



 DREW & NAPIER

The Taxman is at your
door
— What can you do?

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LEGAL
UPDATE



In this Update

The Inland Revenue Authority of Singapore's ("IRAS") tax investigators often make surprise visits to the premises of a business to obtain relevant documents and records as part of a tax investigation.

In this update, Siok Peng shares her expertise on the extent of the powers of the IRAS's tax investigators, what business owners can expect and what they could do should they ever find themselves in such a situation. This update is the second 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

A common scene in television dramas involving raids conducted by the law enforcers often begins with the law enforcers visiting a business' premises unannounced, carrying big blue boxes and producing a paper search warrant. After searching the business' premises, the officials proceed to cart off the big blue boxes filled with documents and computers belonging to the business, leaving the entire office premises almost empty and the people in shock.

Closer to reality, a business in Singapore could similarly receive a surprise visit from the Inland Revenue Authority of Singapore's tax investigators (the "**Tax Investigators**"). But, unlike in the television dramas, the Tax Investigators do not need a search warrant and only need to produce their authority card. Hence, if the Tax Investigators ever visits your office, you and your staff may request to view their authority cards and inquire what the purpose of the visit is.

RAIDS BY THE INLAND REVENUE AUTHORITY OF SINGAPORE

It is not uncommon for the Tax Investigators to simultaneously conduct visits to your customers, suppliers and even your private residence to obtain relevant documents and records. During these searches, the Tax Investigators have the power to make copies or even seize any document or record. In addition, computers may be imaged on site or taken away and returned subsequently after imaging has been completed. You and your staff may observe the Tax Investigators as they conduct their searches.

At the end of the raid, the Tax Investigators will present your business with a Letter of Acknowledgement of Receipt of the documents they have taken. In this regard, it is advisable not to rely solely on the Tax Investigators' Letter of Acknowledgement of Receipt of which documents have been seized as the description accorded to the various documents may differ from your business' own understanding of which documents they refer to. Clear instructions should be given to your staff that all letters or notices from the IRAS, including those from the Tax Investigators, should be kept carefully.

Although the experience of a raid can be immensely intrusive, any unwelcomed resistance could be construed by the Tax Investigators as a lack of cooperation or worse, an obstruction of justice.

VISITS FOR TAX AUDITS

Alternatively, the business could be informed beforehand of an intended visit either by letter, email, or a phone call from the IRAS. Such visits would usually be from the IRAS' tax auditors (the "**Tax Auditors**"), who would generally provide details of the intended visit such as the timing of the visit, the documents that they wish to examine, and the relevant Years of Assessment to be audited.

For such visits by the Tax Auditors, it would be prudent to display cooperation by devoting some resources to prepare the requested documents in a room with a table and adequate chairs for the Tax Auditors to discreetly examine the documents they have requested for.

WHAT IF THERE IS AN ARREST?

The investigative powers of the Tax Investigators were enhanced in late 2018 and early 2019. One such enhanced power was to enable them to arrest, without a warrant, any person whom a Tax Investigator reasonably believes has committed a serious tax offence such as tax evasion; or is destroying records; or resisting the seizure of relevant documents.

These enhanced powers of arrest were exercised for the first time in island-wide raids conducted between 23 October 2019 to 13 November 2019 where 10 suspected key members of a criminal syndicate were arrested for perpetuating Goods and Services Tax ("**GST**") carousel fraud. Generally, in carousel fraud, the same goods are traded through multiple companies which seemingly appear unrelated but are typically controlled by the same mastermind.

After being arrested, individuals may have their bodies searched, be subjected to rigorous interviews and have their written statements taken. In this regard, a woman may only be searched by a woman officer. In addition, the individual may be detained for up to 48 hours before being released on bail or brought to the Magistrate's Court. Calls to family members or a lawyer may be sought and granted by the IRAS as bail may be offered to secure the release of the arrested individual. While detained, the arrested individual may make reasonable requests for food and drinks as well as toilet breaks. Any required medication needs should also be brought to the attention of the relevant officers.

OTHER ENHANCED INVESTIGATIVE POWERS

Another enhanced power of the Tax Investigators is the power to search a building or place by breaking open any door or window or the use of any other reasonable means to gain entry. However, this power may only be exercised for the purposes of investigating the more serious types of tax offences such as Productivity and Innovation Credit fraud, tax evasion and improperly obtaining a GST refund. In addition, this power may also be exercised if the Tax Investigators reasonably believe that there is in a building or place any document or thing that may be relevant to the investigation or is required as evidence in proceedings and that document or thing is likely to be destroyed or deleted. In such instances, the Tax Investigators may exercise this power if they are unable to gain entry to that building or place after stating their authority and purpose and demanding such entry.

The Tax Investigators, upon gaining entry into the premises, for the purposes of investigating a tax offence, also have the power to conduct body searches on any person for any document or thing which may be relevant to the investigation or is required as evidence in any proceedings for the tax offence. This includes data storage devices such as USB flash drives.

AFTER THE VISIT

A business may request from the Tax Investigators the opportunity to review the documents which have been seized. This will usually be conducted at the IRAS' office at the Revenue House in Novena and copies of the documents which were taken during the raid may be made.

As part of the investigations, the Tax Investigators have the power to interview the business owners as well as the employees on the day of the visit and record their statements. In addition, such interviews and information-gathering could extend to ex-employees, suppliers, customers and even the banks which provide banking services to the business in the weeks and months to follow.

COMMENTS

If a business receives a visit from the Tax Investigators, there are several important things to look out for and seeking professional advice to prepare and guide a business through the process can make what would otherwise be an extremely distressing experience more manageable.

The next legal update in this series will examine how to prepare for an interview with the Tax Investigators and what to look out for when giving them a written statement.

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