HMRC - CH880100 - Overview

Legislation in Schedule 38 to the Finance Act 2012 is designed to tackle dishonest conduct by tax agents.

‘Dishonest conduct’ is where the tax agent does something dishonest with a view to bringing about a loss of tax revenue in the course of assisting clients with their tax affairs. Dishonest conduct is not negligence, nor is it poor quality work by a tax agent.

This legislation has been put in place to provide a civil alternative to criminal prosecution. Where it is decided not to prosecute we can charge a civil penalty and publish certain details of those dishonest tax agents. In addition, we can get access to the tax agent’s working papers and other files whether they have been prosecuted or not. This is to ensure that we can see the full extent of the dishonest conduct.

There are not expected to be many cases of agent dishonesty that will be tackled using these civil powers.

HMRC officers who have day to day contact with tax agents may find examples of dishonest conduct while they are carrying out compliance checks and other interventions.

It is important for HMRC officers who suspect dishonest conduct by tax agents to contact specialists in the [Legislation in Schedule 38 to the Finance Act 2012 is designed to tackle dishonest conduct by tax agents.

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It is important for HMRC officers who suspect dishonest conduct by tax agents to contact specialists in the](mailto:7821989@internal.hmrc.gov.uk) for advice. Officers who suspect that an agent has been dishonest must not investigate the dishonest conduct themselves but must refer the suspected dishonest conduct to the ACT. See CH880400 for guidance on how to make a referral to the ACT.

Specialist officers within ACT will handle investigations into suspected dishonest conduct by tax agents. Guidance starting at CH881000 is for those specialist officers.

Specialist officers will establish whether there is dishonest conduct by engaging with agents and organisations, and they will issue conduct notices. They will work with organisations affected by dishonest conduct, getting access to files and using file access notices where necessary.

Non-compliance with file access notices can be penalised and there are sanctions for concealing documents.

There is a penalty for dishonest conduct of between £5,000 and £50,000. Where the penalty is more than £5,000 we can publish certain details about the dishonest tax agent. We can only charge a penalty under this legislation where the dishonest conduct occurred on or after 1 April 2013.

We can also refer details of dishonest tax agents to their professional bodies and, where they are not members of a professional body, to HMRC colleagues who register them under the Money Laundering Regulations.

This operational guidance supports and complements the technical guidance which starts at CH180000. In particular, it gives examples of what is dishonest conduct and the processes to establish dishonest conduct, get access to agent’s files, charge penalties, publish details and monitor dishonest tax agents.

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