Where HMRC gets data about YOU

Lee Sharpe looks at the various methods and sources that HMRC uses to compile data about, well, everyone

HMRC is fast becoming more interested in amassing data about UK taxpayers than in collecting 'boring' tax revenues. Set out below are some of main routes that HMRC uses to 'get to know its customers'.

General information powers

Put simply, HMRC has formal powers to request any information or documentation 'reasonably required to check a taxpayer's tax position' (FA 2008, Sch 36).

HMRC takes a very broad approach to what it thinks is 'reasonably required'. Note in particular:

- This power is not limited just to information on businesses, or just income tax, but basically applies to virtually any head of tax.
- It is not limited to a tax return enquiry (although they are frequently deployed during such enquiries).
- In fact, it can request information, etc., regarding liabilities either not yet included in a person's tax return, or even on a future tax liability.
- HMRC doesn't have to ask the taxpayer for the information: it can contact their bank, credit card company or similar intermediary for information specific to them (although it usually has to ask first; see below).
- HMRC can ask third parties about as-yet-unknown taxpayers, who may have been involved with particular financial transactions or invested in specified categories of financial products.

This is one of the main reasons why tax advisers and accountants generally recommend that you keep your private bank account(s) and your business bank account separate; you may well have personal expenditure that is no concern of HMRC's.

Bulk data gathering

Some of the above requests of third parties can be quite voluminous, and potentially cover hundreds of a business' clients.

However, HMRC can also (under FA 2011, Sch 23) require various 'data holders' to provide bulk transaction data on potentially all that data holder's many thousands of customers or clients, for example:

- Letting agents issued with a notice to provide details of gross rents received for clients in a tax year, on a per-property, per-client basis.
- Property websites, to provide details of (say) all listings published in a year, and who listed them.
- Online platforms/intermediary sites such as Airbnb, eBay, or building trades ratings/listings.
- Credit reference agency data (e.g. Equifax credit rating, or similar) – likewise applications to mortgage providers.
- Customer lists for websites offering subscriptions to 'luxury' items or services – designer watches, fine wines – even charities.

Note that HMRC is able to specify exactly what information it wants. Such records are typically stored digitally, so HMRC can usually analyse individual transactions and tie them in to specific taxpayers with minimal effort and without human intervention.

However, one of the problems with websites such as eBay is that it is not always possible for simple data analysis to distinguish between the sale of privately-owned and used items (which would not be a trading activity) and the sale of items on a commercial basis (which might well be trading).

Social media

HMRC is understood to 'scrape' data from public-facing social media sites, to find keywords or phrases such as 'luxury holiday' or 'business'.

There are also many micro-businesses run from home that advertise predominantly on social media but will otherwise leave a negligible footprint (some readers will recall that, many years ago, local tax inspectors used to check their local newspapers, newsagents' and post offices' notice boards for similar small-scale operations).

Other channels within HMRC

HMRC will be able to use information from new sources, for example:

- Stamp duty land tax returns paying the 3% higher rate for additional dwellings (or the devolved equivalents in Wales and Scotland);
- The new 30-day CGT return of disposal of UK residential property (introduced from 6 April 2020) may well trigger HMRC to enquire whether the property subject to CGT had historically been a source of letting income;
- The new trust registration service, which is to be used, broadly speaking, to provide details of trusts with assets, etc., generating a UK tax liability.
-

Other government departments

HMRC also receives information from:

- Local councils for details of properties rented to tenants in receipt of housing benefit and licensed lettings such as HMOs;
- HM Land Registry, with details of registered legal owners;
- Companies House, such as when new companies are formed, its registered office and its company officers;
- DVLA – to highlight expensive cars.

Other governments

Increasingly, HMRC is exchanging taxpayer data with other tax authorities around the world, under the international exchange of information framework. More data is being exchanged, and it is subjected to more sophisticated analysis.

For example, another country's tax authority may ask HMRC to request (and forward) financial information from a UK bank or similar financial institution, about a taxpayer (a 'financial institution notice', or 'FIN'). HMRC will in turn expect other tax authorities to do the same when it lodges a similar request (see also below).

The spite factor

HMRC has tax evasion and fraud hotlines, and it is quite possible that at least some of the reports made thereto will be genuinely public-spirited and veracious.

Making a CONNECTion

HMRC feeds all this data into one of the largest databases in the world, called CONNECT. It has over a billion pieces of information on UK taxpayers, and it is used to highlight suspected cases of undeclared income, where the income declared on a taxpayer's tax returns, etc., is at odds with his or her lifestyle, according to Facebook, credit card payments, etc.

HMRC claims that CONNECT works well and has been hugely successful, both in terms of raising billions of pounds in additional tax revenue from investigations, and in the prevention of organised frauds against the Exchequer.

But HMRC's reliance on such clever software is not always inspiring. An infamous case involved HMRC's denying a lady's renewed tax credits claim, on the basis that she had failed to declare that she was living with another person (a Mr Martin McColl), and his income had been omitted from what should have been a joint household claim. When the claimant pointed out that Martin McColl was in fact the trading name of a network of over 1,500 newsagents – and in turn the first line of the address of her local post office, where she wanted her tax credits to be paid – HMRC doubled down and asked for proof that she was not living with the said Mr McColl!

The digital future

HMRC wants access to as much information on taxpayers as possible and does not like to have to ask. As noted above, HMRC usually has to ask the taxpayer's permission before it can ask a bank or similar institution to provide it with financial information about them. Alternatively, it has to ask the tribunal. HMRC stated in 2018 that it needed to be able to approach banks directly, because it was taking too long to comply with requests from other tax authorities.

All the professional bodies expressed concern that this would remove constraints on HMRC's information powers but, at the time of writing, the draft legislation for next year's Finance Act not only allows HMRC now to go straight to the banks, etc., on behalf of other tax authorities, but also for its own tax enquiries, and to collect tax debts.

HMRC is frothing at the mouth over taxpayers having to make quarterly returns under making tax digital (MTD), to feed yet more data to CONNECT. I suspect it will not be long afterwards before HMRC starts asking to use the mandatory MTD portal to access a taxpayer's business records (typically stored in the cloud) whenever it wants.

Conclusion

HMRC has accumulated significant powers over the last few years, both in terms of requiring taxpayer information, and also setting out how taxpayers should organise and maintain their own financial records in future. I am confident that MTD will not meaningfully benefit taxpayers, but standardising record-keeping (on HMRC's terms) will make life much easier for HMRC. Taxpayers and advisers should realise that HMRC's ambitions for MTD stretch well beyond the goals it has set out for the next year or so.

***Lee Sharpe** is a Chartered Tax Adviser and tax consultant with over 20 years' experience in helping individuals, families, businesses and advisers with their tax affairs. This article first appeared in Tax Insider*