



HM Revenue and Customs Fraud Investigation Service – Code of Practice 8

This Code of Practice explains how the Fraud Investigation Service (FIS) at HM Revenue and Customs (HMRC) carries out civil investigations in certain cases where the Code of Practice 9 is not used.

Introduction

Most customers pay what is due but some deliberately try to pay less than the correct amount or take advantage of a scheme or device to reduce a tax liability. If we suspect this, we will investigate under Code of Practice 8 to establish the facts to recover any tax, interest and penalties due.

We will not undertake this investigation with a view to a criminal prosecution but we may take a different approach if we suspect or find evidence of fraud at any time during our investigation. We may then deal with the investigation under Code of Practice 9. Or, if it is being conducted with a view to criminal prosecution, we will investigate under the Police and Criminal Evidence Act 1984 and the Criminal Procedure and Investigation Act 1996 and their respective Codes of Practice. In Scotland and Northern Ireland criminal investigations are carried out under the law applicable in those parts of the UK.

What we do

We will investigate any situation where we believe that there may be a significant loss of tax. This includes the tax affairs of individuals, partnerships, limited liability partnerships (LLPs), companies and trusts and covers all of the taxes, duties, levies and contributions for which HMRC is responsible.

We may take over responsibility for compliance checks started in other parts of HMRC as well as starting our own investigations.

If our investigation includes an enquiry into a Self Assessment tax return we may deal with the whole tax return or specific aspects of it. If our involvement is limited to aspects of your tax return, another HMRC office will deal with the other aspects. In such cases we will co-ordinate our work. This Code of Practice only applies to our investigation.

Confidentiality

We will treat your tax affairs in the strictest confidence. In certain circumstances we may have to give people information without your authority. We will not give information about you to anyone outside HMRC unless the law allows us.

We are a Data Controller under the General Data Protection Regulation (GDPR). We hold information for taxes, tax credits and other legal functions given to us by Parliament. We use the information for our internal functions. We may check new information we receive about you with our existing records. This includes information given by you as well as others, for example other government departments and agencies and overseas tax authorities.

We may need to ask third parties for information about you or your business during our investigation.

We will only ask for information we need to complete the investigation.

If you have given us a mandate (authority for a third party to provide us with information), we may use it in our investigation to get information usually available only to you. But we will sometimes use our legal powers whether or not you have given us a mandate.

You do not have to discuss any matter in front of other people, including your business partners or fellow directors. However, discussing issues openly will often help speed up an investigation and reduce costs.

Co-operation

You must decide whether to co-operate with our investigation. To make a decision you may want to get help from a professional adviser. More information about co-operation can be found under 'Meetings' and 'Interest and penalties'.

Meetings

If you decide to co-operate with us, your attendance at meetings is an important part of that co-operation. Meetings give us both a chance to ask questions and clarify points throughout the investigation. Our investigation may take longer if our only contact with you is by letter.

We will make a written record of our meetings and you can ask for a copy. We may ask you to sign a copy of the notes to show that they accurately reflect what is said, but you do not have to. We can arrange any meetings with you at:

- the office of your adviser
- your business premises
- a HMRC office
- your home

You can ask your adviser to attend these meetings.

Customers with particular needs

If there is anything about your health or personal circumstances that may make it difficult for you to deal with this check, please tell the investigating officer. Telling them will mean that they can help you in the most appropriate way. For more details go to [Dealing with HMRC if you have additional needs](#).

Professional representation

You may want to consider appointing a professional adviser to represent you during our investigation. This is a matter for you to decide. Your adviser can be with you at all meetings with us. They may also correspond with us on your behalf. We make notes of all meetings and you or your adviser can ask for copies at any time.

You may change or stop using an adviser at any time. You should give your adviser all the facts because you are responsible for your tax affairs and the accuracy of any information supplied to us.

If we deal directly with your adviser, we expect high standards from them. But if there are delays or difficulties we may deal directly with you.

Opening the investigation

Before we begin an investigation or take over an existing one, we may look at the information in your tax returns, accounts and statements and from other sources. We may also ask third parties for information about you or your business before we contact you or your adviser in order to decide whether or not we need to proceed.

If we decide to investigate under this Code of Practice we will tell you and your adviser in writing.

We will tell you the reasons for starting the investigation although we do not have to do so. Sometimes we cannot give you the reasons because they are confidential or they may prejudice our investigation.

We will identify the particular issues on which we intend to focus. But we may find during our investigation that it is necessary to enquire into issues other than those identified at the outset.

We will invite you to a meeting to discuss the issues and give you the opportunity to tell us the relevant facts. We expect you to be open and honest and to provide us with complete and accurate information. It is your responsibility to do so and to make sure that answers you give are correct to the best of your knowledge and belief. If you are unsure whether particular facts are relevant, you should tell us anyway.

If you think you have given us incorrect or incomplete information during our investigation, please tell us straightaway. Please also tell us if you want to add anything to what you've already told us.

You should consider very carefully any points we have raised and respond as fully and promptly as possible.

Your costs

We know that dealing with our investigation can cost you time and money. We will make sure that our enquiries are reasonable and proportionate to your case. When we are satisfied that your tax affairs are in order or settled, we will close our case.

Keeping you informed

You can ask us at any time to explain:

- your legal rights
- why we have taken a particular action
- your obligation under the law

You can ask for these explanations even if we have already given them to your adviser. We will deal with letters from you or your adviser promptly. If we cannot do so, we will let you or your adviser know the reason for the delay.

Providing information

We will ask you to provide information and documents that we need for our investigation. We will give you a reasonable amount of time to provide any information. If you think that we have not given you enough time, you should tell us how much more you need and why. We will allow you more time if this is reasonable. If we can't agree we will explain why.

If you have difficulty getting the information and documents we ask for, please contact us straightaway to discuss how you can get it. If you are not sure why we are asking for something, please contact us and we will explain why we need it.

We will use our statutory information powers, if necessary, to approach third parties for information. If you co-operate with us and provide all the information, we may not need to use these formal powers. There may be times when we may need to check that the information you provide is accurate and complete. There is more information about our powers and your rights in our factsheet '[CC/FS2, checking a customer's tax position](#)'.

You should make sure that any information you provide and any answers you give are correct. If you are unsure about any matter you should say so. It is important that you give us all the relevant facts even if you are not sure about the tax consequences of a particular matter.

If you think that we should stop our investigation, please tell us why. If you believe that you have given all relevant information and we have had enough time to investigate, please say so. If we cannot close the investigation, we will explain the reasons why. For example, we may feel it necessary to get more information from third parties.

Our investigation may include an enquiry into a Self Assessment tax return. In such cases, you may ask the independent tribunal that deals with tax matters to decide if we should close the enquiry. You may want to discuss this with your adviser before doing so. For more information, see the 'Reviews and appeals' section.

Records

You must keep certain records to help you to complete your tax returns. You can get more information from our website, [Keeping your pay and tax records](#).

Please make sure that you keep all existing records, including computer records, during our investigation whether or not you are required to do so by law.

We may ask to see your business and private financial records. We can arrange to examine these at your premises, at the premises of your adviser, or at our own office. Where necessary we may keep original records or copies, for which we will give you a receipt.

You may ask for the return of any records that we hold if you need them at any time. If we need to keep them we will give you copies of any documents you need. We will do this free of charge and agree a timetable for this.

If your business or personal records do not meet the legal requirements, we will tell you what to do to improve them. For example, if we consider your accounts or tax returns are inadequate in any way.

If you are still in doubt about the records you need to keep for the future, you should ask either your adviser or us for help.

Visits

We may decide to visit your business premises. Where you run a business using part of your home, we may visit those parts used for business purposes. Otherwise, we will not visit your home, unless you invite us to.

On most occasions, our visit will be to inspect your business records. We may also need to inspect the business premises, business assets and the stock.

We will agree the date and time of any visit with you, by mutual agreement. We will give you prior warning of a visit unless there is a clear operational need not to. We will usually tell you in advance how many officers will visit. All our officers carry identification, which you can ask to see. They will only ask you about matters that may be relevant to your tax position.

False statements

You should make sure that answers given at meetings, in correspondence and all other information you provide to us are correct and complete to the best of your knowledge and belief.

If you make a statement you know to be false, we may conduct a criminal investigation leading to prosecution.

Your ongoing compliance obligations

You should continue to submit all your returns by the statutory filing dates. Do not delay sending your returns and any related payments. Your ongoing compliance behaviour is an indicator of your willingness to engage with us. You are responsible for the accuracy and completeness of your tax returns even if an adviser is acting on your behalf.

Payment on account

We will ask you to make a payment on account of any additional liability we think is due until the conclusion of the investigation. If you make a payment on account it can help stop late payment interest accruing on the amount owed while it's under investigation. This will show your willingness to reach a settlement.

We may need to take swift action to charge you or your company tax before the end of our investigation if we think that you may not pay any additional tax due. We may also act if statutory time limits for assessing are about to expire.

Concluding the investigation

If our investigation finds nothing wrong with your tax affairs, we will let you know that we have finished our investigation.

If we decide to seek a financial settlement at the end of our investigation, we will try to reach an agreement with you. This will cover the amount of tax, duties, interest and penalties we believe you owe. You should ask us to explain if you do not understand any of the figures we propose to settle the investigation.

If we cannot reach agreement with you, we may determine the tax, duties, interest and penalties we consider appropriate through formal assessments. In certain cases where we reach an agreement, we may also need to make formal assessments. Read section 'Reviews and appeals' for what to do if you do not agree with these assessments.

We can use the information or documents provided by you during the investigation or in any tribunal proceedings. We will also use them to decide your liability to tax or other duties, interest and penalties.

Where there have been errors or omissions in your accounts or tax returns, we may ask you to sign a Certificate of Full Disclosure confirming that you have now declared all your taxable income, gains and other duties. We will not ask you to sign a certificate if the investigation showed nothing wrong.

You should consider the certificate very carefully before signing it. If you sign a certificate you know to be false, we may conduct a criminal investigation leading to prosecution.

You should always make sure you understand what, if anything, was wrong with your accounts or tax returns. You should ask us or your professional adviser what you need to do to make sure you get them right in the future.

Interest and penalties

We charge statutory interest on any tax paid late. We may also charge a penalty for:

- failing to notify us of your liability to a tax
- failing to make a return by the statutory filing date, or at all
- carelessly or deliberately giving us an inaccurate tax return or other specified document
- failing to correct, within a reasonable time, a mistake you notice in a tax return
- failing to tell us, within a reasonable time, that an estimated assessment to tax is inadequate
- failing to pay on time

We calculate penalties in accordance with provisions contained in legislation. These can be reduced for positive behaviour. When calculating any penalty due we take into account:

- how and when you tell us about any offence
- how and when you co-operate with us to get things right

You can find more information on our penalties under the old and new regimes in factsheets:

- [CC/FS15, Self Assessment and old penalty rules](#)
- [CC/FS20, VAT dishonest conduct penalties](#)
- [CC/FS7a, Penalties for inaccuracies in returns and documents](#)
- [CC/FS17, Higher penalties for offshore matters](#)

Public statement

HMRC may observe, monitor, record and retain Internet data which is available to anyone. This is known as 'open source' material and includes news report Internet sites, Companies House and Land Registry records, blogs and social networking sites where no privacy settings have been applied.

Reviews and appeals

Our decision letter will explain what to do if you do not agree with the outcome of the investigation. It will explain how we arrived at the decision and tell you about your rights of appeal.

If you do not agree with our decision, you should write and tell us, within 30 days of the decision. This is known as an appeal to HMRC.

You can ask for your case to be:

- reviewed by a different officer from the one who made the decision
- heard by an independent tax tribunal

If you want to have your case reviewed, you will still be able to appeal to the tribunal if you disagree with the outcome of that review.

You can find out more about reviews and how to appeal:

- by reading the notes with the assessment
- in our factsheet '[HMRC1: HM Revenue and Customs decisions – what to do if you disagree](#)'
- by asking the investigating officer to explain the process to you

To find more information about the [Tribunals Service](#).

Assurance on change of behaviour

You must stop any continuing irregularities. We expect you to change your behaviour and comply with all your future tax obligations and not to revert to any deliberate behaviour.

To check that you comply with your tax obligations, we may inspect your tax affairs under the programme for Managing Serious Defaulters. You can find more information about this in our factsheet [CC/FS14, managing serious defaulters](#).

In certain circumstances we can publish details of people who have deliberately got their tax affairs wrong, as well as charging them a penalty. You may be able to prevent this by giving us your full co-operation from the start of our investigation, including telling us about everything you deliberately did wrong.

You can find more information about publishing deliberate defaulters details in our factsheet [CC/FS13, Publishing details of deliberate defaulters](#).

Putting things right

If you are unhappy with HMRC's service including the way we conduct our investigation, please contact the person or office you have been dealing with. They will try to put things right.

If you are still unhappy, find out how to complain to HMRC on the GOV.UK website, [Complain to HM Revenue and Customs](#).