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CHARTERED ACCOUNTANTS & CHARTERED TAX ADVISERS

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DO YOU NEED TO TELL THE TAXMAN ABOUT ANY UNDECLARED INCOME?

If you are in receipt of income from any source, which you have not previously told HM Revenue & Customs (HMRC) about, then it is important that you tell them before they get to you. If you don't make a voluntary disclosure now and HMRC write to you first, you could suffer higher penalties of up to 100% of the unpaid tax or even face criminal prosecution. Even higher penalties potentially apply to matters involving offshore income or gains.

Whether you have been in receipt of rental income which you haven't disclosed, had income from savings and investments which HMRC do not already know about, or perhaps sold an asset and made a gain from the sale, you should take action sooner rather than later to notify HMRC and minimise the penalties and interest which could be applied.

You may think that you are complying with the law, having checked out the tax position previously, but remember that tax rules are constantly changing and therefore even if your sources of income haven't changed for many years, the requirement to disclose that income and pay tax thereon may have. The reduction in the dividend allowance may mean that you need to be paying tax on your investment income. If you have been widowed and are now the sole recipient of income which used to be shared jointly between you and your spouse, then this may have pushed you up into higher rates of tax.

HMRC Campaigns and the Digital Disclosure Service

Over the years, HMRC have run several campaigns as part of their continuing drive aimed at encouraging different groups of taxpayers to make voluntary disclosures of previously undisclosed sources of income and only one campaign remains open: the Let Property Campaign. This is targeted at individuals with tax to pay in relation to residential property income. Where a taxpayer is not eligible to make a disclosure of previously undisclosed income via the Let Property Campaign, a voluntary disclosure should be made via the Digital Disclosure Service (or Worldwide Disclosure Facility, if the tax liability relates wholly or partly to an offshore issue).

HMRC continue to mine their data resources to try to identify individuals who have not previously made a full disclosure of their income. They have access to data from an increasing number of sources including banks and building societies, investment institutions, letting agents, the land registry and mortgage lenders etc. and they are able to use this information to compare it to individuals' tax records to determine whether full disclosure has been made.

How to notify HMRC

If you have not previously declared all your taxable income, whether mistakenly or deliberately, making a voluntary disclosure to HMRC under the Let Property Campaign or Digital Disclosure Service/ Worldwide Disclosure Facility is an opportunity to bring your affairs up to date. It is better to get it sorted, rather than having sleepless nights waiting for that letter from the Revenue. It is a good idea to seek professional advice if you are considering making a voluntary disclosure. We have the expertise needed to be able to assist you.

Note that different disclosures must be made depending on whether the arrears relate to UK or non-UK matters. Irrespective of whether

the taxpayer falls into the Let Property Campaign or makes a voluntary disclosure outside of the campaign, the process for making the initial notification, making the disclosure (including quantifying the tax due and self-assessing the penalty) and paying the tax is the same.

Notification of intention to make a disclosure is initially made by completing an online form available at the gov.uk website. HMRC will then issue a Disclosure Reference Number and a Payment Reference Number, together with details of how to make the disclosure itself, which is usually done online. It is worth noting that if the tax due relates to a jointly-held asset, separate notifications and disclosures for each party may be necessary, depending on the circumstances.

Process for making the disclosure

Following receipt of the letter from HMRC containing the Disclosure Reference Number, the taxpayer then has 90 days from the date of HMRC's letter to make the disclosure, calculate and pay the tax, interest and penalties due. It is up to the taxpayer to determine the level of penalties that they think should be payable and these are determined by the "behavioural" tests. The penalties range from lower levels, if for example an error or non-disclosure has been made despite taking reasonable care, through to higher penalties if the error or non-disclosure is careless or, in more serious cases, deliberate. The level of penalty will be lower if a voluntary disclosure is made to HMRC before they contact you first. In certain circumstances penalties can also be reduced for cooperating with HMRC as part of the disclosure.

Similarly, the number of years that you need to go back and report to HMRC will depend on the reasons for not making disclosure previously and may also depend on whether you were within self-assessment or not.

Once the disclosure has been submitted, HMRC will acknowledge receipt, usually within two weeks. All disclosures are then reviewed by HMRC and it can be a number of weeks or months before HMRC confirm their acceptance (or otherwise) of the disclosure. If the disclosure is checked and accepted, HMRC will send a letter accepting the offer made. This forms a legally binding agreement. If the disclosure is refused, HMRC will advise the taxpayer and adviser involved and set out their reasons for not accepting it and what further information/next steps are required.

If you think you may need to make a voluntary disclosure to HMRC relating to any sources of income, then please do not hesitate to contact us for assistance. We have lots of experience and will be able to guide you through the process, and hopefully help to bring those sleepless nights to an end.

The above is for general guidance only and no action should be taken without obtaining specific advice.

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