HMRC - COM71001 - Introduction

HM Revenue & Customs right of enquiry

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CTSA is a ‘process now - check later’ regime. The company’s self assessment stands and the liability is collectible without any action on our part. But we have the right to correct obvious errors or omissions in the return. See COM23050 for more information.

Once we have processed the return, legislation gives us the explicit right to enquire into it. See the Enquiry Manual at EM8000 onwards for guidance on enquiries into company tax returns.

HM Revenue & Customs is under no obligation to give notice that a particular return has been ‘accepted’ and that no enquiries will be made. It will not do so, even if requested, other than in specific circumstances relating to the completion of a winding-up. If appropriate, we will provide a clearance in these cases that we will not take the return up for enquiry. See the Enquiry Manual at EM8260.

The right of enquiry extends to anything contained in the return, or which is required to be contained in the return. This includes claims and elections, and amounts which may affect the company’s liability for other APs or the liability of another company by way of group relief. It also extends to any amendment to the return.

Notice of intention to enquire

You must give the company written notice of intention to enquire (the ’notice of enquiry’) within a statutory time limit, often called the enquiry window.

The notice must be issued on or before the last date for enquiry. See COM71005 and COM71010 for further guidance.

Scope of enquiry

If the enquiry results from an amendment to the return, the scope of the enquiry is limited to matters relating to or affected by that amendment unless we are still within the time limit to enquire into the original return. See the Enquiry Manual at EM1520 - EM1521.

Otherwise, an enquiry into a return can extend to anything in the return, or anything required to be contained in the return.

You do not have to give reasons for dissatisfaction with the return and should not do so.

However, HM Revenue & Customs is only entitled to one bite of the cherry. You cannot open an enquiry if you have already opened and closed an enquiry into that return and have received no new amendment, although you may still be able to make a discovery assessment or determination for the period.

There is a similar right to enquire into any claim not included in a return, that is, made outside a return. But if we have issued a notice to deliver a return and a claim can be made as part of the return, that is the only way in which it can be made.

Companies are taxed, and generally have to make returns, for APs. It sometimes happens that a company mistakes its true AP when completing its return. Where a company’s return is for the wrong period, the enquiry can extend to the period for which the return should have been made. See COM71060 for more information.

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Selection

Enquiry cases are selected in accordance with national guidance.

You can use function MAPS (Maintain AP Signals) to set a ‘potential enquiry’ signal on an AP you identify for potential enquiry in line with your office policy. You should also use function NOTE (Case Notes) to say why you have set the signal.

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Random selection of cases for compulsory full enquiry

COTAX randomly selects cases for compulsory full enquiry and sets the ‘random enquiry’ signal on the selected AP when it issues the notice to deliver a return. You can view this signal using function DAPD (Display AP Details).

Details of the selected cases are passed to BDCT. When the returns are recorded on COTAX, the data is also passed to the Data Warehouse. See the Company Tax Mart Guide (CTMG) for further information.

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Full and aspect

Enquiries are classified as either ‘full’ or ‘aspect’, but the legal context for all enquiries is the same. There is no legal distinction between full and aspect enquiries. See the Enquiry Manual at EM0091.

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Interaction between Caseflow or CQI and COTAX

In those offices using Caseflow or CQI to control enquiry cases, the following are automatically entered and amended on COTAX by Caseflow or CQI overnight:

‘enquiry in progress’ signal

started date

enquiry type.

Caseflow and CQI do not automatically update COTAX with enquiry closure details. For more information see COM71090 for non-contract settlements and COM71120 for contract settlements.

If your office does not use Caseflow or CQI you must use function MAPS (Maintain AP Signals) to enter or amend the entries listed above.

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Enquiry notice: form and issue

When you give notice of intention to enquire into a return you must use the wording given in the Enquiry Manual.

See COM71010 for guidance on opening an enquiry.

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Company amendments (taxpayer amendments) during enquiry

If a company amends its return while an enquiry is in progress, the amendment does not restrict the scope of the enquiry, but may be taken into account together with any matters arising in the enquiry.

Any change to the tax charge and any group relief or capital allowance consequences of the amendment only become effective once the enquiry is closed. See COM71020 for more information.

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Revenue amendments (jeopardy amendments) during enquiry

During the course of an enquiry, you can make a jeopardy amendment to the company’s self assessment if you believe that:

the self assessment understates the company’s true tax liability

there is likely to be a loss of tax to the Crown unless the assessment is amended at once.

The self assessment is amended for all purposes when you give written notice to that effect to the company.

The company can appeal against such an amendment and seek postponement of tax, but the appeal cannot be heard until the enquiry has ended. See COM71040 and COM71050 for more information.

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Concluding enquiries

An enquiry is treated as finished when you give written notice of completion to the company and state your conclusions.

The closure notice takes effect when it is issued and amends the return to give effect to the conclusions stated in the notice.

If you conclude the enquiry by contract settlement rather than by the formal COTAX route, you should follow the general procedures in the Enquiry Manual at EM6000 onwards and the SAFE accounting procedures at EM6403 - EM6408, subject to certain modifications for a CTSA AP. See COM71120 for more information.

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