

High five

14 May 2013

The Crown Prosecution Service (CPS) is aiming for a five-fold increase in tax evasion prosecutions in as many years. But can they do it? And what are the implications for you?

More tax evaders are likely to be seeing the inside of a court between now and 2015. At least that is what the CPS would have us believe.

Keir Starmer, the Director of Public Prosecutions (DPP), has made it clear that a crackdown is ongoing. According to him, there is now a greater need to deter, detect and prosecute tax evasion; a need he puts down to the harsh economic climate. Tax evasion is estimated to cost the UK economy £14 billion a year – a slice of cash that the financially-stricken government would be very keen to put its hands on. As a result, the CPS is aiming for a five-fold rise in the number of tax evasion prosecutions in the next five years.

Tax evasion – the non-payment of tax owed to the government – is illegal. Tax avoidance – the use of elaborate but legitimate schemes to pay no tax or as little as possible – is legal. With the issue of non-payment of tax by companies, global corporations and public figures becoming a regular part of the news headlines, there is no doubt that tax is a matter that is always on our minds, even if it's not close to our hearts.

London Office
36 Whitefriars Street
London
EC4Y 8BQ
+44 (0)203 947 1539
enquiries@rahmanravelli.co.uk

Midlands Office
3 Brindley Place
Birmingham, West Midlands
B1 2JB
+44 (0)121 231 7025

Northern Office
Roma House, 59 Pellon Lane
Halifax, West Yorkshire
HX1 5BE
+44 (0)1422 346 666

Rapid Response Team
24 Hour Emergency Contact
0800 559 3500

Fax +44 (0)1422 430 526
DX16001 HX1

In the UK, HM Revenue and Customs (HMRC) is the investigating authority. It can hand out financial penalties and order tax to be repaid. In the most serious cases, it provides evidence to the CPS, which then makes a decision on whether criminal charges should be brought in England and Wales. Similar arrangements are in place in Scotland and Northern Ireland. At this stage, the CPS' talk of crackdowns and increased numbers of prosecutions each year does seem to be more than hot air. In 2010-11, it secured 200 convictions for tax evasion. The following year, that figure rose to 550. The DPP wants that figure to be up to 1,500 by 2014-15. Keir Starmer has spoken of a need to radically increase the number of prosecutions. There is currently a 90% conviction rate for tax evasion prosecutions, meaning that he expects around 1,350 people a year to be paying penalties for tax evasion in two years' time.

Announcing the crackdown, Mr Starmer declared:

"Tax evasion has to be dealt with robustly all the time. But in a recession, when ordinary, law-abiding taxpayers are suffering real hardship, the need to deter, detect and prosecute those who evade tax is greater than ever.

"There is a longstanding myth that, unlike many offences that the CPS has to deal with, tax evasion is a victimless crime."

London Office
36 Whitefriars Street
London
EC4Y 8BQ
+44 (0)203 947 1539
enquiries@rahmanravelli.co.uk

Midlands Office
3 Brindley Place
Birmingham, West Midlands
B1 2JB
+44 (0)121 231 7025

Northern Office
Roma House, 59 Pellon Lane
Halifax, West Yorkshire
HX1 5BE
+44 (0)1422 346 666

Rapid Response Team
24 Hour Emergency Contact
0800 559 3500
Fax +44 (0)1422 430 526
DX16001 HX1

Mr Starmer believes the amount of money lost each year to tax evasion is equivalent to £530 per household. And he intends to recoup as much as possible through his planned five-fold increase in prosecutions – which will have big implications for many people. If the CPS is serious (and it seems as if it is) about dragging many more tax evaders to court than normal, it is to be expected that it will take a very close interest in people it has never paid too much official attention to up until now. That can only mean that many people who have never had any dealings with the CPS – or perhaps any official investigating authority – will soon need some lessons about just how to proceed in such a situation. Previous crackdowns on tax evasion have been carried out in geographical areas or business sectors where HMRC identified “evidence of high risk of tax evasion”. It seems these areas of special attention are now being widened.

London Office
36 Whitefriars Street
London
EC4Y 8BQ
+44 (0)203 947 1539
enquiries@rahmanravelli.co.uk

Midlands Office
3 Brindley Place
Birmingham, West Midlands
B1 2JB
+44 (0)121 231 7025

Northern Office
Roma House, 59 Pellon Lane
Halifax, West Yorkshire
HX1 5BE
+44 (0)1422 346 666

Rapid Response Team
24 Hour Emergency Contact
0800 559 3500

Fax +44 (0)1422 430 526
DX16001 HX1

In
a
climate
of
crackdown,
any
business
or
individual
that
comes
under
investigation
has
to
be
able
to
show
that
its
business
dealings
and
tax
affairs
are
legitimate.
The
investigators

London Office
36 Whitefriars Street
London
EC4Y 8BQ
+44 (0)203 947 1539
enquiries@rahmanravelli.co.uk

Midlands Office
3 Brindley Place
Birmingham, West Midlands
B1 2JB
+44 (0)121 231 7025

Northern Office
Roma House, 59 Pellon Lane
Halifax, West Yorkshire
HX1 5BE
+44 (0)1422 346 666

Rapid Response Team
24 Hour Emergency Contact
0800 559 3500

Fax +44 (0)1422 430 526
DX16001 HX1

are going into this new get-tough era on behalf of a government that has invested millions of pounds in this increased activity – and it wants a return on its investment. The only way to escape possible prosecution is to make sure your house is in order and be able to prove it. A business accounting system that is fully recorded and documented will go a long way to proving everything is operating properly. But only if the business is functioning within the law - which is where possible problems may lie. Only a legal expert will have up-to-date knowledge of the law in relation to business. Advice from such a specialist is vital if a company is to remain safe from any type of criminal prosecution, not just one for tax evasion. To ensure a company is legally safe requires the assistance of a solicitor familiar with all aspects of compliance. At Rahman Ravelli, our experience working with companies of all sizes in all types of business sector has proved to us that being an expert in your field of business is no guarantee that you are fully versed in the law as it applies to your company. For that reason alone, the services of an expert in legal compliance can be valuable. That way, if the authorities come knocking, their knock should not generate any fear on the other side of the door.

This is perhaps more important regarding tax matters than any other aspect of a business. Enforcement of tax law seems to be an area where the authorities are looking to try new tactics and employ new powers to obtain convictions. For anyone not familiar with the law and tax, the prospects can be daunting. At Rahman Ravelli, we know the importance of a quick response to any hint of an investigation, the need to conduct negotiations with the authorities in the most appropriate manner, the value of gathering the right evidence and the ability to ensure prosecutors disclose what evidence they have. With HMRC now using the Code of Practice 9 (COP9) to force companies to disclose any underpayment of tax, it has an extra weapon in its armoury; which makes knowledge of the law in this field even more vital for anyone coming under investigation.

London Office
36 Whitefriars Street
London
EC4Y 8BQ
+44 (0)203 947 1539
enquiries@rahmanravelli.co.uk

Midlands Office
3 Brindley Place
Birmingham, West Midlands
B1 2JB
+44 (0)121 231 7025

Northern Office
Roma House, 59 Pellon Lane
Halifax, West Yorkshire
HX1 5BE
+44 (0)1422 346 666

Rapid Response Team
24 Hour Emergency Contact
0800 559 3500
Fax +44 (0)1422 430 526
DX16001 HX1

A
COP9
involves
a
company
deciding
whether
to
make
a
clean
breast
of
any
wrongdoing.
And
while
a
COP9
can
work
in
a
company's
favour,
it
also
makes
it
important

London Office
36 Whitefriars Street
London
EC4Y 8BQ
+44 (0)203 947 1539
enquiries@rahmanravelli.co.uk

Midlands Office
3 Brindley Place
Birmingham, West Midlands
B1 2JB
+44 (0)121 231 7025

Northern Office
Roma House, 59 Pellon Lane
Halifax, West Yorkshire
HX1 5BE
+44 (0)1422 346 666

Rapid Response Team
24 Hour Emergency Contact
0800 559 3500
Fax +44 (0)1422 430 526
DX16001 HX1

that it has the right legal representation.

Under a COP9, HMRC will write to a taxpayer telling them they are suspected of serious tax fraud, although it will not tell the person what evidence it has. A person can either accept they have committed serious tax fraud and enter into a Contractual Disclosure Facility (CDF) whereby they disclose the full extent of their tax fraud, deny they have committed tax fraud but state that they will co-operate with the HMRC or deny fraud and refuse to cooperate.

However innocent a person may believe they are, they have to act carefully after taking the best legal advice available. The chances of being prosecuted are now higher – and that means anyone coming under investigation has to raise their game to avoid becoming an unwelcome statistic.

London Office
36 Whitefriars Street
London
EC4Y 8BQ
+44 (0)203 947 1539
enquiries@rahmanravelli.co.uk

Midlands Office
3 Brindley Place
Birmingham, West Midlands
B1 2JB
+44 (0)121 231 7025

Northern Office
Roma House, 59 Pellon Lane
Halifax, West Yorkshire
HX1 5BE
+44 (0)1422 346 666

Rapid Response Team
24 Hour Emergency Contact
0800 559 3500

Fax +44 (0)1422 430 526
DX16001 HX1