

Business Record Checks:

HMRC in disarray

The confusion and secrecy surrounding the Business Records Checks (BRC) initiative shows no sign of abating.

Events to date

Last December, HM Revenue & Customs (HMRC) published its consultation document and asked for comments by 28 February 2011. The deadline was extended to Friday 18 March 2011 without explanation.

On the following Monday, 21 March 2011, before any feedback from the consultation had been digested and analysed, HMRC began a furtive 'Test and Learn' pilot exercise and issued letters to businesses from four different tax offices - Blackburn, Plymouth, Swindon and Oxford.

HMRC subsequently admitted to the pilot exercise, but said it did not start until two weeks later on 4 April 2011. We have copies of BRC letters from HMRC dated 21 March 2011, so the start date quoted by HMRC is clearly incorrect.

The HMRC Business Plan covering 2011 – 2015 contained no target for the number of BRC visits to be undertaken at the start of this tax year, but the consultation document stated the objective of the BRC visits was to check business records in up to 50,000 cases annually, beginning in the second half of 2011.

The BRC Summary of Responses (SoR) report was published on 13 July 2011 and made clear the BRC visits would be primarily a 'compliance check', not an 'educational exercise'.

The minutes of the June Compliance Reform Forum (CRF) meeting, between HMRC and agent representatives, have been published online today (7 September 2011) and appear to contradict the already confused message from HMRC.

Contradictions to date

HMRC Summary of Responses report	HMRC Compliance Reform Forum minutes
<i>'We will continue to consult on the extent of record keeping failure that would lead to a penalty' – point 1.9 page 4</i>	<i>'HMRC is not targeting penalty yield in this initiative – this is about closing the tax gap' – point 50 page 9</i>
<i>'A policy of not charging a penalty for an initial finding of significant record keeping would risk creating the perception that there is no need to change behaviour..' – point 3.10 page 9</i>	<i>'There are no sanctions for not following the advice, but if the return is wrong or records remain deficient there may be penalties' – point 49 page 9</i>

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So, what is it to be HMRC ?

Is a BRC visit an 'educational exercise' aimed at improving behaviour and reducing the tax gap or is it a 'compliance check' aimed at generating yield for HMRC from fines ?

Does the business owner have to implement the suggestions from the BRC officer or risk a fine, or are there no sanctions, so long as the tax return is correct ?

Summary

Although a numerical objective was not included in the HMRC Business Plan at the start of the tax year, the latest version of the Plan now includes include a target of 20,000 BRC visits to be completed by March 2012. The target is said to be 'In Progress'.

The only BRC visits conducted so far total around 1,500 as part of the 'Test and Learn' phase. Assuming all of those visits were undertaken after 6 April 2011 (even though the letters were issued in March 2011) and are being counted by HMRC, 18,500 still need to be completed before the end of March 2012 at roughly 2,600 a month or 650 a week.

The original 1,500 BRC visits were undertaken by 30 staff; staff who now have the experience of what to do and are in those geographical locations. Has HMRC trained more staff to assist with the remainder of the target? Are the remaining visits going to be conducted across the UK, or only where there is trained staff availability?

More importantly, what does this mean for the small and medium enterprise (SME) and the accountant? December has always been the most critical time for SMEs seeking to maximise festive trade and a BRC visit would be most unwelcome. Similarly, January is always a fraught month for accountants, as accounts are prepared and tax returns lodged with HMRC. Is HMRC really intending to swamp SMEs and accountants at such a busy and critical time?

All of this supposition is against a confused background of what the purpose and objective of a BRC visit is. Until the terms of engagement have been clarified, how can HMRC proceed with the BRC initiative and hope to achieve its target by next March?

The Abbey Tax ReSource Consultancy Team will continue to monitor developments and provide further updates. Please contact our marketing team on **0870 166 6270 or email **marketing@abbeytax.co.uk** for more information.**

 A photograph of chess pieces on a board, with a large black pawn in the foreground and several white pieces in the background, set against a light, hazy background.

ReSource Consultancy... **The right move against HMRC!**