Tax Facts Limited
Kevin McDaid, ATT, CTA

120 Reevy Road
Bradford
BD6 3QE

T: 01274 214979
M: 07939 222437
E: kevmcd@cta.org.uk

CHARTERED
TAX ADVISER

Self-Assessment & Tax Enquiries for Landlords

The UK tax system is extremely complex and constantly changing. If you make a mistake this can lead to expensive tax penalties and additional costs.

This is highlighted by the H M Revenue & Customs (HMRC) let property campaign - https://www.gov.uk/let-property-campaign - which commenced in Autumn 2013 and is still ongoing. It is the longest running HMRC voluntary disclosure campaign by far.

Why is it still ongoing when all the other disclosure schemes have been and gone?

The answer is because, at October 2015, it had netted the Treasury over £50m in revenue without a great deal of effort on their part - click HERE for more details.

'*The golden goose'* springs to mind.

It is possibly because many property investors are often new to the mechanics of business and taxation when they first undertake their first letting and/or, by the very nature of property, buying and selling is something that happens infrequently for all but those with the largest of property portfolios.

Many people find it complicated and time consuming reporting their tax, so it is no surprise that almost 1 million taxpayers were issued with £100 penalties by HMRC for failing to submit their tax returns by the 31 January 2015 deadline. It should be noted that these penalties are NOT withdrawn even if, when a tax return is submitted, there is no tax due.

Do not assume that when you have submitted your tax return and HMRC send you a tax demand a few weeks later for an amount that corresponds with what you were expecting, that HMRC have 'agreed' your return. They have not. They have merely processed it under a system called 'process now, check later'. In HMRC's own words this regime '*represents a powerful deterrent to those who do not wish to comply with their tax obligations*'.

Under Self-Assessment, that is exactly what you are doing: - 'you are self-assessing your own tax' – with your limited knowledge of our massively complex tax system, you are telling HMRC how much tax you think you owe or what level of refund you think you are entitled to.

Under normal circumstances, HMRC have a year from the date of submission of your tax return to decide whether you have, in their opinion, self-assessed correctly. If they have not opened an enquiry into your tax return inside a year, the only way they can challenge your Self-Assessment is if they '*discover*' something on the return is missing or incorrect.

In reality, this gives HMRC a 6 year enquiry window from the date of receiving your tax return, where there is a loss of tax due to 'careless' conduct as a result of an incomplete disclosure. This means that if you have not spelt out to HMRC the implications of a particular transaction (by using the additional information section on the return) HMRC may 'discover' such a failing and commence an enquiry.

Without wishing to sound too much like the harbinger of doom and gloom, the '*presumption of continuity*' may also be adopted by HMRC. If a discovery of a loss of tax is made during an enquiry, HMRC may take the view that the same error was likely to have been made in previous years also.

In such a way, a relatively acceptable £400 owing for an error discovered on a 2010/11 tax return could easily turn into a > £2,000 problem when years up to and including 2014/15 are reassessed. This is before penalties and interest are charged.

It is up to you to show that the error was not repeated beyond the year of enquiry.

In a recent tax enquiry for one of my clients, I was advised by an HMRC official that, enquiries into the tax affairs of an unrepresented taxpayer (one without an agent acting for them), usually identify errors leading to six or seven times the lost amount of tax had an agent been acting.

It is for this reason that you want an experienced tax professional in your corner to identify tax breaks available to homeowners, property traders and investors and how to get the maximum benefit from them. I will also warn of the traps for the unwary.

Be aware – there is no standard solution to minimise tax. It needs a bespoke strategy that depends on what the owner is trying to achieve and the extent to which he/she is prepared to allow his/her family to participate in the potential profit /growth.

Kevin McDaid, ATT, CTA

For & on behalf of Tax Facts Limited

April 2016

Disclaimer

- *Tax rules and legislation are constantly changing. Please note that this fact sheet is correct as per the date above this disclaimer.*
- *Whilst care has been taken to ensure the accuracy of this fact sheet, no responsibility for loss or damage occasioned to any person(s) acting or refraining from acting as a result of any statement contained in this work can be accepted by the author.*
- *As individual circumstances can vary this fact sheet should not be treated as anything other than general tax guidance.*
- *There is no standard solution to minimise tax. Every situation is unique and requires a bespoke strategy. You are invited to contact me to discuss your own specific circumstances.*