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As if times were not trying enough for landlords and lettings agents, HM Revenue and Customs (HMRC) is consulting on changes that look set to greatly increase the amount of tax raised from landlords. Lettings agents could see themselves forced to hand over the details of all the landlords on their books, even those for whom they do not currently act.

With falling tax revenues, it follows that the Treasury will seek to raise income in alternative ways. The most obvious way to do this is to improve taxpayer compliance. Politically, this is clearly better than raising taxes. Whilst catching tax cheats is always on the agenda for the Revenue, there is a renewed drive, in this recession, to cut down on evasion. This has resulted in several high profile cases where HMRC have sought information from banks about their customers.

Part of this approach is the so-called Property Project, which targets non-compliant landlords. The stated aim is to identify "people who are deriving income from their properties by either renting them out or by disposing of them and failing to pay the related tax". HMRC is "taking action to establish any unpaid tax liabilities and the necessary steps to recover the outstanding amounts."

PROPOSALS

The latest development in this would be an expansion of the Revenue's already wide information gathering powers. Currently, HMRC can require lettings agents to disclose details of landlords who use them as an agent to receive rent. However, this does not allow HMRC to find undeclared income where the lettings agent has introduced a tenant to the landlord for a fee related to the amount of the rent, but the landlord collects the remaining rent directly. HMRC estimates that 10 per cent of lettings agents' clients are on an introduction-only basis. HMRC wants to expand its powers to include such transactions, details of the landlord and the addresses they relate to. To date, HMRC has managed to raise more than £100m in additional tax and expect raise a further £200m in this way.

IMPACT ON LETTINGS AGENTS

As mentioned, there is currently a power for HMRC to require lettings agents to hand over the details of clients for whom they collect rent and the proposal would create more even work for lettings agents. There will be additional time spent dealing with correspondence with HRMC, as well as increased record keeping to ensure that they are able to comply. This is likely to be of greatest concern for smaller agents for whom the cost of doing this is likely to be more significant, but all are likely to suffer the burden of dealing with enquiries.

The Property Project itself raises issues as to the nature and extent of taxpayers' responsibility to do HMRC's job for them. There is a certain amount of logic in requiring tax agents (accountants, and some bookkeepers and tax lawyers) to own up when their clients do something that the Revenue considers wrong (ie anything other than paying as much tax as possible – even if it is legal). That is because the agent is likely to be the one suggesting the tax mitigation (not tax evasion) in the first place. They are the people likely to have their client's tax records.

Asking letting agents for information about clients they might not even act for any more seems to be another step into Orwellian Britain; it could change the dynamic between agents and their customers. Few things are as likely to create a feeling of mistrust than knowing that your lettings agent is going to report on you to the taxman. Lettings agents will be concerned that some landlords will be tempted to reconsider their relationship with their agents and consider going it alone rather than risk it.

TAXATION OF LET PROPERTY

Rental income stemming from UK property is taxable in the UK at the landlord's rate of tax. This applies to individuals, trusts and companies wherever they are resident. The tax is collected via self assessment, although if the landlord's place of abode is overseas, the lettings agent (or the tenant if

there is no agent) will be required to make a deduction from the rent and account to HMRC for this. There are certain deductions from income that can be made, most notably relief for mortgage interest. HMRC have targeted landlords who claimed a refund for their mortgage payments that go toward repaying the capital sum borrowed (as opposed to interest). And, of course, should the landlord choose to put the property on the market, the sale of a buy to let property is normally subject to Capital Gains Tax at 18 per cent.

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