TC01290

Appeal number:TC/2010/00776
& TC/2010/00834

Appeals against Information Notices issued by HMRC under paragraph 14 Schedule 10 Finance Act 2003 – whether the notices are invalid because the original notices of enquiry were not received by the Appellants – whether valid intimation given by HMRC – appeals dismissed

FIRST-TIER TRIBUNAL

TAX

KATHERINE WEBER & RALPH WEBER **Appellant**

- and -

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

TRIBUNAL: J. Blewitt (JUDGE)

Sitting in public at Manchester on 3 June 2011

Mr C. Walker and Mr N. Price for the Appellants

Mr P. G. Kane, instructed by the General Counsel and Solicitor to HM Revenue and Customs, for the Respondents

DECISION

1. By Notices dated 23 December 2009 the Appellants appealed against the issue of information notices on 19 February 2009 by HMRC under paragraph 14, Schedule 10, Finance Act 2003.

2. The grounds of appeal relied upon by both Appellants are that the notices issued by HMRC are invalid because the underlying original notices of enquiry, stated by HMRC to have been issued on 28 June 2007, were not received by the Appellants. In the absence of a duly received notice of enquiry the information notice cannot be validly issued.

Background

3. Mr and Mrs Weber reside at 6 Apsley Grove, Bowdon, Altrincham, WA14 3AH having completed the purchase of the property on 13 September 2006. The SDLT1 Land Transaction Return was received by HMRC on 25 September 2006 within the statutory 30 day filing period.

4. Additional information accompanying the return identified the purchase consideration to be 15% of the original purchase price and a separate transaction by which Mr Weber gifted to himself and Mrs Weber the interest in the contract for the acquisition of the property prior to the original contract being substantially performed and as such that contract is to be disregarded in accordance with section 45(3) Finance Act 2003. In order to consider this information further, an enquiry was opened by HMRC in order to establish the sustainability of this argument when all documents and information surrounding the transaction were available.

5. The enquiry was opened on 28 June 2007 under Paragraph 12, Schedule 10, Finance Act 2003 and notices were sent to the Appellants at 6 Apsley Grove and their agents Dobson Jones Solicitors LLP ("Dobson Jones"). Under section 76 (1) and Paragraph 12 (2), Schedule 10, Finance Act 2003 HMRC's enquiry window in respect of the transaction involving 6 Apsley Grove expired at midnight on 12 July 2007.

6. The covering letter to Dobson Jones, dated 28 June 2007 and which accompanied the copies of the notices, requested that documents and information relating to the transaction be supplied to HMRC. By letter dated 6 November 2007 from HMRC to Dobson Jones, a request for response to the letter of 28 June 2007 was made.

7. Dobson Jones replied to HMRC by letter dated 27 November 2007 stating that a response would be provided within the following week. A response was provided by Dobson Jones in a letter dated 20 December 2007 which enclosed some of the documents and information requested by HMRC. The letter also apologised for the delay in responding to HMRC's request, stating "*the receipt of documentation from the clients is proving protracted.*" Further information was requested by HMRC in a letter to Dobson Jones dated 26 February 2008 and on 29 February 2008 a telephone call took place between HMRC and Dobson Jones in which the Appellant's solicitor stated that "*he would write to the clients once more for the relevant bank statements.*"

8. In the period to July 2008 various documents and information were provided to HMRC. On 17 July 2008 HMRC's enquiry officer involved in the Appellants' case wrote to the Appellants and their solicitor informing them that the Special Civil Investigations office had assumed responsibility for the enquiry and requesting further information from the Appellants' solicitor.

9. On 21 August 2008 Dobson Jones wrote to HMRC stating that the Appellants had not received the original notices dated 28 June 2007. A letter dated 16 August 2008 from Mr Weber to Dobson Jones confirmed this, stating "We never received the letter from HMRC dated 28 June 2007. Nick Price sent us a copy of this letter on 6 July 2007". Mr Price is a taxation specialist from Powrie Appleby who sold the SDLT scheme to the Appellants.

10. As a result of the Appellants not receiving the notices of enquiry, Dobson Jones requested that the enquiry be closed as invalid. HMRC responded on 29 September 2008 stating that the notices were issued to the Appellants on 28 June 2007 and "they were not returned undelivered." HMRC repeated their request for information as contained in correspondence to Dobson Jones dated 17 July 2008.

11. On 19 February 2009, HMRC issued notices under Paragraph 14, Schedule 10, Finance Act 2003 to the Appellants as the documents and information requested in the letter dated 17 July 2008 and repeated in the letter dated 29 September 2008 had not been provided.

12. The Notices were appealed on 4 March 2009 on the grounds that a valid notice of enquiry had never been given to the Appellants. There was no dispute between the parties that if there is no valid enquiry then the information notices issued will be, as a consequence, invalid.

Legislation

13. Section 76 Finance Act 2003 ("the Act") sets out the duty to deliver land transaction return:

(1) In the case of every notifiable transaction the purchaser must deliver a return (a "land transaction return") to the Inland Revenue before the end of the period of 30 days after the effective date of the transaction.

(2) The Inland Revenue may by regulations amend subsection (1) so as to require a land transaction return to be delivered before the end of such shorter period after the effective date of the transaction as may be prescribed or, if the regulations so provide, on that date.

(3) A land transaction return in respect of a chargeable transaction must—

(a) include an assessment (a "self-assessment") of the tax that, on the basis of the information contained in the return, is chargeable in respect of the transaction, . . .

14. Paragraph 12, Schedule 10 of the Act provides for notice of an enquiry:

(1) The Inland Revenue may enquire into a land transaction return if they give notice of their intention to do so ("notice of enquiry")—

(a) to the purchaser,

(b) before the end of the enquiry period.

(2) The enquiry period is the period of nine months—

(a) after the filing date, if the return was delivered on or before that date;

(b) after the date on which the return was delivered, if the return was delivered after the filing date;

(c) after the date on which the amendment was made, if the return is amended under paragraph 6 (amendment by purchaser).

15. For comparison, HMRC referred to the former paragraph 14, schedule 10 of the Act, which governed notices to produce documents for the purposes of an enquiry:

"(1) If the Inland Revenue give notice of enquiry into a land transaction return, they may by notice in writing require the purchaser…"

16. Section 84 Finance Act 2003 provides:

(1) A notice or other document to be served under this Part on a person may be delivered to him or left at his usual or last known place of abode.

(2) A notice or other document to be given, served or delivered under this Part may be served by post.

(3) For the purposes of section 7 of the Interpretation Act 1978 (c 30) (general provisions as to service by post) any such notice or other document to be given or delivered to, or served on, any person by the Inland Revenue is properly addressed if it is addressed to that person—

(a) in the case of an individual, at his usual or last known place of residence or his place of business;

(b) in the case of a company—

(i) at its principal place of business,

(ii) if a liquidator has been appointed, at his address for the purposes of the liquidation, or

(iii) at any place prescribed by regulations made by the Inland Revenue.

17. Section 7 of the Interpretation Act 1978 as referred to above provides:

Where an Act authorises or requires any document to be served by post (whether the expression "serve" or the expression "give" or "send" or any other expression is used) then, unless the contrary intention appears, the service is deemed to be effected by properly addressing, pre-paying and posting a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Case law

18. I was referred to the case of ***Spring Salmon & Seafood Limited v Advocate General for Scotland*** *[2004] 76 TC 609* upon which HMRC sought to rely and which I will address in due course.

Issue

19. There was no dispute between the parties that the issue for the Tribunal to determine is whether the enquiry notices are valid, and whether, as a consequence, the information notices issued on 19 February 2009 are valid.

Evidence

20. I heard evidence from Mr Weber who confirmed that neither he nor his wife had received the notices of enquiry. Mr Weber stated that the first time he had been made aware of HMRC's enquiry was in a telephone call from Mr Price on 6 July 2007 and on the same date Mr Price forwarded the letter of enquiry to him by post. Mr Weber stated that he understood that he was under enquiry, and that under his agents would deal with this matter on behalf of both Appellants.

21. Mr Needham, an officer of HMRC, gave evidence in which he confirmed that he had been responsible for posting (2nd class) separate letters on 28 June 2007 to the Appellants notifying them of HMRC's intention to open an enquiry into the acquisition of 6 Apsley Grove. Mr Needham confirmed that on the same date he had also notified Dobson Jones by letter of the enquiries and enclosed copies of the notices sent to the Appellants; these documents were sent by DX. None of the letters sent by Mr Needham on 28 June 2007 were returned undelivered.

Submissions

22. A statement of case was provided by both parties and I heard oral submissions from Mr Walker and Mr Kane.

The Appellants' case

23. In summary, it was submitted on behalf of the Appellants that valid notice of the enquiry in respect of each Appellant had not been given as required by Paragraph 12, Schedule 10, Finance Act 2003. Further, that the issue of notices to the tax agent is not a substitute for the requirements of the legislation applicable. It was contended that the provision of copy notices to the Appellant by a person other than the tax agent does not fulfil the requirements of Paragraph 12, Schedule 10, Finance Act 2003 and

that the information provided by the Appellants' agents to HMRC does not constitute acceptance that notice had been validly given. It was submitted that the production of documents by the Appellants' agent to HMRC does not cause valid intimation of the enquiry.

24. The Appellants' submitted that to find otherwise would lead to a conclusion not intended by Parliament and that a strict interpretation should be applied to Paragraph 12, Schedule 10, Finance Act 2003.

25. The Appellants relied on HMRC's SDLT Manual and the guidance set out at 80850:

If a notice of enquiry is not delivered it may be some time before evidence of this is received from the purchaser. For example, this may be some weeks later when the purchaser receives a request for documents or information but know nothing about the enquiry.

Where it is accepted that a notice was not received the date will need to be within the enquiry window to be able to issue another notice.

A compliance caseworker will have evidence of the delivery date if a notice was given by hand or sent, for particular reasons, by recorded delivery.

In all other cases the guidelines for postal delivery times should be followed, unless the purchaser provides evidence of a specific date or claims the notice was never received.

Where the purchaser's evidence is not accepted they should be informed of the reason and the enquiry continued.

The purchaser may appeal against any subsequent notice on the grounds that a valid notice was not given.

It was submitted that the guidance makes clear that it is accepted by HMRC that a notice of enquiry may not reach its intended target within the specified time limit and that the fact that a copy of the notice was successfully delivered to the Appellants within the statutory time limit, does not lead to the conclusion that the original notice had been successfully delivered.

26. The Appellants submitted that the role of tax agent is designed to "act as a bridge and facilitate a smooth working relationship between HMRC and taxpayers" and is not the same as "the principal/agent relationship in the usual legal sense." The Appellants submitted that delivery to and acceptance by a tax agent of the notice, cannot be deemed to be delivery of a notice to the taxpayer and acceptance of that notice by the taxpayer. Mr Walker submitted that copies of the Appellants' notices had been sent to his firm (Powrie Appleby), who at the relevant time were engaged by the Appellants to assist with SDLT litigation but were not acting as the Appellants agents.

27. It was accepted on behalf of the Appellants that the case of ***Spring Salmon & Seafood Limited v Advocate General for Scotland*** *[2004] 76 TC 609,* ("Spring Salmon") may be relevant to this appeal due to the similar legislation involved. The Appellants sought to distinguish the case, submitting that the decision was peculiar to the facts of the case and not relevant to the facts of this appeal. The Appellants submitted that the fact that there were two tax agents acting for the company in Spring Salmon should be treated as a distinguishing feature and that the decision was reached by the Advocate General "because of the nature of the parties' agreement" which is not a feature of the Appellants' case. Mr Walker submitted that in the absence of such an agreement as existed in the case of Spring Salmon, HMRC cannot rely on notice being given by a person other than HMRC.

28. It was submitted on behalf of the Appellants that knowledge on the part of the Appellants of the enquiry is not sufficient; notice must have been given by HMRC and the inclusion of two further intermediate steps involving a tax specialist and the Appellants' agent stretches the meaning and requirements of Paragraph 12, Schedule 10, Finance Act 2003 beyond recognition.

29. The Appellants rely on the principle of certainty, submitting that "the creation of a climate where tax agents are reluctant to act serves only to introduce uncertainty which...was not Parliament's intended effect..." The basis for the Appellants' argument is that if the giving of valid a notice can be achieved by onward transmission by an agent to the taxpayer, an agent may be reluctant to bring the notice to the attention of the taxpayer until after the relevant enquiry period which would lead to a breakdown in the Self Assessment system.

HMRC's case

30. It was submitted on behalf of HMRC that enquiry notices had been issued to both Appellants on 28 June 2007 at their residential address within the 9 month enquiry window and consequently the notices were validly served.

31. In the alternative, HMRC submitted that as there is no statutory requirement for notice to be given in writing, the fact that copy notices were provided to them satisfied the legislation in that the Appellants were fully aware of the enquiry within the 9 month enquiry period.

32. It was noted that HMRC were not notified that the notices had not been received until 21 August 2008, approximately 14 months after the notice was served, and after the expiry of the enquiry period.

33. HMRC relied on the difference between the legislation governing an enquiry into a land transaction return which requires the Inland Revenue to "give notice of their intention..." as compared with the statutory provisions governing the requirements for information notices which must be made "in writing."

34. HMRC submitted that the Spring Salmon case considered an enquiry notice issued under section 9A Taxes Management Act 1970 and that the legislation

applicable in that case is, in all material respects, identical to Paragraph 12, Schedule 10, Finance Act 2003. At paragraph 23 of Spring Salmon, Lady Smith stated:

"I have reached the conclusion that the respondents' submission on this matter is to be preferred. There is no apparent reason for Parliament's failure to provide that notices of enquiry should be in writing if that was what it meant which does not make it difficult to conclude that that was not what was meant...Further, there are instances, in the tax legislation to which I was referred, of express provision for notices to be in writing being made and that makes it difficult to escape the conclusion that it was not considered necessary for notices of enquiry to be in writing."

35. HMRC submitted that there was no defect in intimation of the notice to the Appellants through their agents, who copied the notices to the Appellants, as there is no statutory requirement that the communication of HMRC's intention to be direct. Further, it was submitted by HMRC that the production of documents by the Appellants agent to HMRC is evidence of valid intimation of the enquiry.

36. HMRC contended that the guidance contained in their internal manual relates to a different situation; namely the actions a case officer should take if an intended recipient states that the notice was not received and he was unaware of the enquiry. HMRC made the distinction that in this case the Appellants were both aware of the enquiry, as were their agents.

37. It was submitted that the purpose of an enquiry notice is to provide the taxpayer with legal certainty as to when he can consider his return to be final and that the intention of Parliament was to ensure that a taxpayer understands, and is in no doubt, that his return is under enquiry. On the basis that the Appellants were aware of the enquiry prior to the enquiry window closing, notice was validly given.

Decision

38. I carefully considered all of the submissions and evidence. The starting point is whether the Appellants were given valid notice of the enquiry. It was accepted by the Appellants that there is no requirement for notice to have been given in writing. I accepted that HMRC, although not bound to do so by legislation, had given notice in writing. I accepted Mr Needham's evidence that he had posted the notices to both Appellants to the correct address. In such circumstances, Section 7 of the Interpretation Act 1978 provides that service would be deemed effected *"unless the contrary is proved."* It is for the Appellants to prove that the notices were not received and it is difficult to envisage a situation in which independent or documentary evidence would be available to prove this negative where the notices were not sent, for example by recorded delivery. The only evidence came from Mr Weber, supported by Mrs Weber, who confirmed that neither he nor his wife had received the notices. Mr and Mrs Weber presented as honest and credible Appellants and I found that there was no reason to doubt this evidence. I therefore went on to consider whether, if the notices were not received by the Appellants, valid notice had been given of the enquiry.

39. I did not find HMRC's SDLT Manual 80850 provided assistance in determining the issue before me. The guidance clearly recognises that there are situations in which a taxpayer may have no knowledge of an enquiry and states that in such circumstances, dependant on the date at which this information comes to light, another notice of enquiry should be issued or postal delivery times followed. If it is claimed that the notice was not received, HMRC may continue with the enquiry if the purchaser's evidence is not accepted and the purchaser then has a right of appeal. It cannot be said in this case that HMRC have not followed this guidance; in my view HMRC properly issued the notices, had no evidence that the notices were not received by the Appellants and correctly continued with the enquiry. The fact that the notices were not received was not raised by the Appellant's agents until after the expiry of the enquiry window and the Appellants have exercised their right of appeal. The guidance takes this issue no further.

40. I went on to consider the facts of this case and the legislation. Notice of the enquiry had been sent to the Appellant's agent and was received within the enquiry window. It was submitted on behalf of the Appellant that the agent cannot be a substitute for receipt of notice and that the statutory provisions should be construed strictly as requiring notice to be give *"to the purchaser"* as opposed to an agent acting on the purchaser's behalf. I do not accept that such a distinction can be drawn in assessing the role of the Appellant's agent. It is a well established principle that a taxpayer bears ultimate responsibility in respect of his tax affairs and cannot shift that burden to an agent acting on his behalf. In my view the relationship must be deemed to be one in which the agent's knowledge and actions are those of the taxpayer, as the agent is acting at all times under the authority and instructions of his client.

41. On the particular facts of this case, the Appellant's agent, Dobson Jones, had received notice of the enquiry and complied with the requests of HMRC for information. The Appellant's tax advisor had also received notice of HMRC's intention to enquire and indeed it was Mr Price who informed the Appellant by telephone of the fact. It is clear that the Appellants had knowledge of the enquiry and were kept fully informed as to the status of their tax affairs on a regular basis. On the facts, I find that the roles of the agent and tax advisor cannot be distinguished so as to effectively treat the parties as wholly separate entities; to do so, in my view, would be to undermine the authority of an agent acting on behalf of a taxpayer.

42. I carefully considered the Spring Salmon case. It was accepted on behalf of the Appellant that the case is relevant in that it bears similarities to the legislation applicable in this appeal. I do not accept that the facts of Spring Salmon are such as to distinguish the case which gives clear guidance as to the interpretation of similar legislation; at paragraph 32 (emphasis added):

"I also agree that service or intimation of a notice of enquiry does not appear to be a step that calls for special formality but rather falls into the category of cases where it is recognised that the purpose of service of a notice is to see to it that the recipient is informed. Indeed, it is probably more accurate to refrain from referring to 'service' of the notice. Paragraph 24 does not require 'service' and since, as I have already

discussed, the notification required does not even need to be in writing, it is better to refer to the notice as requiring intimation."

43. I considered the Appellant's submission that the decision in Spring Salmon was reliant upon an agreement between the parties (at paragraphs 37 and 38):

"*The notice of enquiry was sent to the petitioners, at their business address. A copy of it was sent to their agents, Kirkpatrick & Hopes. Another of their agents had, some three weeks earlier, told Sue Hicks of the Revenue that she should send the enquiry notice to Kirkpatrick & Hopes. It may well be that it was assumed that the notice would also be sent to the petitioners and it is evident that Sue Hicks expressly sent a copy of the notice to those agents on the same day as she sent notice to the petitioners. I do not, however, conclude that the fact that she appears to have had it in mind that the original notice was being sent to the petitioners with a copy of it being sent to the agents deprives the communication to the agents of having the character of valid intimation.*

The petitioners' approach appeared to involve regarding the sending of the copy of the notice of enquiry to the agents as something other than effective notification because notice of enquiry had also been sent to the petitioners. However, what was agreed at the meeting of 6 March 2002 was not that the notice of enquiry should be sent to Kirkpatrick & Hopes in the event that it was not being sent to the petitioners and that in those circumstances but only in those circumstances would it be regarded as effective notice, but simply that it should be sent to those agents. I do not construe the statutory provisions as directing that one and only one notice of enquiry can be sent. Further, I agree that what was recorded in the note of the meeting of 6 March 2002 was agreement to the effect that, as regards intimation of any notice of enquiry, the petitioners would be content if it was sent to their agents, Kirkpatrick & Hopes. Had the Revenue not sent a notice of enquiry to the petitioners, effective intimation of the notice to enquiry would, accordingly, have been achieved by sending the letter of 27 March 2002 to Kirkpatrick & Hopes enclosing a copy of the notice. Similarly, if the notice of enquiry sent to the petitioners was tainted by invalidity arising from the means of service adopted or otherwise, the Revenue can found on the notice that was sent to Kirkpatrick & Hopes. There is no doubt that it was timeous. In these circumstances, even if I am wrong in holding that the notice of enquiry sent to the petitioners at their business address was valid, it would follow that there had still been valid intimation by means of the notice of enquiry sent to Kirkpatrick & Hopes, because of the nature of the parties' agreement."

44. I accept that no such specific agreement existed in the case before me, but the principle established by Spring Salmon is clear; the purpose of notice is to ensure that the taxpayer is informed. In following this principle I find that the intimation by HMRC to the Appellants' agent and their tax advisor is valid and sufficient to satisfy the statutory requirements even in the absence of an express agreement. I note Lady Smith's comment: *"I do not construe the statutory provisions as directing that one and only one notice of enquiry can be sent."* That being the case, there would be no purpose in doing so if only the notice to the purchaser could be deemed as valid intimation. I do not accept the Appellant's submission that the legislation should be

interpreted so strictly as to allow only for notice to be given directly to the Appellants; in my view to adopt such a narrow approach would defeat the intention of Parliament and the purpose of the legislation which is designed to afford protection to the taxpayer by ensuring he is kept informed.

45. I considered the submissions made on behalf of the Appellants' as to certainty and the fact that to construe the legislation as I have may lead to reluctance on the part of an agent to keep a taxpayer informed. I do not accept this submission; I find that the purpose of the legislation is to ensure the taxpayer understand that his return is under enquiry. In this case Mr Weber confirmed that he and his wife were informed of, and understood this fact. I do not accept the contention that a professional agent would deliberately and maliciously attempt to undermine the system of Self Assessment by failing to keep his client informed.

46. I found the fact that the Appellants' agents complied with HMRC's requests for information a relevant factor in reaching this decision. In the Spring Salmon case, Lady Smith stated (at paragraphs 38 and 39):

"Submissions were also advanced on behalf of the respondent to the effect that the petitioners were, in any event, personally barred from founding on any defect in intimation of the notice of enquiry. Reliance was placed on the fact that not only did the petitioners, through their agent, tell the Revenue to send the notice of enquiry to other agents, Kirkpatrick & Hopes but, that having been done, Kirkpatrick & Hopes entered into correspondence with the Revenue stating that they would give a full response to the questions contained in the covering letter and that they were gathering information to enable them to do so. Counsel for the respondent drew attention to the fact that it was not until after the 12-month period for intimation of a notice of enquiry had expired that the petitioners asserted that the notice had been invalid...

In response, counsel for the petitioner did not submit that the correspondence between the Revenue and Kirkpatrick & Hopes could not be interpreted as showing an acceptance on their part that they should seek to answer the questions raised by the Revenue and an intention to do so, once the relevant information was to hand. Rather, his approach was to revert to consideration of the circumstances in which they came to receive a copy of the notice of enquiry. Sue Hicks's letter to them of 27 March 2002 did not put them in the position of being 'recipients of the notice of enquiry qua agents authorised to accept the notice'. That being so, his submission seemed to be that the correspondence was irrelevant.

It is equally clear, from a reading of the correspondence that followed, that far from speaking up to indicate that the petitioners considered that there was defect in the intimation of the notice, the impression was given that the petitioners' agents and therefore the petitioners, accepted that they required to respond to the enquiries that were being made by the Revenue. If no notice to enquire had been validly intimated, there would have been no need to respond to the Revenue's questions at all, it being a prerequisite to a requirement for information in terms of para 27 that notice to enquire had been given. It is not surprising, therefore, that the Revenue proceeded on

the basis that the petitioners did not dispute their right to conduct an enquiry into their tax return. In the event, it is not necessary for me to determine the issue of whether or not the petitioners are personally barred from now challenging the validity of the notice to enquire but had it been, I would have agreed with the submission for the respondent and found that they were."

47. The fact that the Appellant's agents complied with HMRC's requests for information, and specifically stated in a letter dated 20 December 2007 which enclosed some of the documents and information requested by HMRC that *"the receipt of documentation from the clients is proving protracted"* corroborates the finding that the Appellants were aware of the enquiry. Following the principle established in Spring Salmon, if there had been no valid intimation of notice to enquire, there would have been no need for the Appellants and/or their agents to respond. In all the circumstances, I find that there was valid intimation of HMRC's intention to enquire.

48. HMRC properly proceeded on the impression that there was no issue as to the validity of the notices issued. The Appellants' agents did not raise any dispute as the validity of the enquiry notices until after the enquiry window had closed and submitted that they had not been aware of this potential issue. However, it is not disputed that the Appellants' tax advisors were aware that the Appellants had not received the notices of enquiry. It cannot be right that as a result of what appears to be a lack of checks by the Appellants' agents and/or lack of communication between the Appellants, their agents and tax advisors, HMRC, through no fault of its own, are left in a position whereby it is too late to rectify the situation by reissuing notice of the enquiry.

49. The appeals are dismissed and the information notices confirmed as valid. The Appellants must comply with the terms of the notices within 30 days of release of this decision.

50. This document contains full findings of fact and reasons for the decision. There is no right of appeal.

TRIBUNAL JUDGE
RELEASE DATE: 30 June 2011