

Who is expected to inform who about this rule and when does this communication need to take place by.

On 25 August 2009, Martin Delnon wrote to you:

I am writing to advise you that HMRC does not expect to complete its search for the information you requested on 30 July until next week. I am sorry that I will be unable to respond to your request sooner.

You say that the staff at Dorchester Enquiry Office laughed at you when you asked how taxpayers are expected to know that they need to fill in a self-assessment form to claim to offset expenses of £2,500 or more against tax. If you wish to make a complaint about the conduct of staff at Dorchester Enquiry Office you can find HM Revenue & Customs' guidance on how to make complaints on our website at <http://www.hmrc.gov.uk/dealingwith/complain.htm>.

I will write to you again as soon as the search has been completed.

On 4 September 2009, Martin Delnon wrote to you:

Further to my letter of 25 August, I am responding to the requests that you made in your e-mail of 30 July.

You asked for the reasons behind the rule that states that a taxpayer wanting to offset expenses against tax for expenses or professional subscriptions of £2,500 or more has to complete a personal tax return (self-assessment return).

The figure of £2,500 was increased from £500 with effect from April 2004 as one of a series of initiatives in response to recommendations made by the Treasury Select Committee in connection with the self-assessment system for individuals. The Committee recommended that the then Inland Revenue take steps to reduce the number of individuals required to complete personal tax returns with particular emphasis on pensioners and the lower paid.

I have been unable to find any document that records why the figure of £2,500 was chosen. However, the size of the increase from the previous limit would have significantly reduced the number of individuals required to make claims for expenses by completing a tax return.

HMRC captures and processes the information on tax returns and tax becomes due or repayable in accordance with the return information and the taxpayer's self-assessment. HMRC then conducts a risk assessment as part of the process of checking the return. The risk assessment may identify obvious errors which can be corrected or other matters that may require more detailed explanations for which a formal enquiry will be necessary. Information about expenses will be considered with the other return information as part of that risk assessment.

You also asked how a taxpayer affected by the £2,500 limit for expenses is expected to know that they need to complete a tax return, what they need to do and by what time. The changes made in 2004 in response to the recommendations made by the Treasury Select Committee included the publication of the criteria that HMRC uses for deciding whether a tax return is needed. These can now be found under "Do you need to complete a tax return?" at <http://www.hmrc.gov.uk/sa/need-tax-return.htm>. A taxpayer who has incurred expenses that they wish to set against tax will need to contact HMRC. If those expenses are £2,500 or more, the HMRC officer should explain what is required including whether the taxpayer will need to complete a tax return. A PAYE taxpayer who needs to complete a return has five years from the 31 October following the end of the tax year to require HMRC to give him or her notice to make a return.

Finally, I explained in my previous letter about the steps that you should take if you wish to pursue a complaint about the conduct of staff at Dorchester Enquiry Office.

On 4 September 2009, you requested an internal review:

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of HM Revenue & Custom's handling of my FOI request 'Expenses offset against tax.'

A full history of my FOI request and all correspondence is available on the Internet at this address:

http://www.whatdotheyknow.com/request/expenses_offset_against_tax

Can you please review the information and correct the mistakes made before re-submission. Can you please check your response against the information provided by yourselves to employers and especially payroll bureau's regarding the processing of expenses and the offsetting of expenses against tax.

On 29 September 2009 you provided a clarification to your request for an internal review:

Contractors pay Payroll Bureau's (PB's) to handle ALL of their Pay and Tax affairs for the work that they carry out. HMRC issues the rules and guidance to PB's which must be adhered to by the PB. PB's are audited by HMRC on a regular basis. If there is any other HMRC requirement of the contractor then the responsibility lies with the PB therefore any guidance provided by HMRC to the PB must make reference to self assessment for contractors who offset more than £2500 per year against Tax.

Contractors are not expected to research into what other HMRC rules that they are expected to comply with, the risk of missing something is too high.

My review

I have carefully considered the information that you requested and the HM Revenue & Customs (HMRC) responses.

I can confirm that HMRC has conducted a thorough search for the information that you requested including our paper and computer records and questioning our staff who had an interest in the review of individual's obligations under the self assessment regime. I can confirm that HMRC has provided all the information that you asked for on 30 July 2009, to the extent that it is held by the Department.

I see that Martin Delnon's letters of 25 August 2009 and 4 September 2009 did not tell you about how to request an internal review of HMRC's response or how to contact the Information Commissioner if you are not happy with the outcome of an internal review. I am sorry for this omission.

The Information Commissioner

If you are not content with the outcome of this internal review, you may apply directly to the Information Commissioner for a decision. The Information Commissioner will not usually consider a case unless you have exhausted the internal review procedure provided by HMRC. He can be contacted at The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Your clarification of 29 September 2009

In your email of 29 September 2009, you raise questions that were not part of your Freedom of Information request of 30 July 2009. I will therefore reply to those questions outside the terms of the Freedom of Information Act.

I can find no errors in HMRC's responses to your request for information. I am therefore taking your comment as an expression of dissatisfaction with our response to your question about how a taxpayer is expected to know that they should complete a tax return if they wish to claim for expenses of £2,500 or more. However, your email of 30 July 2009 suggests that there may be some confusion between an employer's Pay As You Earn (PAYE) obligations and an employee's obligations as an individual subject to income tax.

When you say "contractor" I am taking that to mean an individual who provides his or her services through a personal service company. The contractor, through the personal service company, may choose to use a payroll bureau to handle the company's PAYE and National Insurance obligations. However, the service company as an employer and the employee as an individual continue to have separate obligations. It might be helpful to set out these separate obligations as they relate to an employee's expenses because they may answer your concerns about the guidance HMRC provides to payroll bureaux.

As you know, an employer is responsible for reporting to HMRC details of the expenses paid to its employees on forms P11D.

On the other hand, an employee is an individual subject to income tax and therefore has separate obligations. These include an obligation to complete a tax return where the employee claims expenses of £2,500 or more against their personal tax liabilities.

HMRC's guidance mirrors these separate responsibilities. HMRC's guidance for payroll bureaux covers the employer's obligations in relation to expenses it pays to its employees. The guidance does not cover the employee's obligations in relation to expenses and their personal tax liabilities because it is not relevant to the employer. HMRC's guidance for employees who wish to claim their expenses against their tax liabilities is therefore provided separately.

SAM MITHA