

Case Study: CA158 – Copping A Plea

The Defendant was the subject of an investigation by HMRC in relation to the trading activities of two telecommunications companies, where he was the sole director and shareholder.

That investigation identified that the Defendant:

- Failed to submit annual self-assessment income tax returns for five years;
- Failed to register for VAT despite reaching the threshold for compulsory VAT registration;
- Suppressed the true amount of output tax by under-declaring the sales made; and
- Suppressed the true amount of input tax by submitting false or altered purchase invoices.

The Defendant faced a 16-count indictment for the evasion of tax.

HMRC calculated the total loss in terms of VAT, CT and income tax to be approximately £817k.

The defence team believed that HMRC had been over-zealous in their approach, choosing to criminally prosecute the Defendant instead of using their own published procedure, the 'Contractual Disclosure Facility' ("CDF"), also known as "COP9"¹.

CDF replaced HMRC's 'Civil investigation of fraud' process effective from 31 January 2012. The CDF is for taxpayers who readily admit to tax fraud in exchange for a lower civil penalty. Those who deny wrongdoing or fail to cooperate fully may face criminal proceedings.

The intention is that a civil (contract) settlement covering the tax, interest and penalty is agreed promptly, thereby avoiding expensive and potentially time-consuming litigation.

The Defendant was not given the option of a CDF.

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Copping A Plea (Continued)

The case was due for trial in the first quarter of 2020.

The Expert was instructed to:

- Review the trial documents;
- Calculate the Defendant's liability to income tax;
- Calculate the liability to VAT and corporation tax in respect of the companies subject of the indictment; and
- Compare our calculations with those of HMRC.

Specifically, the Expert was asked to calculate quantum if the matter had been dealt with as a civil matter via CDF, rather than as a criminal matter.

The matter was subject of a recent Goodyear Hearing, whereby it was indicated to the defence team that if the Defendant pleaded guilty to the charge(s) and the basis of plea is accepted by the Prosecution, the likely maximum sentence will be a suspended sentence.

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