

## Association of Accounting Technician's response to HM Revenue & Customs consultation on "Amending HMRC's Civil Information Powers"

**The Association of Accounting Technicians (AAT) is pleased to have the opportunity to respond to this consultation.**

AAT considers that current powers are adequate and proportionate for UK compliance checks, that there is a strong argument for retaining independent scrutiny as a means of ensuring HMRC's third party requests are reasonable and appropriate and we support regulations that safeguard the rights of citizens and enable HMRC to conduct its enquiries.

As a result, AAT does not support proposals for a new Financial Institution notice that removes the need for HMRC to obtain approval from an independent tribunal and removes the right of appeal.

**Question 1: Do you have any views on the suggested change to align third party notices with taxpayer notices?**

AAT does not support any attempt to dilute existing safeguards requiring HMRC to seek approval from the tribunal or the taxpayer before a third-party notice can be issued.

**Question 2: Do you think any further internal processes, or safeguards, prior to issuing the notice, would be required?**

AAT believes that the current system of following instructions set out in the HMRC Compliance Manual works well. Indeed, most taxpayers comply with informal requests for information and documents but, where there is a failure to respond, HMRC can issue a formal notice requiring production.

As highlighted in the response given to question 1 above, the taxpayer safeguard of independent tribunal oversight of a direct approach by HMRC to the banks or other third party should remain.

**Question 3: Should there be any further restrictions on the type of information that could be requested under this notice?**

On the basis of AAT's response to questions 1 and 2, no further restrictions would be required for HMRC requests for third party information.

**Question 4: Do you think there should be a separate rule for third party notices for banking information?**

AAT is strongly opposed to the proposed new Financial Institution notice, which would not have to be approved by an independent tribunal and has no right of appeal, it is unnecessary for the working of HMRC enquiries and dilutes the rights of citizens.

**Question 5: Should this power be subject to any restrictions or safeguards? If so, please state the restrictions or safeguards.**

The current independent tribunal oversight is a robust and sufficient safeguard that should not be removed.

**Question 6: Do you have any other ideas for options that could deliver both the objective of speeding up the process and providing appropriate safeguards?**

Most taxpayers provide bank statements and sign mandates for HMRC to approach financial institutions on request. Failure to co-operate will result in an HMRC approach to the tribunal and ultimately it will be reflected in the level of penalties incurred on settlement.

Much of the delay in enquires could be addressed by HMRC providing more timely responses to correspondence.

AAT does not consider that the issue of a notice approved by an authorised officer is a sufficient safeguard. Instead, the current independent tribunal oversight should be retained.

**Question 7: What are your views on extending information powers in this way?**

AAT agrees that Schedule 36 should be extended to cover all HMRC's tax functions.

**Question 8: Do you have any views on amending the legislation in this way?**

AAT agrees that statute should be amended to clarify that HMRC can assess an increased daily penalty to the amount determined by the tribunal.

**Question 9: Should the increased daily penalties apply to all Schedule 36 information notices?**

AAT has no objection to HMRC exploring harmonisation of the penalty regime to enable HMRC to apply to the first-tier tribunal for permission to assess increased daily default penalties for all Schedule 36 notices - where failure to comply continues after the daily default penalty under paragraph 40 of Schedule 36.

Such a measure would provide a reasonable bridge between the current 'locally' imposed penalty under Schedule 40 and any application to the Upper tribunal for an additional tax-related penalty under paragraph 50.

**Question 10: Do you have any views on making amendments to prevent the third party from notifying the taxpayer in this way?**

AAT has no objection to the proposal to where the tribunal has disapplied the requirement to send a summary to the taxpayer under paragraph 3(3)(e) and (4) of Schedule 36.

**Question 11: What form of sanction should be imposed on the third party for a breach of this rule**

A monetary penalty would be an appropriate sanction to impose.

**About AAT**

AAT is a professional accountancy body with approximately 50,000 full and fellow members and over 90,000 student and affiliate members worldwide. Of the full and fellow members, there are more than 4,250 licensed accountants who provide accountancy and taxation services to over 400,000 British businesses.

AAT is a registered charity whose objectives are to advance public education and promote the study of the practice, theory and techniques of accountancy and the prevention of crime and promotion of the sound administration of the law.

**Further information**

If you have any queries, require any further information or would like to discuss any of the above points in more detail, please contact Aleem Islan, AAT Technical Consultation Manager, at:

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