

## **HMRC One to Many Agent Letters**

### **Guidance for CIOT members**

#### **Background and introduction**

In recent years HMRC have been increasing their use of One to Many (OTM) letters in their compliance approach. This involves sending one standard message to many taxpayers. The aim is to influence behaviour so people are more likely to comply with their tax obligations<sup>1</sup>. This includes encouraging taxpayers to check whether an aspect of their tax return was correct or providing educational information. OTM letters are not formal statutory enquiries (e.g. under s9A TMA 1970).

This guidance for CIOT members specifically concerns OTM letters addressed to tax agents. This contrasts with HMRC's normal approach when using OTM letters, which they will typically send directly to the taxpayer concerned, usually with a copy to their authorised agent.

This note provides information about OTM agent letters together with some guidance to help CIOT members decide the most appropriate way to respond if they receive one of these letters from HMRC.

#### **Why do HMRC use OTM agent letters?**

HMRC appear to consider that some agents may find it helpful to be contacted when HMRC identify an issue which affects several of their clients at once. HMRC often use OTM agent letters for this purpose. From HMRC's perspective, doing so fits into their strategy of "raising the standards of tax agents and intermediaries in order to build trust and confidence in the tax administration system"<sup>2</sup>.

It is also more cost-effective for HMRC to deal with one agent as opposed to numerous taxpayers.

#### **What are the hallmarks of an OTM agent letter?**

When we talk about an OTM agent letter we mean a letter from HMRC that is addressed to the authorised tax agent as part of a campaign to prompt agents into checking some of their clients' tax positions or particular tax returns and providing HMRC with amended information, where applicable.

HMRC will usually identify the authorised agent through the existence of a Form 64-8 authority. The letter will be addressed to one person at the firm but that person may not be the one who handles the tax compliance services provided to the clients in which HMRC are interested.

The letter will explain that HMRC have identified potential discrepancies, and/or it will highlight that amendments or disclosures may be required, in some of the agent's clients' tax returns.

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<sup>1</sup> <https://www.gov.uk/hmrc-internal-manuals/compliance-handbook/ch600110>

<sup>2</sup> <https://www.gov.uk/government/publications/hmrc-approach-to-working-with-agents/how-hmrc-works-with-agents>

The letter will not usually identify affected clients individually. Instead, it will say something along the lines that HMRC will aim to contact the agent within a specified timeframe when details will be provided of the clients HMRC have concerns about. The letter may also suggest the agent contacts HMRC on a telephone number or email address provided in the letter to arrange a time and date for a call to discuss HMRC's concerns and agree a process for addressing them.

HMRC do not send letters to the individual clients concerned, so the clients will not be aware that HMRC are asking about their tax affairs unless or until the agent tells them.

Examples of recent OTM agent letters are on the CIOT website (information and links are provided in the appendix at the end of this document).

Please note that HMRC's letters may reference HMRC's Standard for Agents<sup>3</sup>. This links back to the reasons why HMRC use these letters, as set out above.

### **What should a member do if they receive one of these letters?**

In the first instance a member should refer to the relevant guidance in Professional Conduct in Relation to Taxation (PCRT)<sup>4</sup> and in particular PCRT Helpsheet D<sup>5</sup>.

PCRT Helpsheet D covers both informal and formal requests for access to data by HMRC addressed to the member. OTM agent letters will usually fall into the category of informal requests. Paras 12 – 16 of the Helpsheet will be relevant, ie:

#### **Informal requests addressed to the member**

12. Disclosure in response to informal requests can only be made with the client's permission.
13. In many instances, the client will have authorised routine disclosure of relevant data, for example, through the engagement letter. However, if there is any doubt about whether the client has authorised disclosure, the member should ask the client to approve what is to be disclosed.
14. Where an oral enquiry is made by HMRC, a member should consider asking for it to be put in writing so that a response may be agreed with the client.
15. Although there is no obligation to comply with an informal request in whole or in part, a member should advise the client whether it is in the client's best interests to disclose

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<sup>3</sup> HMRC Standard for Agents <https://www.gov.uk/government/publications/hmrc-the-standard-for-agents>

<sup>4</sup> Professional Conduct in Relation to Taxation <https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/d0836d40-5102-4ac1-89f3-efc9b7c75e8a/CIOT%20-%20PCRT%2003.01.23.pdf>

<sup>5</sup> PCRT Helpsheet D - [https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/c1ee6274-bbef-4259-9bc2-a715af3c6675/Request for data by HMRC helpsheet 1 March 2019.pdf](https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/c1ee6274-bbef-4259-9bc2-a715af3c6675/Request%20for%20data%20by%20HMRC%20helpsheet%201%20March%202019.pdf)

such data, as lack of cooperation may have a direct impact on penalty negotiations post-enquiry.

16. Informal requests may be forerunners to formal requests compelling the disclosure of data. Consequently, it may be sensible to comply with such requests.

There is also a useful flowchart on page 4 of the Helpsheet.

The OTM agent letter may not be addressed to the most appropriate person in the member's practice. If this is the case, the member should consider advising HMRC of this and telling them who to contact in future in relation to the letter received and any future OTM agent letters. This may be the firm's Head of Tax, for example, given the letters tend to relate to several clients whose affairs may be dealt with by different teams or offices.

In addition to the points set out below, a member should advise affected clients whether any work dealing with the letter is covered by any fee insurance that they have or whether it will be subject to a separate fee and/or engagement letter. If insurance is in place, a member will normally have to agree that the insurance covers the work before commencing the work.

### **Finding out which clients are affected and client confidentiality**

An OTM agent letter will not contain a client list even though it will refer to there being potential discrepancies in the tax returns of more than one client. The member will therefore not know which clients are affected when they first receive the letter.

HMRC often say that they will provide the agent with a partially redacted client list on request so that the agent can identify which clients HMRC are interested in. Members should note that this raises confidentiality concerns because several clients' details (even if partially redacted) will be on the one list. Confidentiality is one of the fundamental principles in PCRT<sup>6</sup> with which all members must comply.

A member should take steps to ensure that records and working papers are maintained securely and that client confidentiality is protected. All documents, regardless of ownership or authorship, concerning a client, their financial affairs and their personal data are client confidential information<sup>7</sup>. Members should therefore make sure that client files do not contain details of other unconnected clients. In practice this may mean having to copy and redact the spreadsheet before it is placed on a client file so that only the information pertaining to that client is visible.

Sometimes HMRC will ask the agent to send them a spreadsheet showing which clients' returns have been amended and which have not (and why). A member should note that the spreadsheet and any response are legally owned by all the clients named on it. However, as noted above, client confidentiality must be protected at all times. Consequently, members should consider sending a

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<sup>6</sup> Professional Conduct in Relation to Taxation – the fundamental principle of Confidentiality is covered in paras 2.15 to 2.20. <https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/d0836d40-5102-4ac1-89f3-efc9b7c75e8a/CIOT%20-%20PCRT%2003.01.23.pdf>

<sup>7</sup> Professional Rules and Practice Guidelines (PRPG) para 11.2.4 - <https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/f9ccd0df-8b84-4ca5-8a08-f1f05f07f5b0/PRPG%20%28Update%201.1.2021%29%20-%20Final.pdf>.

response to HMRC in a different format, for example by responding individually in respect of each client. HMRC have told the CIOT that they will accommodate members providing the information in a different format to a spreadsheet, for example by sending individual responses for each client concerned instead.

### **If you no longer act for a client or clients**

Sometimes HMRC's list may contain the names of clients for whom the member no longer acts. When this happens, members should refer to the guidance in PCRT Helpsheet D<sup>8</sup> para 4, which says the following about what they should do if they receive an informal request for information about a client they no longer act for:

4. Where a member no longer acts for a client, the member remains subject to the duty of confidentiality. In relation to informal requests, the member should refer the enquirer either to the former client or if authorised by the client to the new agent.

### **Communicating with HMRC**

An OTM agent letter will often say that the agent can correspond with HMRC by email if they prefer. HMRC's document "Corresponding with HMRC by email" will be enclosed. HMRC will want the agent to confirm in writing (by post or email) that they and their clients:

- Understand and accept the risks of using email
- Are content for financial information to be sent by email, and
- Are content for HMRC to send them attachments.

This raises a potential issue because the agent will need to know which clients HMRC are interested in before they provide this confirmation. It may be therefore necessary to ask HMRC for the list of clients by post, so that the member can identify the clients and then provide the necessary confirmation to correspond by email. The only exception to this may occur if all the agent's clients agree to the agent communicating with HMRC by email up front e.g. via a suitable clause in the engagement letter.

### **Check that you have your client's permission to respond to HMRC's letter**

Since OTM agent letters are not addressed or copied to the client, once members have obtained a client list from HMRC, they should advise each client promptly that they have received a query about their tax affairs from HMRC and discuss with their client how to respond to HMRC's request. The client remains responsible for their tax affairs at all times.

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<sup>8</sup> PCRT Helpsheet D- [https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/c1ee6274-bbef-4259-9bc2-a715af3c6675/Request\\_for\\_data\\_by\\_HMRC\\_helpsheet\\_1\\_March\\_2019.pdf](https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/c1ee6274-bbef-4259-9bc2-a715af3c6675/Request_for_data_by_HMRC_helpsheet_1_March_2019.pdf)

Members should note that they will need their client's permission before they can discuss their affairs with HMRC and release information to HMRC – unless this is already clearly covered under an existing engagement letter. In any event, it is good practice to get the client's approval first because, as noted above, it is the client who is ultimately responsible for the accuracy of their own tax affairs. If a return needs to be amended or a disclosure made, the client will have to consent to that before it is submitted to HMRC. Routine engagement letters tend not to be broad enough to cover disclosures so members will need to consider whether any work dealing with the OTM letter will need to be subject to a separate engagement letter.

The client will need to understand what HMRC's potential next steps may be if no response is provided to HMRC's approach to the agent before deciding what to do. If a decision is made not to respond to HMRC's letter, this decision and the reasons for the decision should be clearly documented for each client concerned.

If HMRC follow up by opening a statutory enquiry into a client's tax return, it should be borne in mind that the failure to respond to the OTM letter may result in cover being denied for the enquiry under any fee protection policy that is in place. The member should check the position with their insurer before deciding whether or not to respond to the OTM letter.

### **Response deadlines**

Often the letter will say that HMRC require a response by a certain deadline. Sometimes it may not be possible for a response to be provided in the timescale required. Sometimes HMRC's deadline may be earlier than the relevant statutory deadline (for example, HMRC's deadline may be earlier than the statutory amendment period for filing an amended Self Assessment return). If the member considers that it is not going to be feasible to meet HMRC's deadline, it is recommended that members work with HMRC to agree a more realistic deadline for responding to the letter.

### **Footnote**

The CIOT continues to discuss with HMRC their approach to OTM agent letters. Our preference remains that HMRC should always send OTM letters directly to individual taxpayers, with a copy to their authorised agent.

We welcome feedback from members about HMRC's OTM agent letters to our technical inbox [technical@ciot.org.uk](mailto:technical@ciot.org.uk).

### **Chartered Institute of Taxation**

**First published 25 July 2024.**

Updated 23 October 2024 to add a paragraph under the heading "Check that you have your client's permission to respond to HMRC's letter" about potential loss of fee protection cover.

## Appendix

Examples of OTM agent letters are on the CIOT website.

- Clients' missing Self Assessment returns 2022/23 – 15 October 2024<sup>9</sup> - this letter was sent to tax agents with five or more clients who had not yet filed a SA tax return for 2022/23, despite having been issued with a notice to file.
- Provisional figures in clients' 2022/23 Self Assessment tax returns – 4 October 2024<sup>10</sup> - this letter was sent to agents with multiple clients who had submitted returns with provisional figures on them asking them to review the returns and amend them with the actual figures.
- Discrepancies in clients' 2022/23 Self Assessment Tax Returns – 25 July 2024<sup>11</sup> – this letter says that HMRC have identified discrepancies in some of the agent's clients' tax returns based on comparing data they hold on their system from other sources, such as employer returns or child benefit records. It asks the agent to review those tax returns and amend them where appropriate.
- Discrepancies in clients' 2021/22 Self Assessment Tax Returns – 5 October 2023<sup>12</sup> – this letter says that HMRC have identified discrepancies in some of the agent's clients' tax returns based on comparing data they hold on their system from other sources, such as employer returns or child benefit records. It asks the agent to review those tax returns and amend them where appropriate.
- Income Tax Self Assessment (ITSA) Provisional Returns 2021/22 – 14 August 2023<sup>13</sup> – this letter was sent to agents with multiple clients who had submitted returns with provisional figures on them asking them to review the returns and amend them with the actual figures.

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<sup>9</sup> <https://www.tax.org.uk/hmrc-one-to-many-agent-letter-tax-agents-clients-sa-missing-returns-2022-23>

<sup>10</sup> <https://www.tax.org.uk/hmrc-one-to-many-agent-letter-provisional-figures-in-clients-2022-23-self-assessment-tax-returns>

<sup>11</sup> <https://www.tax.org.uk/hmrc-one-to-many-agent-letter-discrepancies-in-clients-self-assessment-tax-returns-for-the-year-ended-5-april-2023>

<sup>12</sup> <https://www.tax.org.uk/hmrc-one-to-many-agent-letter-discrepancies-in-clients-2021-22-self-assessment-tax-returns>

<sup>13</sup> <https://www.tax.org.uk/hmrc-one-to-many-agent-letter-income-tax-self-assessment-itsa-provisional-returns-2021-22>