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HMRC internal manual

Complaints and Remedy Guidance

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CRG5375 - Financial redress: No win no fee arrangements

Agents' fees are normally charged at an hourly rate based on the work carried out on behalf of the client. However, in some cases, the amount of fee charged is dependent on the outcome of the case. If the agent is successful they will charge the client a fixed amount or a certain percentage of, say, the amount of tax they have been able to recover for their client. If unsuccessful they will charge a much smaller fixed fee or nothing at all. These are sometimes referred to as contingency or "no win no fee" arrangements.

Our approach to claims for reimbursement of costs incurred under such agreements does not differ

significantly from any other claim for reimbursement of costs. We must satisfy ourselves that it is reasonable to reimburse the amount claimed having looked at all the circumstances of the case.

It is normal for fees in “no win no fee” arrangements to carry a premium over what might be charged under a more usual hourly rate arrangement. This reflects the risk agents are taking by basing their eventual fee on success, and must not be used on its own to argue that it is not reasonable for us to reimburse the costs incurred.

When considering a claim you must consider the complexity of the issue, the amount of tax at stake and the reasons why the claimant entered into such an agreement. For example, if the taxpayer can demonstrate that, due to the complexity of their tax dispute with us, they only entered into a “no win no fee” agreement because they were unable to get professional advice on any other basis, then they would have a case to argue that the costs subsequently incurred were reasonable. However, if the taxpayer entered a “no win no fee” arrangement and effectively signed away a substantial part of a near guaranteed sum, then it would be difficult for them to demonstrate that they had acted reasonably.

You must always be satisfied that a genuine commercial arrangement was entered into before the agent commenced work, e.g. a contract or correspondence.

You are most likely to see these arrangements where the customer is seeking to recover a large amount of tax.

Claims for reimbursement of costs charged on a “no win no fee” basis are rare but the amount claimed can be significant. If you come across such a claim please seek advice from CCAST.

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