

IR35 Compliance response

Request

This tax year HM Revenue & Customs (HMRC) introduced new processes for IR35 and indicated that they would be sending letters out to taxpayers as part of enforcing IR35 better. Please provide a monthly total for each of the seven months from April 2012 to October 2012 of:

1. The number of letters sent to taxpayers asking whether they had used the IR35 Business Entity Tests to evaluate their status.
2. The number of taxpayers who responded to the letters.
3. Out of the total number of letters sent (1) to taxpayers asking them to consider their IR35 status, how many of these inquiries were:
 - a. Closed down and the taxpayer was considered to be outside IR35
 - b. Closed down because the taxpayer accepted that they were inside IR35 and made salary/deemed payments accordingly.
 - c. Remain active and are being investigated further for IR35 compliance.

Response

HMRC introduced new processes for IR35 in 2012.

As with other tax enquiries HMRC applies a detailed risk assessment to decide which returns it will check. Once a decision has been made to open an enquiry, HMRC issues a letter to the customer asking if they have considered their IR35 status and why they believe they are outside of the IR35 legislation. This letter also requests information regarding income and contractual details. However, it does not specifically ask whether the customer has considered the recently published Business Entity Test when coming to a conclusion

regarding their tax position, although the Business Entity Tests, together with supporting evidence, could be used to support the position of being outside the IR35 legislation. A copy of the information requested is set out below.

HMRC monthly totals are not readily available and would not necessarily add any additional meaning to the data. This response is based on the number of enquiries opened in the time period given - 1 April 2012 to date (November 2012).

1. The number of letters issued is equal to the number of enquiries opened. This totals 193 enquiries for the period 1 April 2012 to 9 November 2012.
2. All HMRC customers are expected to respond to enquiries and information powers will be used to acquire relevant information and data where customers do not. HMRC have not kept records of the number of customers who have responded directly to the question asking whether they have considered their status.
3.
 - a. Of the reviews opened since 1 April 2012, 34 have been closed down following an exchange of correspondence where a decision has been made that no IR35 liability arises and/or the customer is considered to be low risk.
 - b. At present no reviews have been closed where the customer accepts that they are liable to additional sums of tax under IR35.
 - c. The number of enquiries which remain open and continue to be investigated is 159.