



[2021] UKFTT 125 (TC)

TC08106

PROCEDURE-application for closure notices-nature of Tribunal's jurisdiction-whether reasonable grounds for not giving a closure notice-yes-application refused

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

Appeal number: TC/2020/02162

BETWEEN

DR RAMONA ROPELEWSKA-KANIEWSKA

The Applicant

-and-

**THE COMMISSIONERS FOR
HER MAJESTY'S REVENUE AND CUSTOMS**

Respondents

TRIBUNAL: JUDGE ANNE SCOTT

The hearing took place on 19 April 2020. With the consent of the parties, the form of the hearing was by video using the Tribunal Cloud Video platform.

Having heard Emanuel Ikzogwo, for the Appellant

Ms Karen Powell, litigator of HM Revenue and Customs' Solicitor's Office, for the Respondents

DECISION

INTRODUCTION

1. This case relates to enquires into self-assessment tax returns submitted by the applicant for the tax years 2015/16, 2017/18 and 2018/19.

2. On 28 June 2020, an application was lodged with the Tribunal on behalf of the applicant seeking Closure Notices in relation to those enquiries. Although, of course, it is an application, Mr Ikzogwo lodged what was stated to be an “Appeal Statement” setting out the “Grounds of Appeal” against “Notices of Enquiry under S9A 1970 for the tax years ended 5 April 2019”. I am assuming that those are his arguments for seeking Closure Notices although it seems that he is questioning the validity of the enquiries. Those arguments can be summarised as follows:-

(a) Harassment - It is alleged that because the basis for the enquiries was stated to be “the possible/potential personal tax implications arising from remuneration trust arrangements from which she may have received disguised remuneration Loans”. It had become “an annual harassment of the taxpayer”.

(b) Duplication – it is alleged that the issue cannot be “the subject of multiple enquiries covering four years”.

(c) Scope – the subject matter is outside the scope of any enquiry as defined within statute because the taxpayer has no requirement to declare any loans. Section 9A Taxes Management Act 1970 (“TMA”) does not empower a general investigation into a taxpayer’s affairs.

(d) Appeal Rights - If the single matter spans several years relating to the tax affairs of the taxpayer, Section 9A TMA cannot be used since Section 28A TMA closure powers would be inapplicable. (There was also an argument about Section 29 TMA but HMRC have not yet used their powers under that provision.)

Decision

3. HMRC have reasonable grounds for not issuing final Closure Notices. The application for issue of such Notices is refused.

Procedural issues

4. The hearing was conducted by video hearing. Two Bundles extending to 639 pages had been furnished. HMRC led the witness evidence of Mr Richard Cook, an officer of HMRC working in the Counter Avoidance section of HMRC. The appellant’s representative declined to cross-examine Mr Cook and did not wish to lead evidence from the applicant. Her only contribution to the proceedings was to say that she had trusted her first accountant, and had been let down, but she had full trust in Mr Ikzogwo.

5. Mr Ikzogwo declined to make any Submissions and asked that the application be decided on the basis of the written documentation which had been lodged. Having heard Ms Powell’s Closing Submission he restricted himself to stating that the applicant wished HMRC to show why there were separate enquiries into the applicant’s tax returns in addition to enquiries into Primrose Dental Practice Limited (“Primrose”). He stated that Primrose “has not resisted the enquiry” into its affairs and at the hearing HMRC had focussed on Primrose which was not a party to the application.

6. Primrose is not a party to the application but HMRC rely, and have relied, on section 18(2)(c) Commissioners for Revenue and Customs Act 2005 to disclose information about Primrose which they view as being integral to these proceedings. Having reviewed the

Bundles, I agree and find the facts accordingly, as the applicant was at all relevant times the controlling mind of Primrose.

Background facts

The tax returns

7. Although the application stated that there were four enquiries into the applicant's tax affairs, in fact that is not accurate. There were, and are, three and each was opened timeously.

8. On 1 September 2017, HMRC wrote to the applicant opening an enquiry under Section 9A TMA for the year ended 5 April 2016. That stated:

“What I will be checking

You are a director in a company which has used a trust arrangement and I am looking into any possible personal tax implications for you arising from the trust arrangement. However, when I look at this aspect I may find that I need to extend my check. If this happens I will let you know”.

9. On 3 June 2019, HMRC issued a similar letter in the same terms for the year ended 5 April 2018.

10. On 13 June 2020, HMRC opened an enquiry into the tax return for the year ended 5 April 2019.

11. In the 2015/16 return, the applicant had declared income of £7,680 from employment and the employer was described as Primrose Dental Practice. There was interest declared of £65.

12. The tax return for 2016/17, for which there is no enquiry, disclosed income of £7,600 from the same employer and interest of £470.

13. The tax return for 2017/18 also disclosed income of £7,800 from the same employer.

14. The tax return for 2018/19 did not have any employment income but the applicant had declared self-employment income of £74,936.

15. I note that for earlier years, the declared income from Primrose was £6,510, £7,200 and £7,680 for 2012/13, 2013/14 and 2014/15 respectively. I also observe that in many of the years the figures for Director's Remuneration in the accounts for Primrose differ from the figures declared in her tax returns by the applicant (for example, see paragraph 22 below).

Primrose

16. Companies House records show that the applicant was a director of Primrose from 2 September 2009 to 22 November 2018. The registered office of Primrose currently is that of Mr Ikezogwo's business and the last accounts that were filed for Accounting Period Ending (“APE”) 31 October 2019 purport to show that he is the sole director.

17. She was the sole director at all relevant times and she and a Mr Salwomir Kaniewski each held one ordinary share of £1 each.

18. On 22 November 2018 an application was made to Companies House for Primrose to be struck off the Register and dissolved. That is still an active proposal to strike Primrose from the Register of Companies but HMRC has lodged an objection thereto so it has not progressed.

19. It would appear that Primrose has never had any employees, albeit the accounts filed for APE 31 October 2018 state that there was one employee in each of APE 2018 and 2017 but the accounts for APE 2017 state that there were no employees in either APE 2017 or 2016.

Certainly there are no deductions for wages in any of those years. The only deduction for wages was for £4,544 in APE 31 October 2013.

20. All of the turnover in Primrose is generated by the applicant. It is a personal service company through which she provided her services as a dentist.

21. On 4 April 2017, HMRC opened an enquiry into the company tax returns for Primrose for APE 31 October 2015 and 31 October 2016 and initiated Employer Compliance checks into APEs 31 October 2013, 2014, 2015 and 2016 in relation to the use of Remuneration Trusts "... referred to in the accounts".

22. On 30 July 2018, a further enquiry was opened into the company tax return for APE 31 October 2017 and a further Employer Compliance check was initiated for APE 31 October 2017. It again referred to the use of Remuneration Trusts "... referred to in the accounts".

23. On 14 September 2018, an amended Corporation Tax Return supported by an amended set of accounts for APE 31 October 2017 was submitted to HMRC. Although virtually every figure in the accounts had been amended, and some of them radically, the most striking change was that the previous item described as "Contribution to Remuneration Trust" in the sum of £84,216 had been deleted. The amended accounts also purported to show revised figures for APE 31 October 2016 and that too showed no deductions for "Contributions to Remuneration Trust". However, Primrose was out of time to amend the company tax return for APE 31 October 2016.

24. Officer Cook compiled a table showing figures extracted from the accounts that had been filed for APEs from September 2011 to 31 October 2018. The ante-penultimate and penultimate columns show the differences between the two versions of the accounts for APE 31 October 2017.

APE	Turnover	Gross Profit	Net Profit	Dividends	Director Remuneration	RT Contributions
30/09/11	£114,788	£100,872	£43,705	£47,000	£5,400	
31/10/12	£158,151	£146,090	-£5,936		£5,400	£95,372
31/10/13	£125,529	£117,631	-£2,814		£6,510	£84,714
31/10/14	£115,990	£110,154	-£9,400		£7,200	£90,349
31/10/15	£139,506	£120,317	£180		£4,480	£100,655
31/10/16	£102,223	£99,042	£2,336		£6,000	£77,000
31/10/17(a)	£110,606	£104,405	£1,597		£7,600	£84,216
31/10/17(b)	£118,481	£97,532	£75,802		£6,900	
31/10/18	£52,997	£41,219	£17,539		£3,900	

25. As can be seen, the amended profit for APE 31 October 2017 shows a radical change to Primrose's tax position. Had Primrose been able to amend the company tax return for the previous year, then that would have resulted in a revised profit of £58,040 as opposed to the £2,336 that was declared.

26. HMRC have made numerous informal requests to Primrose and its agent for delivery of information but beyond the two Deeds and the redacted bank statements noted below, nothing has been provided. Eventually, enquiries having been suspended due to Covid, on

23 October 2020, HMRC issued an Information Notice under Schedule 36 Finance Act 2008. There has been no compliance and a Penalty Notice has been issued. The applicant has been sent copies of the requests.

The Remuneration Trust

27. Having opened the enquiries into Primrose the only formal documentation produced by Primrose was a Trust Deed and a Deed of Adherence which are both dated 20 November 2013. Both those documents show that “the Trustees” are Belize Offshore Services Limited (“BOSL”). Buckingham Administrators Limited are the first party in each deed and the Remuneration Trust is described as being their 2013 Trust.

28. The copy of the Deed of Adherence has only been signed by the applicant as a director of Primrose.

29. Some redacted bank statements were also furnished and Officer Cook produced a table showing the following payments:

Date	Payment	Paid to
29/01/13	£2,240.92	“Trust”
16/01/14	£11,718.54	“Baxendale Walker Client”
22/05/14	£200.00	“Baxendale Walker C”
05/10/14	£400.00	“Baxendale Walker C”
02/03/15	£200.00	“Buckingham W Servi”
15/03/15	£9,983.39	“B Wealth Services”

30. As can be seen these are very small payments compared with the level of deductions claimed in the accounts and none are to the Trustee of the Remuneration Trust.

31. The Trust Deed states that it operates purportedly for the benefit of persons referred to as “Providers” and their families. A Provider is defined as “an individual who is or has been employed in the Particular Trade and who, while so employed, himself has provided or has been involved, whether as principal, partner, employee, independent contractor or otherwise, in the provision of, in either case in the course of the Particular Trade and during the Trust period finance to the Founder or to the Trustees or to any manager of the Trust Fund or any part thereof. The Particular Trade is defined as “the trade or profession of lending money”. The “Founder” is Buckingham Administrators Limited.

32. This Remuneration Trust is a Scheme which had been openly marketed and is well known to HMRC. Officer Cook was clear that it was known to HMRC that other users of the Scheme have not paid contributions to the Trust but have paid contributions to a personal management company which acts in a fiduciary capacity for the Trust managing Trust assets. It is usually stated to be dormant both to Companies House and to HMRC and is controlled by the same individual that controls the company that makes the contribution to the Remuneration Trust.

33. The applicant is the sole director of A & A Angels Limited which is a dormant company which was incorporated on 5 October 2012 and dissolved on 4 September 2018.

34. It is not known to whom or to what extent Primrose made the alleged contributions to the Remuneration Trust. Officer Cook’s evidence was that many other users of the Scheme do not pay the full amount of the contribution claimed as a business expense, paying only a fee in the

region of 10% and the balance of the deduction is leveraged. In many cases the funds end up as a credit to a director's loan account.

35. HMRC are clear that they do not know how or what happened in relation to Primrose's contributions to the Remuneration Trust. It is for that reason that they have made enquiries.

HMRC's arguments

36. To draw any conclusion regarding the tax implications of the Scheme for the applicant's personal tax returns first requires HMRC to establish the facts, which are yet to be determined. The applicant knows these facts but has declined (through the enquiries into Primrose) to provide them to HMRC. There are a number of potential adjustments to the applicant's personal tax position which may be in point, examples include:

- (a) "leverage" transactions should be removed from the accounts reducing the balance of the Director's Loan Account leading to a beneficial loan, subject to benefit in kind tax charges;
- (b) If monies were received by the applicant and that money is disguised remuneration subject to PAYE tax, that income and PAYE tax credit (assuming any was paid by Primrose) would be reflected in any amendment to the applicant's tax returns;
- (c) Further, as far as disguised remuneration is concerned, if Part 7A Income Tax (Earnings and Pensions) Act 2003 ("ITEPA"), applies and PAYE is due and Primrose met that PAYE charge, a failure by the applicant to reimburse Primrose may incur a benefit in kind charge under section 222 ITEPA on the applicant;
- (d) Should PAYE tax be due under the Scheme, but Primrose has failed to pay the charge, HMRC would consider Regulation 81(4) The Income Tax (Pay As You Earn) Regulations 2003, meaning that whilst the income would be on the applicant's tax returns there would be no PAYE credit set off;
- (e) For 2018/19, the Loan Charge, which was introduced in Schedules 11 and 12 Finance Act (No 2) 2017, may also apply such that any outstanding disguised remuneration loans (or other forms of credit) as at 5 April 2019 need to be declared. The applicant had until 30 September 2020 to reconsider and amend her return to disclose any disguised remuneration income. She has not.

The relevant statutory provisions

37. In a case where a taxpayer is given a Notice to file a personal tax return under Section 8 TMA, HMRC may open an enquiry into that return under Section 9A(1) TMA. An enquiry opened under that provision extends to anything contained in the return, or required to be contained in the return. A personal tax return under Section 8 TMA must include a self-assessment.

38. The application for the issue of a Closure Notice in relation to an enquiry is made under Section 28A(4) TMA. The relevant provisions of Section 28 read:

28A(1) This section applies in relation to an enquiry under section 9A(1) of this Act.

...

28A(1B) The enquiry is completed when an officer of Revenue and Customs informs the taxpayer by notice (a "final closure notice") –

- (a) in a case where no partial closure notice has been given, that the officer has completed his enquiries, or

(b) a case where one or more partial closure notices have been given, that the officer has completed his remaining enquiries.

28A(2) A partial or final closure notice must state the officer's conclusions and –

(a) state that in the officer's opinion no amendment of the return is required, or

(b) make the amendments of the return required to give effect to his conclusions.

28A(3) A partial or final closure notice takes effect when it is issued.

28A(4) The taxpayer may apply to the tribunal for a direction requiring an officer of the Board to issue a partial or final closure notice within a specified period.

28A(5) Any such application is to be subject to the relevant provisions of Part 5 of this Act (see, in particular, section 48(2)(b)).

28A(6) The tribunal shall give the direction applied for unless satisfied that there are reasonable grounds for not issuing the partial or final closure notice within a specified period.

28A(7) In this section “the taxpayer” means the person to whom notice of enquiry was given.”

Discussion

39. I pointed out in the course of the hearing, as did HMRC, that the Tribunal has no jurisdiction to consider allegations of harassment in an enquiry. Furthermore that has already been handled by HMRC's complaints section. They did not uphold the complaint.

40. Notwithstanding the fact, as I have indicated above, that Mr Ikezogwo appears to be challenging the validity of the Section 9A enquiries, nevertheless the application that he completed on behalf of the applicant is on the form designated “Application to close enquiry” and he completed the box under the heading “Application type” which asked “What type of enquiry do you want to close” and he stated “personal return”.

41. The first and most obvious points are that a Closure Notice can only be granted in terms of Section 28 TMA and an enquiry can only be opened into a taxpayer's self-assessment tax return under Section 9A TMA. Mr Ikezogwo is incorrect in arguing that if a single matter spans a number of years, Section 9A TMA cannot be used. Not only can it be used but it must be used unless there is an enquiry under the provisions of Section 29 TMA, which there is not in this case. An enquiry must be opened timeously under Section 9A TMA into the tax return for each individual year and there can only be one enquiry into each return. The three enquiries with which this hearing was concerned were all opened timeously.

42. In summary, the correct and proper approach for HMRC is to raise an enquiry in each individual year whether there are the same or differing concerns in each year.

43. There has been lengthy correspondence about HMRC's concerns. Although I have made it explicit at paragraph 50 below I point out that HMRC are undoubtedly entitled to open an enquiry at random so I do not have to address the question of their concerns. However, those concerns go to the heart of the reason why the application has been refused.

44. HMRC's concerns have been very clearly articulated as can be seen from paragraph 8 above. Subsequently HMRC reiterated on a number of occasions that they were enquiring into the Remuneration Trust deductions in Primrose's accounts in part to ascertain whether the deductions claimed should be treated as employment income of the applicant. They have explained, for example, in their letter of 17 August 2020 that the enquiries have all been opened

because HMRC believes that the finalisation of the Primrose enquiries "... may result in additional liability being due" in the applicant's tax returns.

45. They have repeatedly made it clear that HMRC has only asked for the information and documents via the Primrose enquiries because to ask for the same information from the applicant would be duplication and indeed poor service. The applicant is fully aware of what is required. HMRC have explained in correspondence that it is HMRC's view that the Remuneration Trust is a tax avoidance scheme and based on evidence gathered from other users of the Scheme, HMRC is of the opinion that any transactions relating to the Scheme would give rise to employment income charges under the disguised remuneration legislation at Part 7A ITEPA. Pertinently in a letter of 3 August 2020, HMRC pointed out that that is based on their knowledge of "... the most common way" of implementing the Scheme. However, they do not know precisely what Primrose did. It may well be that something very different happened. In that event there might be very different consequences for the applicant's personal tax affairs.

46. However, what is abundantly clear, both to HMRC and to this Tribunal, is that from the first time that a contribution to the Remuneration Trust was claimed in the accounts, the applicant has had an extremely low income declared in her tax return until the amended tax return was lodged in September 2019. That was after the enquiries had been opened.

47. I observe that the first two payments to the Remuneration Trust were for APEs 31 October 2012 and 31 October 2013, being £95,372 and £84,714 respectively. Both of those purport to have been paid before the Trust Deed and Deed of Adherence were signed.

48. The amended accounts are so radically different from the original accounts that one, or possibly both, must have been what might be described in common parlance as "extremely creative accounting". At least one of them must have been extremely seriously inaccurate.

49. By definition a taxpayer's return is a self-assessment return and should make a return of all taxable income. HMRC have articulated their concerns, and the reasons why, that there may be further charges to tax. As Judge Mosedale said in *Qualapharm Limited v HMRC*¹ and I agree with her:

"17 ... the taxpayer assesses itself to tax. HMRC was given the power to check for self-assessment by opening enquiries. Nowhere was the power to open an enquiry circumscribed; there was, for instance, nothing that limited an enquiry to where there was reasonable suspicion of an inaccuracy ... Indeed the knowledge that HMRC could conduct random checks might be one of the considerations that helps keep some taxpayers careful and truthful when completing returns ...

20. In conclusion, enquiries can be lawfully opened at random. Therefore, as HMRC do not have to have a suspicion of a mis-declaration in order to open an enquiry, there is no requirement to disclose any suspicion to the taxpayer let alone a limitation on the enquiry: the matters of which the appellant require disclosure are therefore irrelevant to the question of whether the enquiry was lawfully opened."

50. In this case, of course, HMRC did have suspicions and they have intimated them to the applicant. The fact is that the enquiries were lawfully and timeously opened.

51. I also agree with Judge Mosedale in *Steven Price v HMRC*² when she stated:-

¹ 2015 UKFTT 479 (TC)

² 2011 UKFTT 264 (TC)

“10 ... HMRC is entitled to know the full facts related to a person’s tax position so that they can make an informed decision on whether and what to assess. It is clearly inappropriate and a waste of everybody’s time if HMRC are forced to make assessments without knowledge of the full facts. The statutory scheme is that HMRC are entitled to full disclosure of the relevant facts ...

11. If ... were correct that HMRC have no reasonable grounds to refuse to issue a closure notice where they have not yet been provided with all the relevant information about the scheme ... because they can make an assessment in any event, ... [t]his would in effect compel HMRC to issue assessments based on far less than the full facts and be unable to obtain those unless and until HMRC obtained a Disclosure Order in proceedings.”

52. The problem here is that HMRC simply do not know what happened, when and how and it is not for the lack of asking the applicant.

53. That matters. As the Upper Tribunal said in *Daarasp LLP and Another v HMRC*³ at paragraph 25(7):

“The issue of a closure notice represents an important stage in closing the officer’s enquiry. In *Bristol & West*⁴, the Court of Appeal stated at [35]:

‘We do not doubt that the conclusion of an enquiry and the expression of HMRC’s conclusions in a closure notice leaves open for further debate negotiation and settlement of the final outcome as the extent of the taxpayer’s tax liability but we reject any notion that the closure of the enquiry and the expression of HMRC’s conclusions arising from it can be belittled as a mere procedural pause. Closure marks an important stage at which the enquiry (with HMRC’s attendant powers and duties) ends, HMRC is required to state its case as to the amount of tax due, in the closure notice itself, following which its power to amend the assessment is limited to such amendments as will give effect to these conclusions ...’.

Indeed the closure notice marks the beginning of a series of ‘precisely timed stages’ whereby the return is amended and/or the closure notice challenged by way of appeal ...”.

54. I was not referred to Lewison J at paragraphs 22 and 23 in *Archer, R(oao) v HMRC*⁵ where he stated:

“22. The self-assessment that the taxpayer is required to file as part of his return must state the amount of tax for which the taxpayer is liable. One would naturally expect that an amendment to that assessment must likewise state the amended amount of tax for which he is liable. The formal requirements for the validity of a closure notice must be the same irrespective of the sophistication of the particular taxpayer and the skill of his professional advisers, if indeed he has any. Section 28A (2) (b) requires the amendment of the return to be made by the closure notice itself; not merely by an officer of HMRC. So, unless incorporated by reference, Mrs Cook’s amendment of the on-line return cannot itself satisfy the words of the sub-section. I think that this conclusion coincides with the view of the FTT in *Wong Yau Lam and Sau Yau Lam (t/a Sunlight Takeaway) v HMRC* [2016] UKFTT 0659 (TC). That concerned a

³ 2021 UKUT 87 (TCC)

⁴ *Bristol & West plc v Revenue & Customs Commissioners* [2016] EWCA Civ 397

⁵ [2017] EWCA Civ 1962

closure notice relating to a partnership return, to which section 28B rather than section 28A applies. At [25] the Tribunal stated:

‘The provisions which in our view govern the issue and effectiveness of a closure notice are subsections (1) to (3) of s 28B. Section 28B (1) sets out how an enquiry is completed. It describes a "closure notice" as a notice from an officer of HMRC that "informs the taxpayer that he has completed his enquiries and states his conclusions". It is apparent that a document that does not do these things will not be a closure notice, since it will not meet the definition. Section 28B(2) contains an additional *mandatory* requirement for the content of a closure notice: it must either state that no amendment of the return is required or it must "make the amendments of the return required to give effect to his conclusions"’. (Emphasis added)...

23 *...it is the closure notice itself that makes the amendments of the return under that subsection.* (Emphasis added)”

55. HMRC have been wholly unable to complete their enquiries because the applicant has almost entirely failed to co-operate. On the basis of the very few facts that HMRC do know, they know that there are a number of different possible outcomes in relation to the applicant’s personal tax depending on what facts are ultimately elicited (see paragraph 37 above). At this juncture they are unable to compute the tax that might, or might not, be due.

56. Primrose having failed to comply with the Schedule 36 Information Notice, HMRC may now have to duplicate the work and issue a Schedule 36 first party Notice to the applicant for the purposes of checking her tax position. No doubt it would be in similar terms to that issued to Primrose.

57. There has been delay in this case due to Covid but the primary source of delay has been non co-operation with HMRC by the applicant as an individual and as a director. She has been repeatedly told that the information sought applied to her in both roles, albeit this Tribunal is concerned only with her personal tax position.

58. In *The Executors of Mrs R W Levy v HMRC*⁶, to which I was not referred, Judge Andrew Scott observed at paragraph 46 that when considering whether or not to direct that a Closure Notice be issued it should be ascertained whether HMRC have “...reasonable grounds for continuing with the enquiry.”. Shortly put, if they establish that then they have reasonable grounds for not issuing a Closure Notice.

59. HMRC know that prior to the first payment to the Remuneration Trust in 2012, a substantial dividend was paid by Primrose. In the following six years, in excess of £500,000 was purportedly paid out by Primrose and there is no evidence as to where it went. HMRC’s knowledge as to how the Scheme usually operated suggests that far from all is paid out to the Remuneration Trust. They do not know what happened in this case.

60. Meanwhile the applicant’s only known source of income, whilst she continued to practise as a dentist, ranged between £4,480 and £7,680 per annum (depending on whether one believes her tax returns or the Primrose accounts). There is the added factor that the accounts for 2016 and 2017 were radically rewritten for the applicant after HMRC pointed to the issue of the contributions to the Remuneration Trust in the context of the applicant’s personal tax.

61. Bluntly, HMRC need to know what payments were received by the applicant, when and from whom. The fact that a payment might or might not have been described as a loan or

⁶ [2019] UKFTT 418 (TC)

something else does not mean that it is not taxable, as HMRC have pointed out. The key is in the name given to the legislation – the disguised remuneration legislation. Remuneration is taxable. There are reasonable grounds to continue with the enquiries.

62. Lastly, for the avoidance of doubt, I observe that I agree that to issue Closure Notices at this juncture would not be a good use of anyone’s resources since HMRC would have to look at Closure Notices amending the returns at the higher end of the scale and litigation would undoubtedly ensue with the inevitable applications for Disclosure. That is not a factor in my decision but I point it out to the applicant. It would be very expensive for all.

63. For all these reasons the application is dismissed.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

64. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to “Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)” which accompanies and forms part of this decision notice.

**ANNE SCOTT
TRIBUNAL JUDGE**

RELEASE DATE: 27 APRIL 2021