



HM Revenue & Customs

A Ross
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Dear A Ross

Freedom of Information Act 2000 (FOIA)

Thank you for your request, which was received on 2 July, for the following information:

"In relation to the disguised remuneration legislation, please provide me with details of how many scheme operators/providers who have been investigated by HMRC."

You ask for information about the number of scheme 'operators/providers' that have been investigated. It is not clear whether you are referring only to those that promote the DR schemes in question and, if so, whether you are seeking information about investigations in relation to their business activities as a promoter or their tax matters more generally. We have assumed you are seeking information about investigations into their activities as promoters of tax avoidance schemes. If that was not your intention please let me know.

I can confirm that HMRC hold information within the scope of your request but consider disclosure of this information exempt under section 31(1)(d) of the FOIA .

Section 31 states:

- 31.(1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice –
- (d) the assessment or collection of any tax or duty or of any imposition of a similar nature,

Those who design, market or otherwise promote tax avoidance schemes rely on any information or document that may help them to justify their schemes to clients or HMRC. Quantifying the results of our compliance actions and the measures taken to deter promoters could reveal the extent of the department's use of its investigative tools and provide insight for promoters into our risking and profiling processes. This could enable those intent on avoiding, or helping others to avoid, tax to rearrange their affairs to avoid detection or rehearse arguments to justify their actions.

The population of known promoters is small. Releasing information that subdivides that population may enable promoters to deduce or infer which promoters have been challenged and/or sanctioned by HMRC. This would help them to form judgements about the likelihood of HMRC investigating their business activities and may adversely influence their behaviour,

leading to reduced voluntary compliance, which would make it harder and more burdensome for HMRC to assess and collect tax from them and their clients. The public interest lies in HMRC being able to carry out its enquiries in a way that ensures the assessment and collection of the proper amount of tax. Disclosure of the information sought would hinder that process.

Section 31 is a prejudice based exemption and having concluded that disclosure would be likely to prejudice the assessment and collection of tax, HMRC will now consider the public interest test.

There is a strong public interest in HMRC being accountable for its performance and that it is as transparent as possible about how successful it is tackling tax avoidance.

Whilst there is a strong public interest in HMRC being both transparent and held to account for its actions it should be noted that the Department is subject to regular scrutiny by bodies such as the National Audit Office, the Public Accounts Committee and the Treasury Select Committee. Through this scrutiny, the effectiveness of HMRC's strategic decisions can be challenged to ensure HMRC is accountable.

There is however, considerable public interest in the measures HMRC takes in tackling tax avoidance and the additional revenue collected through this. HMRC feels the level of public scrutiny currently in place satisfies the public interest for transparency and accountability

As the UK's tax, payments and customs authority, HMRC needs to secure the revenue to the Exchequer to help pay for essential public services.

On balance we conclude the public interest to favour maintaining the exemption at section 31(d) of the FOIA.

The vast majority of tax advisers play by the rules and help their clients pay the right amount of tax. However, there is a small minority who seek to help their clients bend the rules and to pay less tax than they owe.

We have a suite of powers to tackle promoters and enablers of tax avoidance schemes, designed to change behaviour and influence those involved to move out of promoting and enabling for good, with various sanctions and penalties for those who don't.

We are using these powers to challenge all major promoters of avoidance schemes. We are also using a range of other approaches to disrupt their activities, including for 2017/18, making three complaints to the Advertising Standards Authority about misleading adverts. All have been upheld and apply to anyone promoting similar schemes, not just the promoter of the arrangement referred.

You might like to be aware that on 18 July 2018 a 'HMRC issue briefing: disguised remuneration charge on loans' was published on GOV.UK at:
www.gov.uk/government/publications/hmrc-issue-briefing-disguised-remuneration-charge-on-loans/hmrc-issue-briefing-disguised-remuneration-charge-on-loans

If you are not satisfied with this reply you may request a review within two months by emailing foi.review@hmrc.gsi.gov.uk, or by writing to the address at the top right-hand side of this letter.

If you are not content with the outcome of an internal review, you can make a complaint to the Information Commissioner's Office (ICO). Instructions about this process are available at the following link: <https://ico.org.uk/concerns/>

Yours sincerely,

Freedom of Information Team