Business tax enquiries: take note

Amit Puri helps you navigate potentially hazardous Business Risk Reviews and explains the role of the Customer Compliance Manager

Whichever part of HMRC a comparatively larger business is the target of, these business enquiries are typically carried out by a team of officers. This calls for increased resources being required at the business' end – that is more people and time resources, and so more costs, too.

These enquiries should not to be confused with regular compliance checks into simpler corporation tax (CT) returns, which typically focus on a single accounting period and sometimes just a handful of aspects. The complex business enquiries discussed in this article are those that significantly disrupt the owners' lives and/or their finance team's and/or their advisers'.

What is a Customer Compliance Manager?

HMRC try to ensure continuity in terms of contact and a deeper industry specific understanding of the business. To do this, they appoint a dedicated Customer Compliance Manager (CCM, formerly known as a Customer Relationship Manager) for businesses managed by HMRC's Large Business directorate (LB).

CCMs also take responsibility for a section of large businesses that fall within HMRC's Wealthy & Mid-sized Business Compliance directorate's (WMBC) remit, formerly referred to as Customer Co-ordinators.

HMRC's LB manage (and thus constantly review) the very largest businesses, which typically have an annual turnover of over £200 million, or lower where the business or the sector in which it operates in is complex. There are reportedly about 2,000 such large businesses operating in the UK.

HMRC's WMBC enquire into businesses typically with an annual turnover of £10 million or more, which they estimated numbering about 160,000 in 2023. Instead of a permanent CCM – as in LB – in WMBC the focus is on running the cross-taxes enquiries.

What is a Business Risk Review in LB?

A Business Risk Review is supposed to be a collaborative evaluation of potential tax risks, conducted between the business and HMRC, led by the CCM. The key objectives of this assessment include determining the business' overall risk rating and status, outlining any actions to take to reduce risk, and identifying the resources and scrutiny correspondingly required. For businesses with low-risk ratings, the full assessments are done every three years, while moderate to high-risk companies continue to undergo annual reviews.

The CCM's role is to develop an open and cooperative collaboration between the business and HMRC, to address any tax compliance risks in real-time. The CCM seeks to gain insights into the business' tax risk strategy, profile and sector – including assessing the appropriateness of the tax accounting arrangements. In practice this means discussing key tax compliance risks and corresponding risk control strategies within the business as soon as possible. (Note: LB's total revenues for the 2022-23 reporting year, from compliance action, was £8.6 billion.)

What is a Business Enquiry in WMBC?

A comprehensive compliance check or (full) cross-taxes enquiry is much more involving than a routine enquiry. As above, it too is resource-intensive, led by a CCM who brings with them a team of specialists, typically covering VAT and Employer Duties like PAYE and NICs as well as CT. Not all businesses, even those that are more financially capable, have specialists in-house nor do they have finance teams that can spare the attention and time required on such an enquiry. HMRC wants and prefers a team-on-team approach wherever possible.

The CCM will ask for a meeting with the business owner(s) assuming they're involved in the business, as well as those responsible for the record keeping and accounting and tax preparation. They want to understand:

- How the business operates in practice;
- The contemporaneous records maintained;
- The accounting processes followed;
- The underlying responsibilities; and
- The subsequent adjustments made ahead of accounts finalisation.

If not during the initial meeting, HMRC will quickly ask for a comprehensive download of the electronic accounting records, which they may offer to assist the business with (using their Data Handling specialists).

While its almost certain that only the one accounting period will be under enquiry formally for CT purposes, HMRC will encourage the sharing of some four years' worth of records to support the VAT returns submitted and thus collect a vast amount of data. In practice, this is then used for CT too – this happens almost all of the time!

So beware of requests for information where sampling should be offered and encouraged instead, to restrict the outflows of information and to better manage the next stages of the enquiry.

Armed with huge volumes of business accounting records, HMRC will identify tax risks for pursuit. They typically organise themselves internally by creating an Action Plan, which the various specialists feed into (again, for example CT, VAT, PAYE and Income Tax related queries). They do not hide these; they share them with the business to focus its mind on the risks identified and thus the task ahead. It's not uncommon for a business to become aggrieved at this stage, especially after they had entertained a meeting and innocently shared vast business records, hoping that HMRC would be pleased and simply move on.

It's normal for the pain to show as the enormity of the task becomes clear. Whether the business complies fully, partially and/or belatedly, the Action Plan needs to be understood and worked on with the goal of sufficiently satisfying HMRC as to the non-risky nature of the matters concerned, and encouraging them to move on without delay. There will be several lines of enquiry, which unfortunately in practice have a life of their own!

So it goes without say that sharing too much information, especially where it was unnecessary or not sampled, is just as dangerous as withholding information or refusing to resource the request for it properly. We don't cover the detailed workings of nor the skills and techniques required to best manage a HMRC enquiry in this article, because there is much to know and discuss and for the sake of brevity. But we can confidently say that these types of enquiries do not disappear quickly because one just wants them to, so be prepared to work hard on them. A deep understanding of the processes and experience of handling the risk-based approach HMRC takes ensures the scope of these enquiries is narrowed sooner and a conclusion comes into sight as quickly as possible.

(Note: WMBC's total financial yield for the 2022-23 reporting year, from compliance action, was £5.9 billion. But out of this, the CT collected was £579 million, and the highest head of tax collection came from Income Tax at £2.683 billion (but which would largely include revenues from the 'Wealthy' arm of WMBC).)

For businesses on the receiving end of HMRC's in-depth enquiries, they first tend to continue relying on their familiar and sometimes long-standing accountants, tax partner, audit adviser, etc.. Understandably, these relationships have been built over time and offer a sense of security.

However, the businesses are at crossroads and so should consider alternatives. For example, the existing adviser might lack the increased resources required to handle the enquiries expeditiously and/or the knowledge and experience required to handle the increased technical complexities, as well as the need to analyse bulk records quickly. In many cases businesses notice shortcomings in their adviser's management of the enquiry process, which leads to several problems such as:

providing HMRC with too much information (usually unnecessary or irrelevant), causing additional/deeper lines of enquiry;

providing too little information on the basis of falsely believing they are protecting their client's interests (this is especially bad where statutory business records are withheld or HMRC are encouraged to use their formal information powers);

generally antagonising the HMRC officer(s) through a dilatory approach and/or simply blocking them unabatedly, hoping HMRC will just go away; and

there is the adviser's natural fear of admitting a mistake(s) or oversight, and even negligence which may be identified through the enquiries.

Conversely, crucial necessities of expertly managing HMRC's large business enquiries are:

striking the right balance between collaboration and challenge;

timely transparency and selective information/records sharing, only after having considered sampling to keep costs down and make progress more quickly; and

ensuring a comprehensive, well-thought-out construction accompanies any and all information being shared, so that HMRC officers don't have to build the background/story (incorrectly) themselves.

A business enquiries specialist should critically evaluate everything the business is asked for by HMRC, everything they then gather and collate, and identity alternative records/evidence wherever appropriate, to demonstrate the facts in the best possible light. One should assist HMRC in their endeavours rather than being at loggerheads unnecessarily. After all, everyone should want a fastidious approach and thus a conclusion, which ought to be a negotiated and agreed one.

• *Amit Puri is the founder of Pure Tax. Email* amit@pure-tax.com