

ASSISTING CLIENTS WITH MAKING DISCLOSURES TO HMRC – GUIDANCE FOR CIOT MEMBERS

Members may be asked by clients or potential clients to provide advice, guidance and support to enable the person/business to make a disclosure to HMRC. A disclosure is the process through which a taxpayer tells HMRC about an inaccuracy(ies) with their tax affairs, with a view to agreeing and paying the tax, late payment interest and any penalties due to bring their UK tax position up to date.

HMRC provide several different processes through which taxpayers can make disclosures. It is important that members guide their clients to:

- Use the disclosure process which is most appropriate given all the issues to be corrected and the reason(s) why the inaccuracy(ies) occurred.
- Make a full disclosure of all inaccuracies for all taxes and duties simultaneously, setting out all the affected tax years/periods in which the mistake(s) occurred.
 - If any of these amounts are outside the time limits for assessment, this should be explained.
 - If the client is an Owner Managed Business, then the disclosure may need to cover the business and its owners' tax affairs depending on the nature of the mistakes.
- Notify HMRC of their client's intention to make a disclosure soon after being engaged to undertake the work, to protect the client's unprompted penalty reduction (if relevant).
- Use a disclosure process which offers protection from prosecution in exchange for making a full disclosure if any of the mistakes were caused by deliberate behaviour/tax evasion.
- Meet the terms of the disclosure process which they decide to use.

Current options for making disclosures include:

- Contractual Disclosure Facility (also known as Code of Practice 9) – the only facility that can provide protection from a criminal investigation with a view to prosecution for tax offences
- Digital Disclosure Service for general disclosures
- Worldwide Disclosure Facility
- Let Property Campaign
- Profit Diversion Compliance Facility – see [here](#)
- Research & Development (R&D) disclosure service
- Electronic Sales Suppression (ESS) disclosure service – see [here](#)
- Cryptoasset disclosure service – see [here](#)
- Mid-Sized Business disclosure process via their customer support team – see [here](#)
- Contacting the client's HMRC Customer Compliance Manager, if they have one

Note: Links provided above are to further information on the CIOT website where available. Links to GOV.UK are provided at the end of this document.

The terms for each facility/process are set out on GOV.UK. The R&D, ESS and cryptoasset disclosure services do not include a process to notify HMRC of the client's intention to disclose.

Most of the above disclosure services involve submitting a form online to summarise the disclosure, including quantifying the tax, late payment interest and penalties due. As this is only a summary and

usually the space on the form is limited, members should consider submitting a separate disclosure report with supporting documentation at the same time as the online form so that the client makes a full factual disclosure. The client should approve both the online form and the disclosure report before they are submitted to HMRC. If the disclosure is not a full factual disclosure then the client may be exposed to higher penalties and other consequences.

The extent to which each of the disclosure routes noted above facilitates the submission of a separate disclosure report varies – please check the information on gov.uk to establish the latest position. As noted above, members should choose the disclosure service which is most appropriate for their client's circumstances given all the issues to be corrected and the reason(s) why the inaccuracy(ies) occurred.

Guiding clients through making a disclosure is a specialised service. A CIOT member must comply with the fundamental principle of professional competence and due care as set out in [Professional Conduct in Relation to Taxation \(PCRT\)](#). This means that they should not undertake professional work which they are not competent to perform unless they obtain appropriate assistance from a suitably qualified specialist. Advice from another adviser specialising in tax disputes may therefore be needed if the member does not have the necessary expertise to handle a disclosure themselves.

It is also important that members ensure that they comply with other relevant aspects of PCRT in relation to this work, such as:

- Ensuring that the contents of disclosures (and any other associated correspondence with HMRC before the matter is concluded) are accurate and have a sustainable basis [refer to the guidance at paragraphs 10 – 14 and 19 - 24 [PCRT Help Sheet A: Submission of tax information and 'tax filings'](#)].
- Following the process at [PCRT Help Sheet C: Dealing with errors](#) if you are concerned that the client may not be disclosing all their mistakes. This includes establishing the facts, whether client authorisation is needed to disclose an error and actions to take where a client refuses to disclose.

Links to GOV.UK:

- [How to make a voluntary disclosure to HMRC](#)
- [Make a disclosure using the Worldwide Disclosure Facility](#)
- [Let Property Campaign – your guide to making a disclosure](#)
- [Tell HMRC about underpaid tax from previous years](#)
- [Contractual Disclosure Facility](#) (also known as [Code of Practice 9](#))
- [Profit Diversion Compliance Facility](#)
- [Research & Development \(R&D\) disclosure service](#)
- [Electronic Sales Suppression \(ESS\) disclosure service](#)
- [Cryptoasset disclosure service](#)
- [Mid-Sized Business disclosure process via their customer support team](#)

Chartered Institute of Taxation
8 January 2025