



**HM Revenue
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Dear Miss [REDACTED]

Statutory review of matter under appeal

Further to my letter of 3 September 2013, I have now completed my review and am notifying you of my conclusion. I am required by law to notify you personally but a copy of this letter has been sent to your accountants, Martyn F Arthur Ltd.

1. Background to matter under appeal

- On 29 May 2013, HMRC issued a notice requiring you to provide information and produce documents that were specified in the schedule to the notice. The notice was issued under the authority of Finance Act 2008/Schedule 36/Para 1(1) and was to be complied with by 4 July 2013.
- Your accountants lodged an appeal on your behalf, which was received by fax on 3 June 2013. The appeal stated that there were items in the schedule which the officer could not reasonably require and went on to challenge HMRC's right to request the items listed in the schedule to the notice under the heading "Credit Card".
- HMRC's response to the appeal was to offer a statutory review of its decision. This offer was made in the letter of 23 July 2013; in that letter, the officer stated that her view was that the information and documents requested by the notice were reasonably required for the purpose of checking your tax position.

2. Scope of appeal & my review

FA2008/Sch36/Para 29(1) provides that an appeal may be made against an information notice or against any requirement in the notice. Paragraph 32(2) requires that the notice of appeal must state the grounds of appeal. In the letter of appeal, your accountants wrote:

Information is available in large print, audio and Braille formats.
Text Relay service prefix number – 18001

Assistant Director: Chris Gargan



"There are items in your schedule which you cannot reasonably require. For example if a taxpayer chooses to use a personal credit card to meet a liability the only issue with that can be whether the business liability has been met."

"Other aspects of the private credit card matters are not relevant to the taxpayer's business and the data sought is not appropriately required."

The letter makes no reference to any other requirements of the notice and the appeal is, therefore, limited to the requirements under the heading "Credit Card". Consequently, my review has been limited to those aspects of the notice.

3. Statutory requirements

Schedule 36 Para 1(1) provides that an HMRC officer can require a person to provide information or produce a document *"if the information or document is reasonably required by the officer for the purpose of checking the taxpayer's tax position"*.

The question then is whether your MasterCard statements and the statements for the account which funded this card are reasonably required for the purpose of checking your tax position. Your accountants have explained in their letter of appeal why they believe that these items are not reasonably required. The enquiry officer has not addressed their representations and did not seek to justify her view of the matter when she wrote to you on 29 May 2013.

It is not disputed that the MasterCard was used for a number of business purchases in the year that is covered by the ongoing enquiry. However, in the absence of any representations on HMRC's part, I am not persuaded that the statements would add any real value to HMRC's knowledge of your tax position at this stage of the enquiry. Nor do I believe that it is yet appropriate to request statements for the account or accounts that have funded the MasterCard, unless of course these accounts were covered by the other requirements of the notice.

Once the enquiry officer has received the other items required by the notice and has a full understanding of the records that support the entries on your return and the manner in which you organise your business finances, she will be better placed to consider your overall position and to decide whether further documents and information are required. Presently, however, I am not persuaded that the MasterCard statements and associated bank details and statements are reasonably required for the purpose of checking your tax position.

4. Conclusion of my review

I have concluded that your appeal against the requirements of the notice under the heading "Credit Card" is to be upheld and those requirements should be set aside.

My conclusion will be treated as if it were an agreement in writing under Section 54(1) Taxes Management Act 1970 for the settlement of your appeal. This is by virtue of Section 49F(2) of that act.

Yours sincerely

Appeals & Reviews