

Practical Representation in Tax Investigations

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There are a number of publications which claim to provide the General Practitioner with all he needs to handle an Inland Revenue tax enquiry (see table), but this new work by Will Heard aims to give the adviser the controls of the enquiry to help him to manipulate the process in the direction that best suits the client.

As well as being an ex-Inspector of Taxes, and former head of Ernst & Young's Tax Investigations department in Birmingham, Will is child of the sixties and he takes a holistic approach to tax enquiry work. This means establishing an overview of the enquiry and continually monitoring the progress while making adjustments to allow the adviser to stay one step ahead. During 27 years of experience of Inland Revenue tax investigations Will has developed a number of tools used to work a tax investigation that he shares with readers in chapter seven of this book.

The top tool must be the personal financial questionnaire included in appendix one. This is a pre-enquiry honesty check for the client, which includes all the questions that are likely to be asked by the Inland Revenue at some stage during a full enquiry. Its main purpose is to ensure that the adviser can see the client's full hand before he starts to play against the Inspector, but it also acts as a life-belt for the adviser should the investigation boat be sunk by an unexpected confession of guilt. If the client has not been completely honest on the personal financial questionnaire it will be clear whose fault it is when undeclared earnings are uncovered.

Most tax investigation manuals detail the structure of the enquiry system and explain the regulations and powers available to the Inspector during an enquiry or investigation. This work does all that but Will goes one step further and talks about the psychology of an investigation from the point of view of the tax inspector, the adviser and the client. This is invaluable in planning the blueprint of the investigation that Will urges all advisers to do from the outset. With no blueprint the investigation can easily run out of control, which is bound to be detrimental for the client and the adviser.

This approach is unique to this book and does not stop at the general platitudes such as 'keep control of the situation'. Will tells us how to plan a blueprint for the different types of enquiry and how to spot where an investigation is going with the use of key questions. The practical element of this work is the step by step guide to the four stages of an enquiry from the opening letter to completion of the case.

The penultimate chapter deals with a discussion of the money laundering rules. The money laundering regulations are still not finalised and guidance for advisers still being developed, however I found it disappointing that the dangers for advisers are spelt out but the only concrete guidance is to report any suspicions to the NCIS at an early stage.

The final chapter tackles PAYE and NIC investigations, which is useful as few works cover this area in depth if at all. However it does appear to be rather an after thought for the whole work, and the subject is not tackled in the same detail as the previous 12 chapters devoted to tax return enquires and investigations. This material can also be found in the Employment Tax Planning published by Lexis Nexis.

I refer generally to tax investigations in this review, but Will distinguishes between tax enquiries and investigations to highlight the different approaches taken by the Inland Revenue. Enquiries into self-assessment tax returns come in two flavours: the aspect which examines one item or aspect of the tax return, and the full enquiry that looks at all significant risks of error in the return including the risk that the return is fundamentally incorrect. Enquiries have no built-in assumption that the return is incorrect and the process is confined to the details of one tax return.

A tax investigation is conducted when the Inspector has made a discovery that leads him to believe that the tax return is incorrect. The Inspector does not have to follow the enquiry procedures when he has made such a discovery but it may suit him to do so. Will explains the powers used during an investigation to raise estimated assessments under TMA 1970 s. 29 and to gather information under TMA 1970, s. 20. These powers are not restricted to one tax year.

One criticism I have of Will's writing is that it does tend to ramble a bit. The layout of the work could also be improved with more use of subheadings so the reader can alight easily on the relevant paragraph instead scanning pages of plain text for the answer. However if you have the patience to read steadily through all 14 chapters you should find this book an invaluable support to handling tax investigations into both personal and corporate tax returns.

Publisher	Title	Price	No. of updates per year etc.
CCH	Tax Investigations Guide	£146.22	4 updates plus newsletter
Lexis Nexis	Tax Investigations service	£433.77	4 updates plus Business Notes.
Lexis Nexis	Tolleys Tax Investigations	£59.95	Bound book. Next edition out Oct 2004.
Lexis Nexis	Dealing with Revenue enquiries and investigations	*£99.00	To be published Feb 2004. Bound book.
Lexis Nexis	Dealing with PAYE audits	*£49.95 (£39.96 before 31-10-03)	To be published August 2004. Bound book
Gee	Compliance Visits and Investigations Handbook: payroll and VAT	£235	2 updates, 2 bulletins and 2 checklists

* Estimated prices.