

## HMRC Launches Contractual Disclosure Facility

At the risk of sounding stale and repetitive, HM Revenue and Customs have launched yet another new scheme of disclosure for taxpayers suspected of committing serious tax fraud.

Under the Contractual Disclosure Facility (CDF), HM Revenue and Customs say they are adopting a policy whereby they will write to certain taxpayers that they suspect of committing tax fraud, to offer them the opportunity to make a disclosure of unpaid tax liabilities. In return HM Revenue and Customs will agree not to pursue criminal prosecution against the taxpayer. It is strongly advised that anyone receiving such a letter should take immediate professional advice, not least because of the requirement to respond within 60 days on what are likely to be difficult and complex matters.

In addition taxpayers that have not yet been contacted by HM Revenue and Customs may voluntarily request to be considered for the CDF (although there is no guarantee that they will be offered it). Alternatively those with offshore assets could consider registering under the Liechtenstein Disclosure Facility (LDF).

**Specific advice should be taken in each case. Great care is required!**

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### Interesting Facts

The first Valentine's Day box of chocolates was introduced by Richard Cadbury in 1868



The red rose was the favourite flower of Venus, the Roman goddess of love. Since red stands for strong feelings, the red rose is a flower of love

### Signed, Sealed & Redelivered

A taxpayer was issued with an assessment for underpaid tax of £2,300 for 2008/09 and 2009/10.

He asked for a time to pay arrangement and was told he needed to submit tax returns for the years in question first.

Following timely submission (albeit with one form unsigned) it was returned. He resubmitted it, by which time the return was late and a late filing penalty was issued. The taxpayer appealed.

The judge concluded that the returns were submitted in good time to meet the deadline and no late-filing-penalty was due.

### Late Filing Penalty Quashed

A taxpayer has won a case against the award of a late filing penalty. The tribunal found that the onus of proof is on HMRC in a case where penalties are issued.

A company was under the belief that their agent had successfully filed their annual P35 return online.

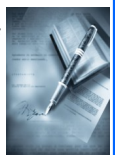
Some months later HMRC issued a penalty notice. They lost. The taxpayer's honest belief that the return had been filed was a reasonable excuse under statute even though a glitch in computer communications meant that the HMRC computer did not finally capture the tax return data.

### Tax Deductible Expenses

In a recent case the tribunal rejected an appeal by the taxpayer for a deduction against employment income for expenses incurred to attend overseas conferences.

The tribunal found that the taxpayer's employment contract and staff handbook made no reference to overseas travel or conferences therefore the employee could not be said to have been obliged to incur the expenses and therefore did not meet the statutory test.

This demonstrates the importance of looking closely at contracts where employees are incurring expenses.



## Lessons to be Learned

- The cases show that HMRC, like every other earthly institution is not always right
- A sound technical position can be defended successfully - especially with supporting, contemporaneous documentation.
- Professional expertise helps with support.