

# VETERINARY Practice BUSINESS & FINANCE

## THIS MONTH:

- Handling an HMRC enquiry
- Good medicine is good business
- Practice management systems – part 1
- Merits of diversified investments
- Have you tried social networking?

## How to handle an HMRC enquiry

HM Revenue & Customs (HMRC) began to target veterinary practices at the end of last year. The enquiries have covered common themes relating to the use of locums, local veterinary inspectors (LVIs), staff accommodation, motoring costs and gifts from third parties.

It started in what appeared to be a regional HMRC project focused in south-west England, but it could be rolled out nationally.

HMRC enquiries are an unfortunate fact of life for all taxpayers. HMRC needs to make certain checks to ensure that taxpayers are paying the correct amount of tax under self-assessment so the system is fair for everyone.

HMRC has become significantly more risk driven in recent years and tends to focus its resources where it believes common errors arise or the yield involved is large. If errors are established, HMRC adopts a “guilty until proven innocent” approach and can extrapolate its assessments back six years (20 years in some circumstances), as well as charging late payment interest and a tax-gear penalty, up to 100% of the tax unpaid.

In very serious cases of tax fraud or evasion, HMRC can even prosecute. Its inspectors are under increasing pressure to deliver results in terms of cash yields, especially since the recession.

Locums are an essential part of many practices. Many are deemed to be self-employed which means that the practice pays them gross without the deduction of tax and NIC via the payroll. The locum

must then calculate and pay his or her own taxes.

The distinction between an employee and a self-employed person is a grey area. Practices should ensure they have a formal process in place to assess and record the employment status of all workers.

HMRC has created an online Employment Status Indicator tool to allow entities to anonymously check the employment status of their workers.

For more information, visit [www.hmrc.gov.uk/calcs/esi.htm](http://www.hmrc.gov.uk/calcs/esi.htm).

LVIs are appointed by DEFRA. They undertake wide-ranging duties including tuberculosis testing and market inspections. Fees for LVI work are paid gross to the relevant practice, without the deduction of PAYE. All payments should be included in turnover and declared in the practice accounts.

LVI fees paid to principals or non-salaried partners are “earnings” liable for Class 1 NICs. Where a

veterinary practice employs a salaried assistant, the practice should operate PAYE as normal upon all payments made.

Veterinary practices often provide accommodation on site for their employees. HMRC accepts that this accommodation is frequently necessary to undertake the job and is therefore not taxable – for instance, where employees need to be available for emergencies.

Where the accommodation is not “job-related”, then a taxable benefit arises which should be included in the employee’s form P11D for the tax year, even if the practice owns the property. The rules are available in HMRC’s 480 guide to expenses and benefits:

[www.hmrc.gov.uk/guidance/480.pdf](http://www.hmrc.gov.uk/guidance/480.pdf).

If a practice pays any household bills on behalf of the employee such as gas, electricity or telephone, this will give rise to a separate taxable benefit. If the individual lives in job-related accommodation then the benefit cannot exceed 10% of his or her other earnings for the year.

Mileage allowances are often paid when an employee uses his or her own vehicle for work purposes, at a fixed amount per mile. This is to reimburse the employee for petrol and wear and tear to the car used on business trips.

HMRC has set tax-free limits, called Approved Mileage Allowance Payments. For cars, these are currently set at 40p for the first 10,000 business miles and 25p thereafter. If allowances are paid above these limits, the employee is deemed to be making a profit which needs to be taxed. Practices need to keep full records of mileage undertaken on behalf of the business and check to verify the claims made. Reimbursements of travel costs from home to work are fully taxable.

### Standard letter

An enquiry normally starts with a standard letter notifying the taxpayer of HMRC’s intention to check the return and requesting specific information and documents. Enquiries can be very stressful for the individual involved, given the powers of HMRC and the complexity of the tax system. They can also divert significant time away from running the business.

Enquiries should be carefully managed, preferably by an adviser, to reduce the size of the settlement and to reduce the length of the enquiry. Here are our top 10 tips for managing an enquiry:

1. Find out which team at HMRC is handling the enquiry and under which code of practice it is



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operating. It could be an Inspector from the Local Office, Civil Investigation of Fraud (CIF) or Specialist Investigations (SI).

CIF handles cases where the tax underpaid is between £75,000 and £500,000. SI handles cases where it believes the tax underpaid is over £500,000. Both teams have inspectors specially trained in interview and negotiation techniques so it would be worth consulting a specialist investigations adviser familiar with HMRC's enquiry manual, code of practice and legal powers.

They work under Code of Practice 8 (CoP 8) which covers cases where complicated tax avoidance schemes have been used or CoP 9 which covers cases of suspected serious tax fraud.

2. Consider whether HMRC's requests for information are reasonable and within its powers. HMRC is only allowed to ask for information or documents that are reasonably required for checking a tax position. For instance, do the inspectors need to see your private bank statements or can you provide them alternative evidence such as an interest certificate or dividend voucher? Do they need to see the bank statements for your joint accounts, for your spouse or your children?

HMRC is not allowed to ask for legally privileged information, medical records, and accountant's working papers. If HMRC opens an official enquiry under s.9A TMA, check whether the enquiry notice is valid and within the legal time-frame. HMRC has 12 months from when the return is delivered to open an enquiry. If the return is delivered late, then the enquiry window is extended to the end of the calendar quarter.

3. Treat the inspector with respect. Inspectors are only doing their job, and although they may have adopted a cynical position given their experiences with other

taxpayers, they should accept reasonable explanations backed up by evidence. Maintaining a professional front will keep the inspector on your side, which might be useful when the penalty is discussed.

4. Comply with all time-frames. The inspector will normally request information within a 30-day time-frame. If you are aware this is a particularly busy time of year, then let him or her know straight away that this deadline will be difficult. By complying with time-frames, you appear to the inspector to be organised and in control of your tax compliance and record-keeping obligations.

#### Consider carefully

5. Consider a request for a meeting carefully. There is no statutory obligation for a taxpayer to attend a meeting. Sometimes a meeting can be helpful if the taxpayer or director concerned is credible and professional. Attendance shows co-operation to HMRC and it reduces the need for protracted postal correspondence so can reduce the costs of handling an enquiry. It is also an opportunity to provide important background information relating to the business.

If you do decide to attend a meeting, request a detailed agenda from the inspector so that you can prepare thoroughly. An agent can attend on your behalf and should be less likely to say anything misleading or be harangued into saying something unhelpful to your case. There is no obligation to sign meeting notes provided by HMRC. They are not a full transcript of the meeting and may be unfairly slanted towards HMRC.

6. Consider carefully inviting HMRC to the business premises as inspectors may wander off and speak to

other members of staff who may say something misleading without realising who they are speaking to, such as "the Christmas party was very lavish this year".

7. It is best not to sign a mandate for HMRC allowing it to write to third parties directly, such as a bank. It is better for the taxpayer to obtain the information or documentation directly so that he or she is aware of what has been provided to HMRC.

8. Do not accept blindly HMRC's initial arguments, analysis or penalty offers. It may be unaware of the full facts and there are many grey areas in the legislation which are open to negotiation and differences of opinion. Although there are set minimum and maximum penalty levels, they can still be reduced.

9. Request a closure notice where you are experiencing unreasonable delays or HMRC is asking for information that has already been fully dealt with.

10. Provide all relevant information, otherwise you will be vulnerable to a discovery assessment in the future. Do not sign any statements or certificates if they are materially inaccurate as they could lead to large penalties or even prosecution in the future.

As with most things, prevention is better than cure. Ensure you keep adequate records, write full descriptions in your paying-in books and cheque books, and consult your tax adviser in relation to the tax implications of new or unusual transactions.

You could also consider taking out insurance to protect yourself from the high costs involved.

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