



HM Revenue  
& Customs

Mr James McGuigan  
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Date: 25 January 2019  
Our ref: FOI2018/02831

Dear Mr McGuigan

### **Freedom of Information Act 2000 (FOIA)**

Thank you for your request, which was received on 26 December, for the following information:

"In a letter dated July 2018 from HMRC it states "We also pursue those who promote or enable schemes that attempt to avoid tax. We have a range of powers to discourage promoting or enabling avoidance, including penalty regimes which can impose penalties unto £1m or the whole of the fees earned for attempting to enable avoidance. We are also reporting promoters to the Advertising and Standards Agency and professional bodies, and opening criminal investigations where appropriate. Promoters of tax avoidance schemes have been prosecuted, leading to criminal and jail terms"

Please let me know...

1) How many criminal investigations against promoters are:

- a) Currently Open
- b) Closed with a Success
- c) Failed in Court and still being pursued
- d) Failed in Court and closed without success
- e) How many promoters have been jailed

2) Who are the professional bodies you are reporting them to other than the ASA

3) Which of these professional bodies are regulated"

I can confirm HMRC holds information falling within scope of your request. However, we estimate that it would exceed the FOIA cost limit to deal with it. The cost limit, which is specified in regulations, equates to one person spending 3½ working days locating and extracting all of the information within scope of the request. Consequently, under section 12(1) of the FOIA, HMRC is not obliged to comply with your request.

This should not be taken to mean that compliance action against the promoters of tax avoidance schemes has not taken place.

In recent years, HMRC has been investigating over 100 promoters and others involved in the promotion of tax avoidance, including disguised remuneration arrangements. In the last

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year, HMRC has taken litigation action against 5 scheme promoters for failure to disclose under the Disclosure of Tax Avoidance Schemes regime. One case has been decided in HMRC's favour with decision in the other four pending. Further cases will be litigated in the year ahead and others are deciding to disclose to avoid litigation.

HMRC has also used its powers under the Promoters of Tax Avoidance Schemes (POTAS) regime to challenge promoters and others, and has made three successful complaints to the Advertising Standards Authority about misleading advertising; two of which relate to disguised remuneration schemes. Further information is available at: [www.gov.uk/government/collections/tax-avoidance-disguised-remuneration](http://www.gov.uk/government/collections/tax-avoidance-disguised-remuneration)

HMRC will also consider criminal investigation, and makes referrals to prosecuting authorities, where appropriate. Since the formation of HMRC's Fraud Investigation Service on 1 April 2016 more than 15 individuals have been convicted for offences relating to arrangements which have been promoted and marketed as tax avoidance schemes resulting in over 95 years custodial and 4 years suspended sentences being ordered. Additional matters are the subject of ongoing enquiries.

It is criminal investigations into the promoters of tax avoidance schemes on which your request focusses and it is the records of these which would exceed the FOIA cost limits to provide to you.

An example of the kind of circumstance in which HMRC will generally consider starting a criminal, rather than civil investigation is where, pursuing an avoidance scheme, reliance is placed on a false or altered document or such reliance or material facts are misrepresented to enhance the credibility of a scheme.

HMRC publishes the numbers of prosecutions resulting from their criminal investigations on an annual basis. However, this information was not broken down to a level to identify the proceedings commenced against the promoters of tax avoidance prior to the formation of the Fraud Investigation Service in 2016.

In 2015/16 the total number of decisions to charge individuals with offences following an HMRC referral to the UK prosecution authorities was 1,135. To comply with your request would require an official to review the individual records of these referrals in order to determine if the individuals referred were associated to the promotion of tax avoidance schemes. As has been previously advised, such criminal proceedings are only opened in specific circumstances.

I have established that the time necessary to gather this information for even a single year would exceed the cost limit by some way.

Taking in to account the information provided above you may wish to narrow the scope of your request to those records since 2016. Please note that we are unable to guarantee that any refined requests would fall within the cost limit or other exemption will not apply.

If you are not satisfied with this reply you may request a review within two months by emailing [foi.review@hmrc.gsi.gov.uk](mailto: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 [complain to the Information Commissioner's Office](#)

Yours sincerely,

Freedom of Information Team