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A Query Letter from
IRAS
– What's next?

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LEGAL
UPDATE

In this Update

The Inland Revenue Authority of Singapore (“**IRAS**”) routinely sends query letters to businesses for various reasons, ranging from seeking simple clarifications to obtaining information as part of a tax investigation.

This update is the first of a four part series providing insight into the various aspects of tax audits and investigations and how best to deal with encounters with the tax authority.

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INTRODUCTION

The IRAS routinely sends query letters to businesses for various reasons, ranging from seeking simple clarifications to obtaining information as part of a tax investigation. How a business responds to these letters can make the difference between closing the audit, obtaining lower penalty rates or facing charges for tax offences.

WHAT SHOULD I LOOK OUT FOR?

The contents of the letter, including the scope and type of queries and even which Tax Management Division the letter is from, would provide indications about how IRAS views the matter. The letter could be a consequence of IRAS seeking clarifications regarding the tax returns of the business, the business being under an audit or the business being under a tax investigation.

In an audit, a business' tax declarations, accounts and supporting documents are examined to determine if there are any errors in its tax declarations. A tax investigation, on the other hand, is more detailed, with the aim of determining if there was any evasion of taxes. Further, it should also be noted that a letter seeking simple clarifications on past tax declarations could also potentially lead to an audit, depending on the reply given.

The contents of the letter could be a series of questions asking for supporting documents or further details on the business' Income Tax or Goods and Services Tax declarations. The letter could also list the common errors made by the industry and request that the business conduct a self-review to determine if their past tax declarations have been accurate and complete. Time will be given for the business to decide whether to conduct a self-review or make a declaration that the earlier tax declarations were complete and accurate.

CARRYING OUT A SELF-REVIEW

If a swift decision is made to carry out a self-review and the review uncovered errors in areas other than what was asked to be reviewed (for example, if the query was in relation to income tax and it was discovered that the business had also made some errors in their Goods and Services Tax declarations), a business should promptly inform IRAS that errors have been uncovered and that a full voluntary disclosure of these errors will follow.

In addition, it is also prudent for a business to assess any potential liability and consequences early and seek professional advice on whether any

internal or external parties need to be notified that such a letter has been received from IRAS.

IRAS' VOLUNTARY DISCLOSURE PROGRAMME

IRAS has a Voluntary Disclosure Programme which allows taxpayers who have made errors in their tax declarations to voluntarily disclose and correct their tax errors for reduced penalties.

If early strategic action is taken, it is possible to make representations that the reply to the query or self-review letter constitutes a voluntary disclosure of errors in past tax declarations and qualifies for penalty waivers or lower penalty rates, subject to satisfying the qualifying conditions.

In addition, directors and persons holding management positions in companies would also benefit from the taking of strategic action to mitigate the consequences of any errors or alleged misconduct and to dispel belief that they had abetted in the wrongdoing.

IRAS' AUDIT FOCUS AREAS

In relation to businesses, IRAS routinely selects different industry sectors for audit and these audit focus areas will be published on IRAS' website. For the year 2020, the sectors selected for IRAS' audit programme include hotels, leasing, renovation-related and funeral service industries.

Other focus areas of IRAS' audit programme are the claiming of private expenses as business expenses and the examination of those who have engaged in the buying and selling of properties and derived gains from these property transactions. Substantiation is required to show that these gains are not taxable.

In relation to individual taxpayers, the focus area of IRAS' audit programme is on self-employed individuals carrying on a trade, business, profession or vocation. This group of individuals includes doctors, dentists, lawyers, accountants, consultants, commission agents, private tutors, renovation contractors and bloggers.

The scope of these audits would usually cover the last 4 years.

COMMENTS

Businesses should generally consider initiating early discussions with IRAS to build rapport as well as better understand the underlying nature and purpose of the query letters. In addition, they can also consider the need to request for an extension of time to reply to the letter, as well as negotiate on the scope of the reply to the letter if required.

Practically, having an independent professional representing the business can establish credibility and demonstrate a willingness to cooperate with IRAS, as well as show openness and effort to assist in expediting their investigations. In this regard, businesses have the choice of engaging a lawyer or a tax agent to advise and represent them at any time during the audit or investigations.

The worst thing a business can do is to ignore a letter from IRAS or make an unconsidered reply that there is nothing to review, as this can potentially lead to full investigations being conducted on the business, and even on the individuals holding management positions within the business.

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