



Code of Practice 9

Code of Practice 9 (COP9) is issued by HMRC in cases where serious tax fraud is suspected. COP9 is offered to those taxpayers with whom HMRC would prefer to seek a civil settlement as opposed to commencing criminal proceedings in order to seek restitution. It provides the taxpayer with one last chance to disclose tax irregularities to HMRC.

Suitability of COP9

Taxpayers will enter the COP9 process as a result of either HMRC contacting them to inform them that their affairs are being investigated under that code or the taxpayer choosing to make a voluntary disclosure.

COP9 is suitable for those taxpayers who are seeking to regularise their UK tax affairs and wish to ensure that they will not be prosecuted for the tax offences in question. There may be other routes via which a taxpayer may seek to address these historic issues that may be more suitable (please see LDF). LSG would recommend that advice is sought before any disclosure to HMRC is made. It should be noted that acceptance into the COP9 process is not automatic and HMRC will conduct background checks in respect of the taxpayer, before agreeing to conduct their enquiries under this code.

COP9 is usually only issued in cases where the tax revenue lost is believed to be above £75,000. It is therefore not suitable for a number of taxpayers. Careful consideration should always be given as to the best way in which to approach HMRC when seeking to regularise tax liabilities, especially when the amounts are sizeable.

The main benefit of the COP 9 process is that, providing the taxpayer makes a full and complete disclosure and cooperates with the investigation, immunity from prosecution is available.

How does the COP 9 process work?

There are various phases required to complete the process:-

- Initial approach to HMRC or the issuance of a COP9 enquiry letter by HMRC
- COP 9 meeting – you and your advisors meet with HMRC to outline your disclosure
- Scoping meeting – advisors meet with HMRC to agree parameters to the Disclosure Report
- Preparation and submission of a Disclosure Report to HMRC
- Penalty negotiations
- Contract Settlement is entered into with HMRC

We can undertake all of the above phases with you and can provide more detail in respect of each phase as requested. Taxpayers will require thorough preparation prior to the COP 9 meeting as these can be lengthy and may cover numerous areas – preparation is key to this meeting.

Addressing historic tax issues is a complex and time consuming process and therefore HMRC ask all taxpayers being investigated under COP9 to appoint an advisor to assist them with the preparation of their Disclosure Report. LSG are experts in the preparation of COP 9 Disclosure Reports.

Confidentiality

Experience has shown us that the confidentiality of discussions in respect of COP9 is of paramount importance to clients. At LSG, all discussions and advice benefit from 'legal professional privilege' and as such, are not disclosable to HMRC or any other body. In October 2009, the High Court confirmed that such protection is not provided to firms of tax advisors or accountants.

Why LSG?

The tax dispute resolution team at LSG have significant case experience in respect of enquiries conducted under COP9. We understand the process, from start to finish and will work with you to ensure that you are properly prepared and represented throughout. We understand the pressures placed upon you and we are there to support and guide you throughout the enquiry.

The tax team has prepared and submitted numerous Disclosure Reports on behalf of clients ranging from small to medium sized enterprises, larger corporate groups and private individuals (including those clients with public profiles to protect).

LSG's tax dispute team are well versed in negotiating with HMRC in terms of the parameters of the Disclosure Report and the eventual settlement of the enquiry. LSG's experience and knowledge of how HMRC operate is invaluable in these matters.

The team are able to seek to negotiate the limitation of the scope of the investigation, the period under review, and post submission negotiate the lowest penalty level possible.

In cases where HMRC have issued a taxpayer with COP9 in error, the team have successfully argued that the matter should be handled under a different code or demonstrated to HMRC that an enquiry is unnecessary.

Our professional rates are extremely competitive and are lower than a number of larger professional firms.

LSG (as a firm of solicitors) enjoys the protection of legal professional privilege. Firms of tax advisors and accountants do not.

How or where do I start?

You can contact either Frank Strachan or Sean Bannister for an initial confidential discussion. We would then like to meet with you for a zero fee meeting to explore the issues surrounding your circumstances and discuss the options available to you. Our aim is to provide practical and concise advice in order for you to make the most informed decision possible. We'd urge any taxpayer who's been contacted by HMRC in respect of COP 9 or who believes that COP 9 could suit their requirements to contact either Frank or Sean without delay.

Please telephone or email either Frank or Sean any time to discuss any concerns you have.

Frank Strachan – fs@lsg.co.uk – 020 7851 0120 – 07557 343234

Sean Bannister – sb@lsg.co.uk – 020 7851 0127 - 07872 311318