

An HMRC enquiry could happen to you

HMRC enquiry service

HMRC – the threat is real

In the past, HMRC's role was to ensure that you or your business paid the right amount of tax.

However, in recent times, HMRC has targets to maximise the amount of revenue it can collect from taxpayers. Indeed, in 2018/19 HMRC was tasked with collecting an additional

£30bn* in revenue for the Treasury.

HMRC exceeded this in part by re-orienting its systems and processes for five key groups.

Individuals – £4.2bn generated

Increased focus on property risks for individuals, fed by information from HMRC's Connect software.

Residence and domicile positions have increasingly been challenged.

Small businesses – £5.6bn generated

Transactions in cash have been scrutinised, as have the level of payments made to directors and key employees and expenses of the business.

Mid-sized businesses – £4bn generated

Checking the tax position across multiple taxes has been a key area of focus.

Large businesses – £10bn generated

With a focus on Base Erosion and Profit Shifting (BEPS), HMRC is tackling perceived tax avoidance by multinational corporations.

Even if HMRC finds there is no additional tax to pay, the burden of a tax investigation can have a serious impact on your financial security. A specialist and professional defence will help reduce the burden of an enquiry.

Reasons to act now

1

A tax enquiry or investigation can happen to anyone, at random, whether you are an individual or in business.

2

HMRC is working hard to collect more revenue than ever before. Last year it generated £34.1bn* from HMRC enquiries and is expected to be even higher this year. This means that the chances of being selected for an enquiry are increasing.

3

HMRC is becoming more sophisticated in its approach to recovering additional tax. With the details held within its Enterprise Data Hub, it has amassed facts and figures about taxpayers' financial activity - it already holds more information than the British Library. This enables it to be increasingly targeted when making enquiries and in its selection of those it chooses for investigation.

4

Don't underestimate the impact on you or your business of being selected for an enquiry.

5

The HMRC enquiry service ensures that you have an experienced professional on your side when you need them.

Over **£34bn** recovered from HMRC compliance checks

*Source: Overview of HMRC's annual report and accounts 2018 to 2019, last updated 1 August 2019

www.gov.uk/government/publications/hmrc-annual-report-and-accounts-2018-to-2019/overview-of-hmrcs-annual-report-and-accounts-2018-to-2019

HMRC enquiry service summary



Service period 1 July to 30 June

To protect clients, Smith & Williamson LLP offers an HMRC enquiry service to complement its tax return service. It is fully backed by an insurance policy under which we reclaim our costs.

Subscribing to the service safeguards you from most defence costs in the event of an enquiry or investigation starting during the subscription period. The subscription period starts on the later of 1 July, or the date the payment is received, to the following 30 June.

Your usual Smith & Williamson contact can provide details, including the fee for the service.



Service details

The service is available where Smith & Williamson is engaged in the preparation and submission of one of the following tax return types:

- corporation tax returns
- partnership tax returns
- sole trader tax returns
- personal tax returns
- trust and estate tax returns.

It provides fee protection of up to £100,000 in the event of:

- full and aspect enquiries into that return
- disputes into:
 - VAT
 - employer compliance (PAYE, P11D and NIC)
 - IR35
- HMRC use of information and inspection powers/ Sch 36 pre disputes in respect of:
 - VAT control visits
 - employer compliance visits
 - check of employer records
 - interventions
 - requests for information
 - capital gains tax.



Main exclusions

- Failure to notify/register for tax or VAT
- Late returns
- Notification by HMRC prior to subscribing to the service
- Fees incurred prior to the written acceptance of a claim
- Compliance costs associated with routine submission of statutory returns, eg. P11Ds, real time information (RTI) returns, Construction Industry Scheme (CIS) returns etc.
- Cases of suspected fraud (eg where HMRC use their procedures called Code of Practice 8 or 9 or issue Public Notice 160 enquiries)
- Where there is no reasonable prospect of challenging HMRC
- Costs for third party valuations
- Tax planning arrangements disclosed as tax avoidance schemes, where HMRC has allocated a DOTAS number and/or bespoke tax planning arrangements outside of the normal trade
- Smith & Williamson ceasing to be engaged in the preparation and submission of tax returns
- Fees arising after becoming insolvent and/or the appointment of a liquidator or receiver

In the event of an investigation, Smith & Williamson LLP will represent you, or your business, and reclaim any costs incurred in dealing with the enquiry directly from the insurance company.

Clients will be responsible for any fees that we cannot recover from our insurers.

Smith & Williamson LLP will be responsible and have the discretion for making claims under our policy.

Subscribe today

With HMRC recovering 5% more tax through enquiries last year than it did in the previous year we believe that an HMRC enquiry is a real threat over the next few years.

Subscribing to the HMRC enquiry service ensures that we will:

- handle all meetings and correspondence with HMRC;
- negotiate on your behalf to make certain that you pay the right amount of tax;
- take responsibility for ensuring that you are treated fairly by HMRC; and
- safeguard you from most of the professional costs of your defence.



That is why we recommend that all eligible clients **subscribe to this service today**. Remember, the annual cost for the enquiry service is a fraction of the typical costs of a defence.



Visit our website for more information: smithandwilliamson.com

Our offices: London, Belfast, Birmingham, Bristol, Cheltenham, Dublin (City and Sandford), Glasgow, Guildford, Jersey, Salisbury and Southampton.

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Important information: Tax legislation is that prevailing at the time, is subject to change without notice and depends on individual circumstances. Clients should always seek appropriate tax advice from their financial adviser before making financial decisions.

We have taken great care to ensure the accuracy of this publication. However, the publication is written in general terms and you are strongly recommended to seek specific advice before taking any action based on the information it contains. No responsibility can be taken for any loss arising from action taken or refrained from on the basis of this publication.

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HMRC enquiry service

Frequently Asked Questions

What is the HMRC enquiry service?

The HMRC enquiry service (HES) complements our tax return compliance service and safeguards from most defence costs in the event of an enquiry or investigation starting during the subscription period. The subscription period starts on the later of 1 July, or the date the payment is received, to the following 30 June.

For an annual fee, clients can join our service and obtain the benefits described further below.

The service is backed by an insurance policy that we have arranged through Vantage Fee Protect (VFP). For an HES subscribing client we are able to make a claim against our insurance policy held with VFP in respect of any related time costs.

What is the HMRC enquiry service?

- We will represent you, if and when you are selected for a tax enquiry by HMRC
- The potentially high costs of professional fees for that representation will be claimed by us under the practice's insurance policy
- It will not be necessary to accept unreasonable tax charges by HMRC due to concerns about professional fees
- You will also get free access through VFP to a 24/7 Business Legal helpline and a separate Employment Law, Health & Safety helpline

I've done nothing wrong, why should I worry about a tax enquiry?

Most tax enquiries are generated by computer 'risk profiling' and many are selected completely at random. As a result, HMRC could still select you for an enquiry. Even if you have done nothing wrong, HMRC may ask detailed questions to confirm there are no errors.

Can anyone's tax affairs be scrutinised by HMRC?

Anyone who submits a tax return can come under scrutiny. Every year, HMRC start enquiries into many thousands of personal and business tax returns and accounts. VAT and PAYE payments are also thoroughly checked. The aim in every case is to collect more tax. £34.1bn of additional tax was collected through such checks in 2018/19 and the number of people being investigated more than doubled. We expect this trend to continue, particularly because the Government will be keen to recoup some of the additional expenditure incurred as a result of the COVID-19 pandemic.

I need to reduce my spending in the current economic climate

Not paying the annual cost could be a false economy. The potentially high costs of defending you in an enquiry would be much less affordable than the relatively small annual charge. One thing is certain - HMRC does not stop making enquiries into tax returns when there is an economic downturn.

Why do I need protection?

Like any other protection to meet an unexpected cost, everyone hopes that they don't need it but when a costly enquiry starts, clients are glad that they've paid the small annual charge for the peace of mind it extends in the event of an investigation.

How much could a tax enquiry cost me in professional fees?

The questions asked by HMRC are usually very detailed and time-consuming to answer. The costs of representing you can easily run into thousands of pounds, even if little or no extra tax is paid at the end of the enquiry. These costs are not protected by the normal annual fees paid to us.

What is protected by the service?

Under the service, subscribing clients will be fully protected where the practice can claim under our own insurance policy for up to £100,000 of professional costs, including in the following circumstances:

- An HMRC enquiry into a personal or business tax return
- An HMRC enquiry into any business accounts, including those of sole traders, partnerships, and limited companies
- A dispute with HMRC where additional VAT is being pursued
- A dispute with HMRC where additional PAYE tax or National Insurance contributions is being pursued
- A dispute with HMRC relating to the tax status of employees or subcontractors

A Summary of Service document detailing cover is available upon request.

What is not protected by the service?

Some costs will not be protected under the service, including the following:

- Outstanding taxes, penalties, interest or any other amounts due to HMRC
- Defence of clients in criminal prosecution cases or serious fraud enquiries
- Fees relating to pre-existing tax enquiries, or enquiries where tax returns were submitted to HMRC later than the statutory time limits (90 days)
- Tax avoidance schemes

A Summary of Service document detailing cover is available upon request.

What is also protected for a limited company, LLP or partnership fee?

To ensure seamless protection, the business fee protects enquiries into the tax returns of most the directors, partners, members and their spouses and civil partners and company secretaries - providing we prepare their tax returns.

This doesn't apply where the individual has their own selfemployment or any personal rental income more than £50,000 before expenses per annum.

Does the service cover IR35?

HMRC IR35 status enquiries are covered by the insurance policy. However, in order to ensure the validity of a claim under this legislation, the following documentation should be held as a minimum and provided to support the claim:

- Valid contract for services covering the engagement period (the contract terms must accurately reflect the day-to-day working activity)
- Confirmation that the application of the IR35 legislation has been considered and the reasons for the result (in writing produced by either you or your accountant)
- Any other supporting documentation (if available)

When evaluating the claim, there must be a reasonable prospect of successfully contesting HMRC dispute, for the claim to qualify under the insurance.

When does protection commence?

Where your fee is received prior to our policy start date then your subscription will commence from 1 July. Where your fee is received after 1 July your subscription will commence from the date your fee is received. In all cases protection in respect of a protected event will continue to the following 30 June.

When will you get an invoice?

Once we have received your payment, we will send you a receipted VAT invoice.

Can I get tax relief for the fee payment?

The service fee may be allowable as a deduction against taxable trading/property income.

VAT registered clients may be able to reclaim the VAT element of the fee on their next VAT submission.

Source: Overview of HMRC's annual report and accounts 2018 to 2019, last updated 1 August 2019

What is the impact of not subscribing to the HMRC enquiry service for some or all of the companies that form part of a group or associated businesses?

You should look to protect connected individuals and businesses for complete peace of mind. If you decide not to protect any connected business or individual and HMRC open an enquiry into this entity then we cannot make a claim on your behalf. You will need to cover the cost of any fees incurred in dealing with an enquiry.

If your tax affairs have been handled by another firm can the service protect you for this period prior to your engaging Smith & Williamson?

Yes, as long as Smith & Williamson is the acting agent for you at the time HMRC open an enquiry and you have paid the correct subscription fee for the service period in which the new enquiry is triggered.

Does the service cover any tax due, interest, and penalties incurred as a result of an enquiry?

No, it does not, you will be liable for such costs directly.

If Smith & Williamson don't look after my tax affairs, can I benefit from HMRC enquiry service?

No, you cannot, you may wish to contact Smith & Williamson about becoming a client.

Who is Vantage Fee Protect (VFP)?

VFP is a leading provider of Tax Enquiry Fee Protection. Vantage Tax Fee Protection Ltd is an appointed representative of Vantage Protect Ltd (FRN 772055) which is authorised and regulated by the Financial Conduct Authority.

They are committed to working in conjunction with us, thus ensuring your interests are fully protected.

How do I join or obtain more information?

If you have any questions relating to our HMRC enquiry service, then please do not hesitate to get in touch with your usual Smith & Williamson or one of the offices below.

Contact your local Smith & Williamson team

Birmingham
0121 710 5200

Cheltenham
01242 506 050

London
020 7131 4000

Southampton
023 8082 7600

Bristol
0117 376 2000

Guildford
01483 407 100

Salisbury
01722 431 000

Important information

Tax legislation is that prevailing at the time, is subject to change without notice and depends on individual circumstances. Clients should always seek appropriate tax advice from their financial adviser before making financial decisions.

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