



Enforcement Notice:

Tax Repayment Agents

Who we are

We are the [Committee of Advertising Practice](#) (CAP). We write the advertising rules, which are enforced by the Advertising Standards Authority (ASA), the UK's independent advertising regulator. You can read about the UK advertising regulatory system [on the ASA website](#).

HM Revenue & Customs ([HMRC](#)) is the UK's tax, payments and customs authority. It is a non-ministerial department that collects the money that pays for the UK's public services and also helps families and individuals with targeted financial support. We do this by being impartial and increasingly effective and efficient in our administration. We help the honest majority to get their tax right and make it hard for the dishonest minority to cheat the system.

Why are we contacting you?

We are concerned that some ads promoting the services of tax repayment agents are misleading individuals and businesses into using their services, including by claiming tax refunds or reliefs from HMRC. Please read the below in detail and take action accordingly.

Ads must give consumers all the information they need – upfront – to make an informed choice about whether or not to use a service. A number of ads for promoting the services of tax repayment agents are failing to make clear significant information, including –

- Free eligibility checks that result in a contractual agreement being entered into.
- The use of 'assignments' to transfer the legal benefit of the claim to an agent or the use of 'nominations' to authorise an agent to receive repayment claims.
- How an agent can make repeat tax claims in future tax years after receiving a 'nomination' from a consumer.
- Fees payable (and that these would be deducted from the refund due).
- The existence of a free route to claiming the advertised refund directly via HMRC.

Additionally, some ads mislead by:

- Implying that online tools can determine whether consumers are entitled to a refund from HMRC when that is potentially not the case.
- Including claims which are unsupported or use misleading statistics, such as, overstating the potential amount that consumers may be eligible to claim for, overstating the number of consumers that a refund may apply to or implying that a repayment agent has a 100% success rate if that is not the case.
- Misrepresenting what 'no win, no fee' means by failing to indicate that HMRC can review previously paid refund claims and can reclaim any amounts paid out to ineligible customers.
- [Designing ads to appear similar to HMRCs branding](#), which may make consumers think they are using a HMRC endorsed service.
- Oversimplifying how the rules apply in direct opposition to HMRC's view.

This is a non-exhaustive list of elements to consider. The exact nature of the service being advertised will effect if other terms and conditions need to be stated prominently. For instance, if you are [collecting personal information for lead generation purposes](#), you have to make that clear. Remember, consumers need to have all the relevant information, presented in a clear





Enforcement Notice:

Tax Repayment Agents

manner, in order to make an informed decision, so if you oversimplify the significance of the assignments or nominations process, it has the potential to mislead.

Action required

Please review this guidance and take immediate steps to check that all of your advertising, including your paid-for advertising, websites and social media, adhere to the guidance in this document and make any changes as needed. Following a grace period, **from 15 January, we will start targeted monitoring and enforcement.**

Where repayment agents are unwilling or unable to comply, we will apply targeted [sanctions](#), which can include working with platforms to remove ads and [referral to Trading Standards](#).

HMRC will challenge agents when there are potential concerns about their practices and seek to work with them. Failure to engage will result in action in line with HMRC's published approach (see appendix HMRC Guidance). HMRC monitors tax agents and where they have potential concerns can take action, this includes issuing penalties, suspending the processing of claims or refusing to deal with an agent.

Scope

This notice applies across [all media](#) falling within the remit of the CAP Code. We understand that ads promoting the services of tax repayment claims services are primarily being advertised online via pay-per-click ads, paid-for ads on social media and on websites. Therefore, we will prioritise enforcement in these areas.. However, we will not hesitate to take action wherever we see non-compliant advertising and we strongly advise tax repayment agents to apply the principles in the notice across all their marketing materials.

It should be read in conjunction with advice from HMRC about tax issues more broadly. The notice does not apply to the promotion of general tax accounting services.

Please read the guidance below and apply it to your advertising.





Enforcement Notice:

Tax Repayment Agents

Guidance

Ads must not omit important information that would help a consumer make an informed choice, including significant conditions and fees. Neither should ads mislead by inaccurately describing the service on offer or exaggerating the likely outcomes of using the service.

Omissions

Assignments

CAP understands from HMRC that submitting a claim for a tax refund accompanied by an assignment has the effect of transferring ownership of the benefit of the claim to the tax repayment agent. The implications of this are significant and likely to affect a consumer's decision to use the advertised service.



Ensure that information about any assignment process is not omitted and presented upfront.

- *Case Study.* The [ASA investigated](#) a Google ad for a tax repayment agent headed "Married Tax Relief Checker – Tax Preparation Service Online". The landing page of the advertiser's website stated "ARE YOU MARRIED OR IN A CIVIL PARTNERSHIP? You may have paid TOO MUCH tax. Claim a TAX REFUND – up to £1220!" and contained a link to "Check Now".
 - o Information about the assignment process was omitted from the Google ad.
 - o Although information about the assignment process, including the fees associated, which in this case would be deducted as a percentage of the total refunded amount, was stated in the website terms and conditions, the ASA ruled that this was not sufficiently prominent given the significance of such information

Advice – The commitments associated with an assignment should be made clear in an ad and presented in a prominent position.

Substantiation and Qualification

Refund Quotes and Fees

Advertisers must hold evidence to prove claims that consumers are likely to find objective, prior to publication. Where fees are payable for the service used, it should be made clear – upfront – that these will be deducted from the refund due.



Ensure you hold evidence to support quoted refund figures.



Clearly state any fees or deductions that may be applied to the refund due.





Enforcement Notice:

Tax Repayment Agents



Clearly state where fees are payable for the service used; consumers should be made aware that a free route to claiming the advertised refund is available, via HMRC.

- *Case Study:* The [ASA investigated](#) a paid-for Facebook ad for a tax repayment agent which stated “Get your money from the tax man! 3 million claims have already been submitted, have you check [sic] to see if you’re owed £624? People who worked through COVID can claim up to £624 back from the tax man.” The landing page of the advertiser’s website stated “your £624 tax claims starts here”.
 - o The ASA considered that readers were likely to understand the references to the amount that could be claimed, to indicate the amount of refunded tax they would be likely to receive if they used the advertised service.
 - o Further, the ASA understood the advertiser would deduct 42% of the refund plus a £30 admin fee.
 - o In the absence of evidence to demonstrate the quoted figure was achievable and in the absence of prominent qualification to highlight the quoted figure was subject to deductions, the ASA considered the ad was misleading on that basis.
 - o The ASA considered that consumers were unlikely to be aware that there was a free route to claiming the advertised tax refund. This was also significant information likely to affect how they would respond to the ads. Because that had been omitted from both ads, and for the reasons above, the ASA concluded that they were likely to mislead.

Advice – Ensure that information related to potential refunds is adequately substantiated. In addition, ensure that you include qualifying information in your ad to clearly spell out any fees or deductions that might apply to any refund owed.

Misleading



Do not imply that online tools can determine whether consumers are entitled to a (specific) refund from HMRC when that is not the case.

- *Case Study:* The [ASA investigated](#) a Facebook ad stating “Breaking News. £3,000 tax refunds being paid on UK PPI claims. 2022 FREE online tool can check [sic] in less than 60 seconds.” The advertiser’s website including a landing page stating “Your £3,000 PPI tax claim starts here.... Use this free and easy 60 second check to find out how much you could be owed from HMRC”.
 - o The ASA considered that readers were likely to understand that if they completed the advertised online check, they would be informed whether they were owed a refund by HMRC and how much that was likely to be.
 - o The ASA understood that the tool simply checked whether respondents were eligible for the advertiser to submit a claim to HMRC on their behalf, rather than being able to accurately estimate the claim amount and considered the ads misleading on that basis.

Advice - If using online tools to assess consumer eligibility to use your service, avoid implying that consumers are entitled to a (specific) refund from HMRC, if that’s not the case.





Enforcement Notice:

Tax Repayment Agents

Appendix:

Background, HMRC Guidance, Code Rules and Useful Reading

Background

Last year, HMRC published a consultation on how to protect customers and increase transparency around claiming tax repayments. New legislation has ended the use of legally binding 'assignments' which consumers could only end if both they and the agent agreed to do so, and which allowed agents to file claims (and take fees from) repayments outside of their initial terms of the agreement without the customer's request.

The ASA has ruled against a number of [ads from tax repayment agents](#) for various claims about their businesses that were unclear.

HMRC Guidance:

The [HMRC standards for agents](#) sets out what HMRC expects of tax agents. This includes transparency and clarity in advertising.

HMRC also explains what action it will take, and how it will take it, in the [HMRC approach to working with agents](#).

Agents who do not follow the standard are considered to be in breach of it. HMRC has a range of different approaches, policies and powers to deal with breaches of the standard. For agents unwilling to engage with HMRC, options may include blocking access to HMRC's agent services, dishonest tax agent conduct notices, refusing to deal with an agent altogether and where appropriate informing relevant professional bodies about misconduct by their members in a Public Interest Disclosure.

For more information, [read 'Raising standards in the tax advice market - HMRC's review of powers to uphold its standard for Agents'](#).

Relevant [CAP Code](#) rules:

1.1 – Marketing communications should be legal, decent, honest and truthful.

3.1 – Marketing communications must not materially mislead or be likely to do so.

3.3 – Marketing communications must not mislead the consumer by omitting material information. They must not mislead by hiding material information or presenting it in an unclear, unintelligible, ambiguous or untimely manner.

Material information is information that the consumer needs to make informed decisions in relation to a product. Whether the omission or presentation of material information is likely to mislead the consumer depends on the context, the medium and, if the medium of the marketing communication is constrained by time or space, the measures that the marketer takes to make that information available to the consumer by other means.





Enforcement Notice:

Tax Repayment Agents

3.4.3 – For marketing communications that quote prices for advertised products, material information [for the purposes of rule 3.3] includes:

- the price of the advertised product, including taxes, or, if the nature of the product is such that the price cannot be calculated in advance, the manner in which the price is calculated

3.7 – Before distributing or submitting a marketing communication for publication, marketers must hold documentary evidence to prove claims that consumers are likely to regard as objective and that are capable of objective substantiation. The ASA may regard claims as misleading in the absence of adequate substantiation.

3.9 – Marketing communications must state significant limitations and qualifications. Qualifications may clarify but must not contradict the claims that they qualify.

Want See CAP's advice on: [Misleading Advertising](#), [Qualifications](#), [Compulsory more?](#) [Costs and Charges](#)

Or contact the CAP [Copy Advice team](#), which offers a free and confidential bespoke pre-publication advice service

