and more complex issues through the courts system. The data suggests HMRC paid out on average some £58,277 per case in 2019/20, up from £39,014 the year before.

The law firm said the rising average indicates HMRC is losing more complex and drawn-out cases against taxpayers, where legal costs are much higher.

Pinsent Masons partner Steven Porter said: "The rise in the number of cases where taxpayers were awarded costs may suggest HMRC has been too bullish in some of the cases it has chosen to litigate."

The costs incurred by HMRC represent a relatively small proportion of the money it collects through disputes.

Separate research by Pinsent Masons found HMRC is generating greater returns on compliance work. For example, the taxman collected £107 for every £1 spent on staff costs for investigations into the UK's largest businesses last year. It is therefore likely that HMRC will continue to pursue cases through to litigation to increase their yield.

A HMRC spokesperson said: "HMRC litigates in accordance with its obligations as the tax authority, and the Litigation and Settlement Strategy supports the correct discharge of those obligations."

HMRC's Litigation and Settlement Strategy (LSS) is HMRC's internal rules governing its approach to resolving disputes.

The LSS makes it impossible for HMRC to settle an investigation when they believe there is a greater than 50% chance of winning the case. In such circumstances, HMRC will only settle for all of the tax they believe is due. The only way for taxpayers to reduce the amount of tax owed is to dispute it in court.

In 2017, HMRC updated the LSS to reduce the chance of disputes reaching court. However, the length of time it takes for cases to reach tribunal stage means it may be several years until it is clear whether these changes have been effective.

Porter added: "The rigidity of HMRC's settlement strategy means that cases in which both HMRC and the taxpayer feel they have a high chance of winning can't be settled – there is no room for splitting the difference under the LSS."