

# Compliance Checks Podcast –Transcript

- David** Hello, I'm David Prever, and I'm with Simon Norris from HMRC to talk about the new legal framework for HMRC compliance checks. Simon, welcome.
- Simon** Hello, David.
- David** Right, Simon. What are all these new compliance checks about?
- Simon** Well, when HMRC was set up from the two old departments – Customs and Revenue – the existing powers were ring-fenced. That was the right thing to do at the time, so that you had one set of powers for income tax, and another set of powers for VAT. But it doesn't make sense going forward. We're now looking at how they work, whether they can work better, and – where it makes sense to do so – how they can be aligned into one set of rules. And that's not just about tidying up. What we're trying to do is to provide more support to people who take care to pay the right amount of tax, but come down harder on those who deliberately try to gain an advantage by not paying the right amount.
- David** Okay. What does that all mean in practice?
- Simon** Compliance checks for most people should be quicker. And as well, we will have the ability to look at direct and indirect taxes at the same time, which must be more efficient all around. And we'll be doing a lot more to make sure that people understand their obligations and rights when we do make a check. The changes mean that, broadly, they'll be one set of rules and safeguards that govern how HMRC can make checks, and see documents and other information. They'll be common rules for record-keeping, but with the emphasis on the taxpayer keeping the records that are right for them, and allow them to make an accurate return for their business. Finally, time limits are changing – broadly, there will be a four-year time limit for VAT and Income Tax and Corporation Tax within which HMRC can make an assessment, where people have a mistake. That compares with three years for VAT and six years for Income Tax and Corporation Tax, currently.
- David** So when do they start?
- Simon** We anticipate that the record-keeping requirements, information and inspection powers will operate fully from 1 April 2009. Time limits, though, will have a transitional period, and should be fully effective from 1 April 2010. I

say should be, because we're still looking at the impact of a reduction in claims time limits, to see whether extra transitional rules are needed to help people.

**David**

So, which checks do these checks apply to?

**Simon**

Income Tax – including Pay As You Earn and the Construction Industry Scheme – Capital Gains Tax, Corporation Tax and VAT. They'll also apply to National Insurance Contributions and to the National Minimum Wage, once new regulations have been laid before Parliament.

**David**

So, who exactly needs to be aware of these changes?

**Simon**

Obviously, all tax advisers need to. But also taxpayers themselves. New clients are going to need help to understand the record-keeping requirements, and existing clients will need to be reminded about the need to keep records. And, of course, our staff, as well. We're putting a lot of effort into training them – not only on the new powers and safeguards – but in how they should behave when they make the checks.

**David**

And can you give us a bit more information about those safeguards?

**Simon**

There are very many safeguards – certainly, more than was set out in the law before. And they're supplemented with codes of practice, help sheets, and the same guidance that we give to our staff. The safeguards concentrate on four areas. First, is the way we use the powers proportionate? So, are the actions we take appropriate for the risk we want to address? Secondly, are the actions our staff take reasonable? For instance, we've made it much clearer what our staff can, and cannot do, when they visit a business. Being reasonable also means making sure that taxpayers know how to put things right, including their appeal rights, if they think things have gone wrong.

**David**

And the other two areas?

**Simon**

Well, there's clarity. Taxpayers need to be able to understand what they have to do, and what their rights are. And there needs to be consistency. Taxpayers need to know that they are being treated in the same way as others in similar circumstances. Aligning the taxes helps here. To reiterate, we will provide safeguards by being proportionate, reasonable, clear and consistent.

**David**

What do agents and small businesses need to do then?

**Simon**

They need to familiarise themselves with the new rules for compliance checks, together with the new penalty

regime for inaccuracies. And they shouldn't wait until they have a compliance check before doing that. It makes sense to make sure that record-keeping and accounting processes are adequate and can be explained. Good records underpin accurate tax returns. And accurate tax returns mean no penalties. Most agents already advise their clients about keeping records, but it can be difficult to persuade some clients to put in the right amount of time to what is seen as an unproductive task. Hopefully, the emphasis on taking reasonable care in the new penalty regime will help. And, of course, good records always make for sound business decisions. Where a client is subject to a compliance check, agents will want to ensure that their clients are aware of their rights, and obligations, under the new law.

**David**

Is HMRC offering me any help, Simon, to implement these changes, as a business person or an agent? Is there any guidance available?

**Simon**

Yes, we've made an e-learning package available to everyone from 31 January. And we will be publishing our guidance – the same guidance we give to our staff – by the 31 March, before the new system comes in. We're already consulting with representative bodies about the content and format of guidance and training material. And we're giving many presentations to tax advisers, writing articles in the tax press and we hope we'll be able to undertake joint training sessions with the professions. It will be really good to have staff and tax advisers debating the issues together, and coming to a common understanding.

**David**

Are HMRC staff fully trained? How will you ensure the checks are introduced consistently?

**Simon**

We began implementation of the new powers very shortly after last year's Finance Bill was passed. Our staff are going through a comprehensive training programme at this time. They will not be allowed to use the new powers until their managers have confirmed that they have successfully completed this. I think it's important for tax advisers to realise that. There will be additional training, as well, for those officers who authorise special powers.

**David**

But isn't this really onerous for small businesses, especially those that are struggling to survive? Really, this is all they need, isn't it?

**Simon**

No. The intention is really quite the opposite. Where we think that something may have gone wrong, we want to sort it out much more quickly. We want to move the emphasis to putting matters right for the future. Whether or not we make a check is based on the risk that we

have assessed. Especially for direct tax, the old checks have taken a long time – too long a time. I believe that the new framework provides a potential, if we and the professions can work together, to radically reduce the time that checks take. Where once we may have thought months, we should now be thinking weeks.

**David** Now, there were some stories about HMRC being able to turn up at private premises and homes for an inspection – is that true?

**Simon** I think some people got themselves some free publicity out of those scare stories. I'd like to make a few things clear: we do not have a power to enter private homes; we will do so only if we are invited in or, exceptionally, where we have obtained a warrant as part of a criminal investigation; where a private home is being used for a business, we can inspect the business aspects of it, if it's reasonable to do so. For example, if a large amount of stock is being kept in a private home, it could be important to see this, to check the correct tax is being paid. If all someone does is simply write up their records at home, that's not a reason for us to inspect those records in the home. Instead, we would ask the person to send the records to us, at our offices, or we might ask for them to be sent to the agent's, where we could look at them, as well.

**David** What does the future hold, then? Are there any plans to extend these checks to other taxes?

**Simon** Yes. We're exploring the extent to which it makes sense to extend the regime across the taxes and duties that HMRC deals with. One set of rules and safeguards for the checks HMRC makes seems sensible, but we will want to consider each tax, and each circumstance, carefully.

**David** So, finally, Simon, where can people get more information?

**Simon** Well, I think the best place to start is the HMRC website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk), and that has a special area for agents. Businesses might also like to try [www.businesslink.gov.uk](http://www.businesslink.gov.uk).

**David** Simon, thank you very much.

**Simon** Thank you.