HMRC - IPT09500 - Incorrect Advice To Customers And Misunderstanding

Generally, errors made by an insurer which result in tax being under-declared will be corrected and the value of the error adjusted as an under-declaration. However, there are cases where the insurer’s error arises from a misunderstanding or incorrect advice to customers. In these cases it may be appropriate for the tax due to be waived. The waiver is a concession, using the Commissioners’ general powers of management, which cover remission of tax on the grounds of compassion and equity as well as misunderstanding and misdirection. IPT will follow the principles established in VAT in this area.

Procedures for dealing with claims of incorrect advice to customers or misunderstanding vary between business units. LIPTOs should establish and follow the procedures applicable in their business unit. This is particularly important in cases involving a claim of incorrect advice to customers. Where the specific circumstances of any case fall outside these guidelines, you should refer the case to Tax Administration Advice team.

Misunderstanding

Misunderstanding occurs when an insurer has a wrong notion of the liability to tax, having genuinely misunderstood official guidance whether given in a Departmental publication, or individually in a letter or conversation. See IPT10525 for further information.

Incorrect Advice to Customers

The concept of “misdirection” and the Sheldon Doctrine were replaced in April 2009, and any claims for remission due to misleading or incorrect advice should now be considered in accordance with the principles in the Admin Law Manual (ADML1100).

Official incorrect advice occurs if the Department is responsible for misleading an insurer about a liability to charge IPT. In such cases, it is normally unfair to recover the tax in question.

Remission of tax

The authority to waive tax, subject to certain monetary limits, is delegated to business units. The relevant guidance is set out in A9-2 Revenue Losses. It is important that LIPTOs follow the procedures in use by their own business unit.

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