

# HMRC TO ISSUE DATA- GATHERING NOTICES TO LETTING AGENTS

**Tolley® Guidance**

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## HMRC to issue data-gathering notices to letting agents

*Produced by Tolley in partnership with [Guy Smith of Abbey Tax](#)*

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The Risk and Intelligence Service (RIS) within HMRC has been writing to letting agents in recent weeks, to warn them that a statutory notice is going to be issued this month for details of rents collected on behalf of landlords for the tax year ended 5 April 2013.

[Click here to read an anonymised copy of the letter.](#)

[Click here to view pdf](#)

Once statutory notices are issued, letting agents will have 60 days from the date of the notice to return the information to HMRC.

Failure to comply with a statutory notice attracts an initial penalty of £300 and up to £60 a day for a continuing failure.

[FA 2011, Sch 23, paras 30-31](#)

Also, HMRC can charge a penalty of up to £3,000 where the letting agent carelessly or deliberately provides inaccurate information.

[FA 2011, Sch 23, para 32](#)

For more details of HMRC's data-gathering powers under [FA 2011, Sch 23](#), see the [HMRC power to request data](#) guidance note.

### How will HMRC use the information?

The letters reassure the letting agent that “[t]his is not a check of your tax affairs”. Therefore, it can be assumed that HMRC is using the information from the letting agent to compare to the income declared by the landlord.

No doubt this information will be analysed and risk assessed alongside the details HMRC already receives from the Land Registry regarding property ownership and transactions. HMRC also uses voters list entries to identify multiple occupancy by unrelated persons in a property and housing benefit payment details to track down landlords who are failing to declare their true rental income.

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HMRC estimates that up to 1.5m landlords may be underpaying £500m in tax **every year** and has launched the Let Property Campaign to encourage voluntary disclosures of undeclared and under-declared rental income from landlords. For full details of the campaign, see the [Let Property Campaign](#) news item.

Part of the challenge to HMRC in publicising the campaign is identifying landlords who have been previously unknown to them. Once the information from letting agents has been analysed, it is expected that HMRC will write to these landlords to make them aware of the campaign and invite them to make a disclosure.

It is understood from HMRC that the initial 'nudge' letter which is used to raise awareness of the campaign will not be treated as a prompt. However, if the landlord receives a letter stating that disclosed income does not match information obtained by HMRC then any subsequent disclosure will be treated as prompted.

It is not just landlords with UK properties who can expect to be targeted. It is understood from calls received by the Abbey Tax helpline that individuals letting foreign villas and apartments have been identified by HMRC from adverts they placed on specialist holiday websites. It is assumed that this information has also been obtained via a data-gathering notice under [FA 2011, Sch 23](#).

## **What do you need to do?**

### **Letting agents**

If your client is a letting agent and comes to you for advice following receipt of this letter or an information notice, you must impress upon the letting agent that they have no choice but to comply. In cases such as this, it is only possible to appeal against the notice on the grounds that complying with the notice would be unusually onerous. The letting agent is extremely unlikely to succeed with an appeal on these grounds.

#### [FA 2011, Sch 23, para 28](#)

As noted above, HMRC will charge penalties for failure to provide the information or where the information provided is inaccurate.

In terms of the customers of the letting agent, there is no requirement for the letting agent to inform their landlords that they have provided this information to HMRC. However, letting agents are not prohibited from informing their landlords; this is completely up to the letting agent. If the letting agent decides to inform their landlords the correspondence should be carefully worded. The letting agent should make it clear that all letting agents nationwide

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have had to provide this information and that they are required to provide the information by law.

Despite the fact that this is not a check of the tax affairs of the letting agents, there are potential issues for the letting agent. For example, if the letting agent has not been operating the non-resident landlords scheme properly then the agency would be best advised to make a voluntary disclosure to the campaigns team themselves. This is fraught with complications since the tax at stake is not that of the agency but the non-resident landlord and the agency will not be aware of the landlord's circumstances (e.g. whether UK Tax Returns have been filed disclosing the income). The letting agent would certainly need agreement from the landlords to deduct the historic tax from future rents, which could leave landlords without receiving rental income for a considerable period of time if the failure to operate the scheme runs over a number of tax years. If your client is in this situation, you may want to seek specialist advice before proceeding.

For more information on the non-resident landlords scheme, see the [Non-resident landlords](#) guidance note.

## **Landlords**

You may be contacted by clients who have received letters from HMRC informing them of the Let Property Campaign and asking them to make a disclosure of any under-declared rental income.

This is a good opportunity, both in terms of probing to make sure they have fully declared all their rental income (and reassure them there is nothing they need to do) but also to talk to the client about their current situation / future plans in the hope of identifying some tax planning which would be of benefit to them.