
REVIEW OF HMRC POWERS, DETERRENTS AND SAFEGUARDS: COMPLIANCE CHECKS

Who is likely to be affected?

1. Individuals and businesses who are involved with the environmental taxes (aggregates levy, climate change levy and landfill tax), insurance premium tax (IPT), stamp duty land tax (SDLT) and stamp duty reserve tax (SDRT), inheritance tax (IHT) and petroleum revenue tax (PRT).

General description of the measure

2. Legislation will be introduced in Finance Bill 2009 to apply the compliance checking framework introduced by Schedules 36, 37 and 39 to the Finance Act (FA) 2008 to a number of other taxes which HM Revenue & Customs (HMRC) administers. A number of specialist powers which are no longer needed, as a result of the 2008 legislation, will be repealed and a penalty introduced where a person carelessly or deliberately provides inaccurate information or a document that contains an inaccuracy. Such a penalty was previously provided for under section 98(2) of the Taxes Management Act 1970.
3. These changes have been subject to recent consultation as part of the ongoing work of the Review of HMRC's Powers, Deterrents and Safeguards and Tax Administration to provide a modern framework of law and practice for HMRC.
4. There will be the following elements:
 - aligned and modernised record-keeping requirements;
 - new inspection and information powers including a modernised HMRC valuation power;
 - better aligned time limits for making tax assessments and claims; and
 - repeals.

Operative date

5. The repeal of specialist information powers will be introduced by secondary legislation. The intention is that the relevant order will be laid once Finance Bill 2009 receives Royal Assent.

6. The record keeping requirement, information and inspection powers will be brought into effect by Treasury Orders with the date they have effect specified in the Orders. This is expected to be 1 April 2010.
7. Time limits for making assessments and claims need a transitional period and are not expected to become fully operative until 1 April 2011. A Treasury Order will bring the changes into effect and specify the operative date.

Current law and proposed revisions

Record-keeping requirement

8. Primary legislation currently requires records to be kept which a taxpayer needs to make an accurate return. Further detail is then set out in secondary and tertiary legislation. The current rules differ between taxes and the new requirement aligns high-level rules, creating a common framework. Detailed requirements remain unchanged. In light of consultation responses, no new requirement for IHT, PRT or SDRT is being introduced.

Information and inspection powers

9. The way in which information can be obtained and inspected differs for the different taxes. Authorisation levels, penalties and appeal rights also differ across the different regimes. The new powers will align and modernise the way in which HMRC checks records and information to ensure that the right tax is being paid or returned. Applying the compliance check framework to other taxes means one set of rules across the taxes and a substantial overall increase in safeguards.
10. The new framework consists of:
 - a power to inspect statutory records required under the record-keeping legislation;
 - a power to require supplementary information which is relevant to establishing the correct tax position;
 - a power to require third parties to provide information which is relevant to establishing a taxpayer's correct tax position;
 - continued provision for certain involved third parties. These are parties other than the taxpayer from whom HMRC asks for information, since they hold key information to check the right amount of tax has been paid;
 - a power to visit business premises and to inspect records, assets and premises;
 - a modernised valuation power which increases safeguards and restricts current powers to undertake valuation inspections at private homes;
 - appeal rights against any penalty, and against information notices which have not been pre-authorised by an appeal tribunal; and
 - penalties for failure to allow an inspection and failing to comply with an information notice, including a tax-geared penalty which can be imposed by the new Upper Tribunal.

Claim and assessment time limits

11. Time limits for changing the amount of tax due by assessment vary across the taxes. Current and proposed aligned time limits are set out below:

Current Time Limits

Tax	Claims	Mistake	Careless	Deliberate
environmental taxes: (aggregates levy; climate change levy and landfill tax)	3 years	3 years	3 years	20 years
insurance premium tax	3 years	3 years	3 years	20 years
stamp duty land tax	6 years	6 years	21 years	21 years
stamp duty reserve tax	6 years	6 years	6 years from date fraud or negligence comes to HMRC's knowledge	
petroleum revenue tax	5 years 10 months	5 years 10 months	20 years 10 months	20 years 10 months
inheritance tax	Varied	6 years from the date when the (last) payment of tax was made, or the date when fraud, default or neglect comes to HMRC's knowledge.		

Proposed aligned time limits

Tax	Claims	Mistake	Careless	Deliberate
environmental taxes: (aggregates levy; climate change levy and landfill tax)	4 years	4 years	4 years	20 years
insurance premium tax	4 years	4 years	4 years	20 years
stamp duty land tax	4 years	4 years	6 years	20 years
stamp duty reserve tax	4 years	4 years	6 years	20 years
petroleum revenue tax	4 years	4 years	6 years	20 years
inheritance tax	4 years	4 years	6 years	20 years

12. Time limits for taxpayers' claims will also be aligned at 4 years.

Repeals

13. Approximately 40 specialist income tax, corporation tax and capital gains tax information and inspection powers will be repealed. The powers in Schedule 36 to FA 2008, which incorporate improved safeguards for the taxpayer, will be used instead.

Further advice

14. This measure was the subject of consultation in November 2008 - *Compliance Checks: The Next Stage* with draft legislation on information and inspection powers. Draft legislation on record-keeping and time limits for assessments and claims was published in February 2009. A summary of responses and a Final Impact Assessment including an explanation of any resulting changes has been published today on the HMRC website.
15. If you have any questions about this change, please send an email to powers.review-of-hmrc@hmrc.gsi.gov.uk or contact Maria Richards on 020 7147 3223. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk