HMRC - CH98600 - Deliberate Wrongdoing Attributable To An Officer Of The Company

Where a wrongdoing is attributable to a company officer

The fact that an officer, see CH98650, signs a document on behalf of the company, see CH98620, is not in itself evidence that the wrongdoing is attributable to that officer’s deliberate action.

During the course of your compliance check, you should examine the underlying actions or failures that resulted in the deliberate VAT or excise wrongdoing, and record your findings.

You will need to establish that the deliberate behaviour by the company was attributable to one or more of the officers.

This means that you must ask the officer or officers directly about their personal involvement and the circumstances that led to the deliberate wrongdoing or their potentially deliberate failure to take action to stop the wrongdoing occurring.

Before you start to ask them any questions about the wrongdoing you must make sure that the individual officer or officers are aware of their rights under Article 6 of the Human Rights Act, see CH300400.

Where a company officer is liable to a penalty for an inaccuracy that is attributable to them

Where there is evidence to identify the officer or officers whose actions or inactions caused the deliberate wrongdoing, these officer(s) will be liable for payment of all or part of the penalty when any of the specific circumstances below apply.

there is evidence that the officer gained or attempted to gain personally from the deliberate wrongdoing, see CH98660, or

the corporate body is insolvent, see CH98670, or

there are grounds to suspect that the corporate body may become insolvent, see CH98670.

There will be cases where there is no evidence of actual or attempted personal gain by the officer or officers whose actions gave rise to the wrongdoing. In those cases you should not pursue the officer or officers for payment of all or part of the penalty unless the company is insolvent or there are grounds to suspect that it may become insolvent.

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