

HMRC PAYE/NI tax inspections explained

Introduction

In a previous article we discussed [HMRC Inspections](#). This article is a guide to inland revenue inspections by HMRC for PAYE and NI audits which require more careful consideration.

Frequency

Inland Revenue inspections occur on average once every 6 years, but can be every 10 to 15 years. If errors have been found in the past inspections can be every 3 years.

Reasons for Inspection

- o Randomly chosen
- o Late submission of P11D or P35 forms
- o Errors on forms submitted
- o Similar businesses have had errors in the past

Initial Notice

You will first be telephoned from your IR office to arrange a meeting.

They will ask for the meeting to be held at the company's trading address with yourself present but will usually agree to the meeting at your accountant or tax adviser's office.

In view of the aggressive approaches by the IR towards IR35 and Section 660 it is advisable to insist that the meeting be held at your accountant's office.

Getting Expert Help

Your accountant will be aware of what the Inspector is looking for and can avoid off-the-cuff remarks about contractual arrangements being made during the meeting, which might lead to arguments regarding your IR35 status.

Your accountant will charge a fee for providing this service if you are not already insured. This should be considered money well spent, in view of the potential problems which can arise from such inspections.

Unlike [VAT inspections](#) this inspection can often lead to protracted arguments regarding IR35 status and Section 660.

It is particularly important to be professionally represented and avoid a meeting at your home premises with just yourself and the Inspector.

Confirmation Letter

After agreeing a date, the Inspector will confirm in writing, giving a list of records they wish to review which will usually consist of the following:

- o payroll records
- o expense claims
- o cashbook and petty cashbook
- o contracts (if IR35 and 660 review is to be conducted)

IR35 and Section 660 Preparation

If the Inspector requests copies of contracts they will be carrying out a full IR35 review. You should be well prepared to make your arguments for being outside the scope of IR35 if you have operated your company on that basis.

If you are not represented by a specialist accountant, who is full aware of IR35 issues, you should seriously consider instructing one of the specialist law firms whose early involvement would be an advantage, particularly if the IR35 status is open to question.

Another issue is Section 660, which the Inspector may address if you have a non-working spouse who is a shareholder in the company.

“ it is advisable to insist that the meeting be held at your accountants office ”

David Colom

“ It is particularly important to be professionally represented and avoid a meeting at your home premises with just yourself and the Inspector ”

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If Section 660 is an issue it is vitally important that you take professional advice before the inspection.

Dividend Issues

If you have paid dividends, you should ensure you have available dividend counterfoils and board minutes approving the dividends which should have been prepared when each dividend was taken.

Some inspectors may review them to confirm payments were legal dividends, as opposed to "net salary", which would need grossing up for PAYE/NIC.

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Inspection Visits

The IR will:

- o provide a summary of their findings at the end of each inspection visit.
- o send a full report within 20 working days of the inspection explaining what has what has been examined, the extent of the work, the findings, conclusions and recommendations. (These can be disagreed with.)
- o send you a copy of the inspection report, including recommendations, even if they find no errors.

At the end of the inspection

If they find that the records have been inadequate they will explain what was wrong and tell you how to get things right in future. They will also arrange a special visit if necessary.

If They Find Nothing Wrong

If they find nothing wrong they will tell you and let you know that they have finished their enquiries.

If They Find Something Wrong

If the inspection finds errors that indicate you owe tax, they will try to agree the amount with you. You can optionally make a payment on account towards any additional tax they think you owe. This can avoid interest on unpaid tax mounting up. You are entitled to an explanation of the figures and have an opportunity to disagree, and be professionally represented in any correspondence or discussion about the figures.

Assessments and Appeals

They will make assessments if they cannot agree with you or if the information required by them is not made available to work out the tax.

You will have 30 days to appeal against any assessment you think is incorrect.

You can ask for your appeal to be heard by the Commissioners at any time during negotiations.

They will tell you if they intend to ask the Commissioners to settle your appeal.

You have the right to put forward the figures you think are correct to the Commissioners and choose whether or not you want someone to represent you, providing the Commissioners do not object.

The Commissioners will make a decision on the figures, based on the evidence presented to them.


Interest and penalties

HMRC can seek any interest and penalties if you fail to account for any tax, claim excessive tax repayments, or fail to make appropriate tax returns.

When calculating any penalty they take into account the extent of the information you provided voluntarily, whether you were helpful, and the seriousness of the errors or omissions.

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- [What Triggers an HMRC IR35 Investigation?](#)

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- [PAYE/NI Net Salary Tax Calculator](#)
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