

HM REVENUE AND CUSTOMS

1. Who needs to provide tax details and why?

1.1 Checks with HM Revenue and Customs (HMRC) may need to be carried out for naturalisation applicants who are:

- persons of independent means (POIMS); or
- sole representatives; or
- self-employed; or
- in business as sole traders; or
- in business as partners/directors in a company

in order to confirm that any tax liabilities have been met. It is a legal requirement that applicants applying for naturalisation as a British citizen should be of "good character" and this includes demonstrating compliance with tax obligations.

**(NB. The current legislation and Memorandum of Understanding with HMRC on the sharing of information - see below - does not allow these checks to be made on applications for registration even though they may be subject to a requirement to be of good character)**

1.2 A Memorandum of Understanding has been signed between the Border and Immigration Agency and the HMRC documenting the obligations of the two departments and the procedures to be followed when conducting these checks. While the HMRC is not obliged to disclose this information, where a request from the Border and Immigration Agency follows the guidance set out below, the HMRC will normally release the information requested.

2. Requests for tax details

2.1 Current legislation allows for the disclosure of information and intelligence to the Border and immigration Agency by the HMRC for specific purposes. One of these purposes includes the determining of whether an applicant for naturalisation as a British citizen satisfies the "good character" requirement. When requesting the information we need to set out clearly what information is needed (e.g. confirmation that personal taxes have been paid correctly for a particular period). Otherwise, we may be told that current tax affairs are in order when there are investigations underway into liabilities or irregularities from previous years, or that correct taxes have been paid or assessments agreed in respect of specified companies.

2.2 Disclosures under the **Nationality, Immigration and Asylum Act 2002** will only be made on receipt of a written request.

2.3 Officers should ensure they use the correct form when requesting information from the HMRC, a copy of which is at Annex A. **All** requests must be submitted through the relevant IND "authorised officers".

2.4 Any officer may make a request for information but an approved authorising officer must sign off the request. Approved authorising officers are named officers of SEO grade and above. The HMRC hold details of the officers approved for authorising these requests and will only accept requests which are countersigned by the appropriate officers.

2.5 **RESTRICTED** - NOT AVAILABLE FOR DISCLOSURE

2.6 The HMRC is obliged to act in a manner compatible with both the **Human Rights Act 1998** and the **Data Protection Act 1998**. Sufficient information must be provided for the HMRC to determine that the disclosure is in accordance with the data protection principles and proportionate to the purpose for which it is required. Authorising officers will only sign off applications where they are satisfied that these criteria are met.

2.7 Requests must be made on a case by case basis although a case may involve more than one person. Bulk lists will not normally be accepted.

2.8 When requesting information about an individual or individuals the request must contain details of the investigation or purpose to which it relates and it must seek specific details - e.g. current address, or details of income etc. The HMRC holds a vast amount of information on multiple databases so requests asking for everything held on a particular individual will not be accepted. Similarly requests must be for the reasons set out in the legislation.

3. **Handling of information received from the HMRC**

3.1 Information obtained from the HMRC under **s.130** of the **Nationality, Immigration and Asylum Act 2002** may be supplied to another person only:

- (i) for the purpose for which it was originally supplied to the Border and Immigration Agency,
- (ii) for the purpose of legal proceedings, or
- (iii) with the consent (it may be general or specific) of the HMRC, for the purpose for which the HMRC could supply the information.

3.2 All information disclosed by the HMRC must be kept secure by the Border and Immigration Agency in accordance with the 7<sup>th</sup> Data Protection principle.

4. **Tax domicile**

4.1 Most applicants for naturalisation are likely to be resident, ordinary resident and domiciled in the United Kingdom for tax purposes. In effect, they are liable to United Kingdom tax on any income from any part of the world. A person who begins self-employment has up to 13 months to notify the HMRC of any tax liability. If earning less than the current tax threshold, the person does not have to notify the HMRC of the self-employment.

4.2 A few applicants claim not to be domiciled in the United Kingdom for tax purposes and, if they prove this to the HMRC, are only liable to pay tax on any income brought into this country. If persons bring pure capital into the United Kingdom to live on, they are not liable to UK tax. However, as soon as they begin earning income from such capital (e.g. interest), they become liable to tax here. There have been occasions when applicants have been telling the Home Office one version of their affairs and the HMRC another, either to gain indefinite leave to remain or to minimise their tax liability. Some examples are in Annex D to Chapter 18.

5. **RESTRICTED** - NOT AVAILABLE FOR DISCLOSURE

6. **RESTRICTED** - NOT AVAILABLE FOR DISCLOSURE

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**REQUEST FOR INFORMATION FROM THE INLAND HM  
REVENUE AND CUSTOMS UNDER SECTION 130 OF THE  
NATIONALITY, IMMIGRATION AND ASYLUM ACT 2002**

<b>Protective Marking</b>	Restricted <input type="checkbox"/>	Confidential <input type="checkbox"/>	Secret <input type="checkbox"/>	Top Secret <input type="checkbox"/>

<b>Name:</b>		<b>Tel no:</b>	
<b>IND Unit:</b>		<b>Fax No:</b>	

Legal person about whom information is sought:	
Full name:	
Full address:	
Date of birth:	
National Insurance No:	
Other relevant information as appropriate:	

<b>Nature of Enquiry:</b>	<i>State details of the investigation, proceedings or purpose to which request relates</i>

<b>Protective Marking</b>	Restricted <input type="checkbox"/>	Confidential <input type="checkbox"/>	Secret <input type="checkbox"/>	Top Secret <input type="checkbox"/>
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<b>Protective Marking</b>	Restricted <input type="checkbox"/>	Confidential <input type="checkbox"/>	Secret <input type="checkbox"/>	Top Secret <input type="checkbox"/>
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<b>Information requested:</b>

<p>Please give brief details to show that:</p> <ul style="list-style-type: none"><li>• the requested information cannot be obtained by other means or from other sources</li><li>• the requested information will be of substantial value to the investigation or proceedings</li><li>• lack of access to the requested information will prejudice the investigation, proceedings or effective application of the immigration rules.</li></ul>

<b>Authorising Officer details:</b>
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<b>Name (print)</b> .....	<b>Rank</b> .....
<b>Location</b> .....	<b>Signature</b> .....
	<b>Date</b> .....

<b>Protective Marking</b>	Restricted <input type="checkbox"/>	Confidential <input type="checkbox"/>	Secret <input type="checkbox"/>	Top Secret <input type="checkbox"/>
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Reply box:
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Please use this space to provide any information which would be of use to the HM Revenue and Customs (tax avoidance, fraud etc)

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<b>Protective Marking</b>	Restricted <input type="checkbox"/>	Confidential <input type="checkbox"/>	Secret <input type="checkbox"/>	Top Secret <input type="checkbox"/>
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