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Frank Mustill

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Date 16 November 2009
Our Ref FOI 2703/09
Your Ref

www.hmrc.gov.uk

Dear Mr Mustill

Freedom of Information (FOI)

I refer to your Freedom of Information request dated 18 October 2009.

Your request relates to the following matters:

- 1) The capital gains tax position relating to the sale of a second property by Hazel Blears MP.
- 2) Clarification of the practice of “flipping” for capital gains tax purposes
- 3) Whether investigations were carried out into claims by MPs for accountancy fees as reported in the Daily Mail.
- 4) If investigations were carried out into such claims, what was the outcome of the investigations.
- 5) Whether any MPs who fall under the Money Laundering Regulations (MLR) will be pursued under these Regulations in relation to failures to declare income and property sales, and whether this is separate to investigations into MP’s expenses claims.
- 6) Whether Dennis Bates, the husband of former Minister Meg Munn, will be investigated under the MLR.
- 7) Whether MPs who are subject to investigation by HMRC will be subject to the same penalties, interest and fees as general members of the public on completion of the investigations.
- 8) The start date of the New Disclosure Opportunity Scheme.
- 9) Details of the “name and shame” scheme.
- 10) Whether HMRC has been informed of Lord Paul’s current investigation by the Clerk of Parliaments in relation to his expense claims and whether HMRC will be carrying out investigations into any expenses “irregularities”.

Information is available in large print, audio tape and Braille formats.
Type Talk service prefix number – 18001



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- 11) Whether Lord Paul would fall under the MLR and require further investigation.
- 12) Whether HMRC will be turning its attentions to Members of the House of Lords once any investigations have been completed into MPs.

In relation to matters **(1), (4), (5), (6), (10), (11)** and **(12)** HMRC can neither confirm nor deny that it holds the information you have requested. This is because of section 44(1)(a) of the FOI Act, which exempts information if its disclosure is prohibited by any enactment. In this instance, the relevant enactment is the Commissioners for Revenue and Customs Act (CRCA) 2005. The effect of section 23 of CRCA is that information we hold in connection with one of our functions, and which identifies a person or enables their identity to be deduced, is exempt from disclosure under FOI. In this context a "person" includes both natural and legal persons, such as companies.

Section 44(2) provides that a public authority does not have to confirm or deny holding information if doing so would effectively mean that the authority would be communicating information that was exempt under section 44(1). If I were to confirm or deny that HMRC holds information within the scope of your request, I would be telling you something about HMRC's activities in relation to a particular taxpayer. Therefore the duty to confirm or deny does not apply.

On **(2)** I can confirm that the ability to nominate a property as an individual's main residence for the purpose of private residence relief from capital gains tax, and to vary that nomination, is legislated for and applies to all taxpayers, not just Members of Parliament. Further information is available on the HMRC website in the form of Help Sheet HS283 "Private Residence Relief" at

<http://www.hmrc.gov.uk/helpsheets/hs283.pdf>

If, after reading that leaflet, you have any further queries about your personal tax situation you should contact your tax office or seek professional advice.

In relation to the information requested at **(3)** above, while I can neither confirm or deny that HMRC holds the specific information you have requested, you may wish to note that in June 2009 we published information following other FOI requests about MPs' tax affairs. This includes information about the number of settled enquiries into MPs' tax returns in the last 3 years. This information can be accessed on the HMRC website at:

<http://www.hmrc.gov.uk/freedom/mps-expenses.htm>

On **(5)** while, again, I can neither confirm nor deny that HMRC holds the information requested it might be helpful if I explain the scope of the Money Laundering Regulations. The Money Laundering Regulations provide for various steps to be taken by financial services sector and other businesses to detect and prevent money laundering and terrorist financing. Obligations are imposed on "relevant persons" who are credit and financial institutions, auditors, accountants, tax advisors and insolvency practitioners, independent legal professionals, trust or company service providers, estate agents, high value dealers and casinos. MP's are only treated as relevant persons under these Regulations if they act in the course of business in one of these areas.

In answer to the question at **(7)** above I can confirm that as for any other taxpayer, MPs tax returns may give rise to an enquiry and the same considerations apply to the selection of cases and the procedures for dealing with the enquiry. If, as the result of an enquiry, it is found that additional tax may be due, HMRC will treat MPs in the same way as any other taxpayer.

On **(8)**, the start date for HMRC's new offshore disclosure opportunity was 1 September 2009 for paper notifications, with electronic notifications starting on 1 October 2009.

Finally on **(9)** you have asked whether the text you reproduced regarding the naming of deliberate tax defaulters is accurate. I can confirm the text is broadly accurate. For further

details of the provision please see Budget Note 63 published at Budget 2009, which is available on the HMRC website at

<http://www.hmrc.gov.uk/budget2009/bn63.pdf>

It is intended the provision will take effect from April 2010 but this is subject to the making of an appointed day order in Parliament by Ministers.

If you are not happy with this reply you may request a review by either emailing 'foi.xxxxxx@xxxx.xxx.xx', or by writing to the HMRC FOI Team, Room 4/52, 100 Parliament Street, London SW1A 2BQ. You must request a review within two months of the date of this letter. It would assist our review if you set out which aspects of the reply concern you and why you are dissatisfied.

If you are not content with the outcome of the internal review, you may apply directly to the Information Commissioner for a decision. Generally, the Information Commissioner cannot make a decision unless you have exhausted the review procedure provided by HMRC. He can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF, or by e-mail: enquiries@ico.gsi.gov.uk

Yours sincerely

Aidan Callan