



Taxing Matters

Clearer lines of communication

- Alice** Hello, and welcome to Taxing Matters, your one stop audio shop for all things tax brought to you by RPC. My name is Alice Kemp and I will be your guide as we explore the sometimes hostile and ever-changing landscape that is the world of tax law and tax disputes. Taxing Matters brings you a fortnightly roadmap to guide you and your business through this labyrinth. In case any of you miss any crucial information or just want some bedtime reading, there is a full transcript of this and indeed every episode of Taxing Matters on our website at www.rpc.co.uk/taxingmatters.
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- Joining us today is a former HMRC inspector turned Deloitte director, Annis Lampard. Annis is a leader in Deloitte's tax controversy team where she helps private clients, private companies, trusts and family offices to navigate disclosures, enquiries and investigations and generally try to get clarity around what is happening in a pre-dispute situation.
- Annis is a CEDR qualified mediator and, like RPC's own Adam Craggs, a firm believer in the benefits that ADR can bring to tax disputes. She is also a self-confessed bookworm with a wide range of favourite authors but, unfortunately, thinks the wrong Donna Tartt novel is the best one!
- So, Annis, welcome to Taxing Matters!
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- Annis** Thanks Alice, it's nice to let me on - even if I have chosen the wrong Donna Tartt novel!
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- Alice** **Absolutely, we won't hold that against you!**
So, by the nature of the role that you do, you deal quite often with HMRC and, in particular, with the wealthy and mid-size business compliance team within HMRC. So, where does that team fit within their operations as a whole?
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- Annis** They have what they call "customer facing teams". From a business, or a private client perspective, that means the bits of the Revenue that you actually get to speak to and they are possibly one of the biggest directorates, if not the biggest directorate. They have about a third of their staff and a third of their tax take as a department actually comes from this directorate. So, it's quite a big department, it's very important - most people listening will probably have had interaction with them at some point even if they didn't know it.
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- Alice** **What does that directorate actually do?**
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- Annis** They've got a really wide-range - as the rather long mouthful of a name suggests!
They will look at individuals in the so-called "wealthy unit", many of those individuals are also entrepreneurs and, in fact, HMRC deliberately brought the directorate together so that they could look at the affairs of entrepreneurs and the privately owned businesses together.
That might sound scary but, actually, it's a very positive move because it was a reaction to the fact that they realised that clients themselves tend to look at their affairs and their business affairs together and it made sense for HMRC to join the two up as well. But it is a wide range of customers that they look after - they've got over 300,000 taxpayers that they look after, at the last count - and you go from really quite small businesses right up to businesses that could almost be butting up against the large business directorate at the other end, so it is a broad church.
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- Alice** **It does seem to be an incredibly broad range!**
So, you and I have spoken before about an issue that might arise with taxpayers and their advisors not really having a good dialogue with the business units that they are dealing with at HMRC. Why might that be?
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- Annis** Well, it's a good question. I think the first issue is that, as we've touched on, it is a very large directorate and HMRC perhaps doesn't have as much hierarchy within that directory as with some of the parts of HMRC. Again, that's broadly a good thing - you don't want to have an overly rigid process or structure with a

	<p>directorate that serves so many people and such a wide variety of situations - but it can make it challenging to navigate.</p> <p>Now, obviously this enquiry process as-a-whole - which you talk about on this podcast generally - does have a structure of its own. It does provide opportunities for dialogue. What we're talking about today is really the need to go beyond that when people are already in a process but they just need a bit more interaction with HMRC, maybe to correct a misunderstanding, maybe just to clarify what it is that HMRC actually wants from them.</p> <p>You mentioned ADR in intro to this episode, I think it's a great tool. It does tend to be a tool that comes in a bit later in a process. What we're talking about is dialogue that is additive to the dialogue that is already there - by virtue of having an enquiry process - and comes in a little bit earlier than some of the other mechanisms for conversations with HMRC that people might already know about.</p>
Alice	So, what kind of steps can people think about taking to better open up this communication and provide more of a dialogue; what might some of the benefits of this better communication be?
Annis	<p>Well, I think it's something that people need anyway. It provides clarity for HMRC as well as the person actually going through the dispute because it allows everyone to understand what you are really talking about. It allows you to air misconceptions, to air preconceptions and to get those out of the way so you are having much more effective dialogue.</p> <p>It also recognises the way in which people's financial and tax affairs now operate. There is a lot more real-time information, people therefore want real-time dialogue with HMRC. A lot of that, of course, is underpinned by the industrial scale of information exchange that, again, was talked about in an earlier podcast episode. People feel that if HMRC have that data on them they want to be able to discuss it much more freely and fluidly with HMRC.</p> <p>That often, I think, takes big organisations like HMRC by surprise. Given the job they do they maybe assume that people don't want to talk with them, right, but actually they do! The feedback we get time-and-again from clients is, "can someone just please pick up the phone?", "can we, please, just discuss this?".</p> <p>So, I think that is important and it's going to become more and more important as we see these pressures on HMRC to collect more tax with less resource continue. It's important to have that dialogue up front and straighten things out quickly.</p>
Alice	So, what steps might taxpayers and their advisors be able to take to open up this dialogue with HMRC and its business units?
Annis	There are really three things that we're thinking about and talking about a lot with clients at the moment, they are the high-risk wealthy programme, the idea of a wealth life cycle conversation and then there's the idea of better routes in for corporates who want to make disclosures to HMRC; possibly using something known as the floating CCM model.
Alice	Great, so taking each of those in turn, what is the high-risk wealthy programme?
Annis	<p>Well, as the name suggests it's a programme, so it is something quite structured. The idea is that it applies to disputes where there are high stakes, so, quite large amounts of tax typically, but possibly also reputational aspects for those involved on both sides and where things have got entrenched.</p> <p>Now, there are a number of other processes, this might be something where ADR comes in, but not every case can be accepted into ADR particularly if there is something binary, or if there is something where HMRC needs to consider if they might be making or breaking a precedent. So, the "high-risk wealthy programme", HRWP for short, is something where really other processes don't work you can turn to this.</p> <p>It's an idea that HMRC themselves have taken from the "high risk corporate programme" which is something Deloitte and other firms are very familiar with. Deloitte, in particular, was very keen to engage with this early on because we could see the benefits of it.</p> <p>In both the corporate and the wealthy programme the real benefits are that you bring in senior decision makers at HMRC. That allows you to get over just going round in circles and thinking I'm sure HMRC have made up their mind why can't we move to a decision. So, this process really allows you to get to a decision making process much more quickly because the right people are in the room. It is also LSS compliant. The LLS, so remember that's the "Litigation Settlement Strategy", an absolutely crucial underpinning for any negotiation with HMRC.</p>
Alice	Absolutely! It's such a crucial document.
Annis	Exactly. Any solution that comes out of this process will be LSS compliant.

This process gets everyone in the room talking in a much more strategic way and it often, as well, allows people to provide context that has been missing. That's crucial.

There was a recent report published that HMRC themselves have commissioned about the wealthy's attitude to tax. It was prepared by a third-party research body and HMRC themselves might be surprised by some of the report. One of the things that was called out was that HMRC appear to have a strong, negative set of assumptions about how the wealthy view not only HMRC, but their tax obligations. Whereas, actually, feedback from the report was that wealthy individuals and wealthy business owners are keen to be compliant and would like to pick up the phone to HMRC and to have a conversation with someone who doesn't automatically assume that just because they are wealthy they are trying to do something wrong.

The high-risk wealthy programme allows for a reset in the relationship just as much as getting stakeholders in the room and moving onto a decision swiftly.

Alice **The next option was the wealth life cycle conversation, how does that work?**

Annis or an individual a wealth life cycle is often driven by events in your personal life. Maybe you work in a business and the business goes to a transaction, as a member of the senior management team you acquire a lot of wealth - maybe in the form of share options that boosts your wealth. It puts you on a different part of the wealth life cycle conversation. For other people it's much more personal than that, it might be about marriage, sadly it might be about divorce. It might be about succession, or inheritance, whether they are the people inheriting or passing money on.

HMRC's enquiries always start with a hypothesis, there is a very careful risk review before they open any formal audit and so if it is possible to address what is driven the opening of an enquiry, what HMRC's concerns might be sooner rather than later that is immensely helpful. Another example can be understanding why there is a formal information request being made rather than just seeing the data request, answering it in the best way that you think is needed and then HMRC coming back later and saying sorry that's not quite what we need.

For a business it's going to be slightly different, although it can, again, be bound-up with the personal life of the founder or the management team. More likely though, it's about the kind of growth, hopefully the exponential growth, of the business as they go through to a transaction.

All of these points in people's lives are often when they need tax advice and in the advisory community we call that the "wealth life cycle"

An individual or a business might take stock of their assets, realise that they've stepped up another level in wealth and want to think about what their attitude to their wealth and their attitude to tax is.

HMRC has recently realised that that is quite a good framework for dialogue between HMRC and between taxpayers. There is an idea that rather than having retrospective conversations sometimes two, maybe even three years down the line by the time a tax filing has been made, it is much better for everyone to be able to talk about it whilst memories are fresh - particularly in a business context, if there has been a transaction, talk about it whilst those people are in the business and have access to the papers rather than after they've, possibly, moved to a new role.

Some of those questions could be answered up front, some maybe can only be addressed in a tax return later after further advice, but at least everyone has clarity and peace of mind about what they need to talk about.

Alice **And the final one you mentioned was corporate disclosures, what are we talking about there?**

Annis Well, you do see a lot of situations where, actually, taxpayers themselves are identifying that something might have gone wrong in the past. Although HMRC has a lot of disclosure programmes, typically they were designed with individuals in mind, maybe individuals talking about things like offshore bank accounts. That doesn't really fit for, for example, a large private company that realised their R&D claim might have been wrong. It doesn't work for a business who realises that they have taken the right amount of deductions for share scheme options but in the wrong periods and who, therefore, want to come forward to HMRC and rectify the matters.

If you were a business in the large business directorate at HMRC you would have something known as a CCM, a "customer compliance manager". Their role is to be your point-person - your one point of contact with HMRC - and they have a team sitting underneath them with various tax specialists; usually, corporation tax, VAT, employment taxes. You could reach out to any of their specialists individually but, typically, you will go through the CCM. You could ring them, and you could say, "this is the situation, this is what I think you need to know", "we've calculated the tax already and we've got a cheque ready to come". "We're ready to put it right".

	<p>You can't do that at the moment if you're in the wealthy and mid-sized business directory. You don't have that CCM. Now, HMRC are thinking about bringing in so-called, "floating CCM's". Rather than having a dedicated CCM for each business what you have instead is a group of CCMs who service a group of businesses, probably at the high and more complex end to avoid a cliff edge between customer service within HMRC for large business versus mid-sized business customers.</p> <p>A huge advantage is if you do want to make a disclosure again it gives you a dedicated team to ring. At the moment you have to go to a central mailbox, you don't even get an automatic email acknowledging that your email has been received so you are often left wondering if anyone at HMRC even knows that you're trying to put things right.¹ That causes a lot of anxiety, particularly if you're trying to go through a transaction at the same time and reassure the people buying your business that you are on top of this, that you have a clear path to resolution. That mailbox although it is manned although there is dedicated resource behind it, obviously that resource has been quite strained over the last 12-to-18 months and, therefore, we're not seeing disclosures being picked up terribly quickly.</p> <p>So, the need for better dialogue to bring these disclosures to HMRC, to give everyone peace of mind, to actually give the Revenue money that taxpayers are trying to give them and to move on has to be to everyone's advantage and that is something that we are talking about a lot - not only with clients - but also with HMRC.</p>
Alice	And is this something that applies more generally to HMRC as a whole?
Annis	<p>That's a really good question. Yes and no is my answer.</p> <p>The bits that are common across all of HMRC are that, definitely, there is a greater appetite for taxpayers for our clients to reach out to HMRC in real time to explain the data - not to have these retrospective conversations where misunderstandings and negative assumptions have already taken root and where HMRC are having to, possibly, wheel back from the risk reviews they had to do to open an enquiry. So, yes that is a broader theme for sure.</p> <p>At the same time, I think it is a particular challenge for people who are dealing with the wealthy mid-sized business directorate because, as we have talked about earlier, it is such a broad directorate, they can't staff every single conversation with an individual CCM and there are less processes, other than the corporate mailboxes where it can feel like quite a one way dialogue. So, if you look at the sheer numbers of people who are interacting with this directorate I do think it's quite an important thing to fix for the tax system of the future.</p>
Alice	Deloitte has been involved in trying to make communications better with HMRC in general, what proposals have been made to ensure that there are these better lines of communication between businesses or individuals and HMRC?
Annis	<p>Another really good question. One thing to call out up front is that, although Deloitte is heavily involved in these conversations, it's very, very important that anyone has access to these routes for dialogue with HMRC and HMRC, of course, recognise that too as part of their role as a public authority. So, everything that we are talking about is being done on the basis that everyone should have access to these routes in to HMRC, should have the access to dialogue with HMRC in a timely and proper manner irrespective of the size of the firm representing you. And that's the basis on which we are having conversations with HMRC about the potential routes in, about the potential processes that we've just mentioned.</p>
Alice	And what is HMRC's view on these proposals?
Annis	<p>Pleasingly it's very positive. This is absolutely something that they are thinking about as well. They recognise that it helps everyone, it genuinely makes their lives easier and we've been having some very interesting conversations about, for example, their move to what they call "upstream compliance" - the idea is that before you reach a formal dispute, a formal enquiry or tax audit or piece of controversy that again, everyone can just have a conversation. The way in which we often see that come out from HMRC at the moment is through the "nudge letters" - something that I know this podcast has covered and is very important to know about - but it is just the start of the process to have nudge letters. HMRC are thinking about upstream compliance generally so, if there can be more dialogue, dialogue at an earlier stage and dialogue between the right parties that helps everyone.</p> <p>Indeed, two of the things that we've mentioned, the "high-risk wealthy programme" and the idea of "floating CCMs" are actually initiatives that are either live with HMRC already, that's the "high risk wealthy programme", or that they are imminently looking at introducing, that's the floating CCMs. The wealth life cycle</p>

¹ Please note, this was correct at the time of recording. HMRC have heard and responded to this concern and from 30 September 2021, the central mailbox now sends an acknowledgement of receipt.

	<p>piece is perhaps a little bit further out. It's something we are in active dialogue with HMRC about. We hope that it will come on stream, but there needs to be some more work done so that, for example, people who don't feel comfortable or confident having that conversation are not prejudiced in the eyes of HMRC because they don't come forwards and that, instead, it's a conversation that works for the right people at the right points.</p> <p>But generally, a lot of support from HMRC and I think they appreciate that firms like Deloitte are bringing these ideas to them with the recognition that you need greater support, greater dialogue and yet there is limited resource. We are bringing pragmatic solutions rather than simply shouting at HMRC and saying why can't you hire more staff and give everyone a CCM. That is never going to be a solution.</p>
Alice	What do you think might be a sticking point for HMRC in implementing these greater dialogue initiatives?
Annis	<p>Well, there's definitely an issue at the moment for tax authorities globally, not just for HMRC, to have to deliver more revenue on limited resource. That's not just a short-term thing with COVID where I think we all deeply appreciate the work that HMRC put in to mobilise staff so quickly, to set up and to man the COVID response. HMRC has had a retirement bulge recently, there's a bit of a civil service freeze - they are having to deliver more for less.</p> <p>So, any solution that simply says, "please hire more staff, please give more people one-on-one support for them, or their businesses" is not going to work - even though HMRC, by nature, is collaborative and wants to have real-time dialogue. So, it's that balance between supporting dialogue and limited resource.</p> <p>There's a further challenge about balancing the flexibility that can come from having much earlier conversations with upholding the LSS . The LSS is this crucial framework that gives fairness for everyone. What you don't want of, course, is this dialogue to become a mechanism by which some people - particularly if they are represented by specific firms - are able to pick up the phone to HMRC and get what used to be known as a 'sweetheart deal'.</p> <p>So, there's a real tension there between opening-up this dialogue, making it fair and transparent, whilst remaining confidential for those in the conversation and also giving enough support, without drowning HMRC's HR needs. Quite a big challenge I think you'll agree.</p>
Alice	<p>Absolutely. It does sound like a huge challenge!</p> <p>So what tips have you got for taxpayers and advisors who are seeking to improve the nature of their communications with the wealthy and mid-sized business compliance directorate or, indeed, HMRC as a whole?</p>
Annis	<p>I think there's three things really. A bit like the three processes we've talked about.</p> <p>One, don't give up hope. Dialogue is possible. HMRC will, ultimately, talk to you, you just need to find the right way in and the right way to have that conversation.</p> <p>Secondly, start as early as possible. If you can, do some pre-crisis planning. Hopefully you aren't in an enquiry at the moment, you've therefore got the bandwidth and the calmness to think about this. Think about what you would like to talk about with HMRC, if you ever had to be in a room with them. What is important for them to understand about your business, the way it grew, the way it operates, the amount of record keeping you do. A classic thing that we often see is that HMRC ask for records in a particular format and clients are nervous that they hold those records but in a different format and that's going to disadvantage them. So, if you can do some of that thinking - either about your family or your business history - before you get into a dispute that can really pay dividends later down the line. We're certainly supporting a number of clients around that and it's giving them real peace of mind.</p> <p>If you're just not able to do that, and unfortunately you've got an error to disclose or you are in an enquiry, then that is a time when specialist controversy support can really help. So, do consider bringing in extra advice. None of that displaces your existing advisors but you need someone to be able to steer you through a process that, hopefully, you have never had to encounter before.</p> <p>The benefit that specialist advice can bring is to help you know what conversations might be possible, when they are likely to come up, whether you can propose them or whether you have to wait for them to be suggested to you by HMRC and what is likely to happen in that conversation.</p> <p>So: don't give up, remain hopeful. If you can plan before you are in a dispute that's great; if you're already there in a sticky situation make sure you're getting the right supporters around you who can help you understand what your options are rather than just feeling that you're being steamrollered into a solution.</p>
Alice	Great tips there! And do you think it is most important for taxpayers and their advisors to remember when they are communicating with HMRC?

Annis

I would say it's remembering that you and HMRC are effectively in the same conversation, you are trying to work together. It never feels like that, I know but at the end of the day you are both trying to get to the right answer.

We are lucky in the UK to have a competent and ethical tax authority who want to reach the right answer and have clear processes and transparent processes. So, if you can balance that clear transparent ethical process with the flexibility of dialogue, whether it's literally picking up the phone, or whether it's going into some of the processes that we've talked about today, you're going to get the best of both worlds.

Don't let yourself get even more stressed out by thinking its automatically adversarial. Ultimately you will be able to reach a resolution, this will come to an end one day.

Alice

That's great advice. Unfortunately that's all we've got time for in this week's episode, tune in next time to hear members of the newly launched global network for crypto fraud and asset recovery, CFAAR, talking about all things crypto.

Thank you again Annis Lampard for joining us today, you can get in touch with Annis via email on alampard@deloitte.co.uk or via LinkedIn.

If you have any questions for me or for Annis or any topics you'd like us to cover in a future episode, please do email us on <http://www.rpc.co.uk/taxingmatters>, we'd love to hear from you.

RPC would like to thank Josh McDonald. Our original score is composed by Inciter Music who also produce this podcast series. To hear a full, uninterrupted version of our podcast theme go to Instagram @incitermusic and follow the link in bio.

And, of course, a big thank you to all of our listeners for joining us.

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Thank you all for listening and talk to you again in two weeks.



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