

Fee protection overview



What is fee protection?

Fee protection insurance covers the professional costs incurred in dealing with an HMRC enquiry. It protects businesses and their advisers against an increasing number of HMRC enquiries. For your clients, HMRC investigations can prove a real headache. For your firm, an unexpectedly large bill can put a strain on a client relationship.

What type of enquiries are covered by the Policy?



The Market Tax Fee Protection Policy provides cover for the majority of HMRC enquiries encountered by your business and personal clients. The main types of enquiry covered by the policy are:

- Full and aspect enquiries opened under Section 9A, 12AC or Paragraph 24
- Disputes into VAT, employer compliance or IR35 matters
- HMRC use of Schedule 36 information and inspection powers e.g. VAT checks, check of employer records, National Minimum Wage Reviews, checks of SEISS grants and furlough payments
- Code of Practice 8 enquiries
- Inheritance tax enquiries
- SDLT/LBTT/LTT enquiries where you prepare the return for your client

What would be excluded from cover under the Policy?



The main exclusions are:

- Fees incurred prior to the written acceptance of a claim
- HMRC enquiries conducted by specialist investigations, civil investigations of fraud, criminal investigations sections, fraud investigation service and counter avoidance sections
- Any return submitted more than 90 days after the due date
- Notification by HMRC of any of the above prior to a client subscribing to the service
- Failure to notify/register for tax or VAT
- Compliance costs associated with routine submission of statutory returns e.g. P11D's RTI Returns, CIS Returns etc
- Cases of suspected fraud e.g. Code of Practice 9 cases and Public Notice 160 enquiries
- Where there is no reasonable prospect of challenging HMRC (VAT, PAYE and IR35 Disputes)
- Enquiries into tax planning arrangements where HMRC have allocated DoTAS Number and/or bespoke tax planning arrangements outside of the normal trade

It is important that you read your policy documentation thoroughly. Please refer to your policy document, policy summary and schedule of insurance for full terms and conditions.

How do I make a claim and what is the process?



When do I need to make a claim?

A claim should be made as soon as you are aware that there is an incident for a claim under the policy. Any costs incurred prior to acceptance from Markel Tax may not be reimbursable.

How do I make a claim?

The easiest way to manage, view and make a claim is via our online Claims Portal. This can be found at: <https://portal.markeltax.co.uk/login>.

If you do not have login credentials, please contact the claims team on 0370 166 6271 who will be able to assist you.

If you would prefer to notify a claim via email, please forward a copy of the HMRC correspondence received to taxclaimsuk@markel.com. On receipt of this, we will be able to send a claim form to you and request any other documentation required to assess the claim.

What should I do if I have an unusual letter or request from HMRC which isn't mentioned in the Policy?

In these instances, we would recommend you contact the claims team on 0370 166 6271 or email a copy of the HMRC correspondence to taxclaimsuk@markel.com. The claims team will be able to confirm whether or not the matter would be an incident for a claim.

Please also refer to the common cover questions section on pages 3 and 4 which may answer your query.

What happens when a claim is accepted?

We will send an email to you to confirm that the claim has been accepted. We will at this time authorise a budget for you to commence work on the enquiry.

What if the fees authorised are insufficient?

We request that you monitor your fees as the enquiry progresses. If you anticipate that the fees authorised will be insufficient, we ask that you contact us immediately with a revised estimate of costs and copies of the HMRC enquiry correspondence. This can be done by email or via the Claims Portal if you have notified the claim via the portal.

What happens after I request an increase in the fees?

After reviewing the request, we will confirm the increase in fees to you via email.

When and how do I submit an invoice for payment?

We are happy to pay interim invoices during the course of the claim or you can wait until the end of the enquiry before invoicing.

We welcome interim billing as this enables you to clear your WIP and also enables us to ensure our files are up to date and monitor the progress of the enquiry.

When you are ready to bill, we will require your invoice, a supporting breakdown of costs/timesheet and copies of enquiry correspondence. On receipt of these items, we will review and make payment by BACS.

Who do I raise the invoice to and do I need to charge VAT?

Practice Protector – Your practice is the Insurance Policyholder and only insured party. This enables you to offer a tax investigation service to your clients, the terms of which mean that you will not charge any client that subscribes to deal with a tax enquiry.

The majority of our clients operate a Practice Protector Policy. If you have a Practice Protector Policy with us, you are essentially making a claim for compensation to Markel Tax against your own insurance Policy which is outside of the scope of VAT. When making a claim under a Practice Protector Policy, you will need to raise your invoice in the name and address of Markel Tax with no VAT charged.

Client Protector – If you have a Client Protector Policy with us, your practice is the Policyholder but your clients are buying an insurance product and they are an insured party. Consequently, your invoice needs to be raised in the name and address of the client with VAT included.

If the client is VAT registered, Markel Tax will pay the net amount of the invoice and the client should be asked to pay the VAT which they can recover on their next quarterly return.

If the client is not VAT registered or if the client is on the VAT Flat Rate Scheme, Markel Tax will pay the gross amount of the invoice i.e. including the VAT element.

If the client is partially exempt for VAT, we will ask you what proportion of the VAT the client is unable to recover. We will then pay the net amount of the invoice plus the proportion of VAT that the client is unable to recover.

*If you are unsure which type of policy you hold, please contact the claims team on 0370 166 6271.

Can I receive assistance from your tax specialists when dealing with an enquiry?

As a client of Markel Tax, you are eligible to access the free tax and VAT helplines and speak to one of our advisors.

If you require more involved help or a more hands-on approach, we have a team of highly experienced investigation specialists that are available to assist you.

If you require assistance from our specialists, please contact the claims team on 0370 166 6271.



Can a client take cover and a claim be made after they have been contacted by HMRC?

No, the client must have subscribed to the service and been declared to Markel Tax before an enquiry commences.

The start of an enquiry is deemed to occur at the earliest of the date on the first letter/email issued by HMRC or day that first contact was made by HMRC by telephone.

Does the policy provide cover for enquiries into tax returns submitted by a previous accountant?

Yes, as long as you were the Designated Agent for the client before the enquiry started (i.e. a 64-8 is in place with HMRC before the enquiry started).

The policy, however, would not reimburse any costs incurred by the previous accountant should their assistance be required in dealing with the enquiry.

Does the policy cover enquiries into tax avoidance schemes, bespoke tax planning or any other disguised remuneration schemes?

The policy excludes cover for fees incurred in dealing with an enquiry into tax avoidance schemes or bespoke tax planning matters. The types of tax planning or tax avoidance schemes we often come across are in relation to EFRBs, EBTs, remuneration trusts, loan schemes or any other type of disguised remuneration. Enquiries into any of these types of schemes would be excluded from cover.

Does the Policy cover enquiries into research and development (R&D) claims?

Yes, as long as the Policyholder has undertaken the appropriate due diligence prior to making the R&D claim i.e. the Policyholder has prepared a full detailed report to support the R&D claim.

If the client has paid for the services of a third party to prepare the R&D claim, it is usually expected that the third party would deal with the enquiry on behalf of the client.

Does the Policy provide cover for IR35 enquiries and what is involved?

Yes, IR35 enquires are initially opened by HMRC via a 'Check of Employer Records'. HMRC will conduct an information-gathering exercise and your fees to assist the client through this stage will be covered under the Schedule 36 section of the policy.

Should HMRC opine at any point that the client's engagement is caught by the IR35 legislation which you intend to challenge, cover is then provided under the IR35 dispute section of the policy. At this stage and similar to any dispute, we will undertake a review of the case to ensure there is a reasonable prospect of success in challenging HMRC's view before continuing to provide cover.

Does the Policy cover a letter from HMRC asking my client to check and correct their tax position?

We have seen HMRC issue letters to individuals and business to check their tax position and correct/amend their tax returns if appropriate. These are called 'nudge' letters and are not an enquiry from HMRC, they are merely a request that the client reconsiders the declarations made on the return submitted. This generally happens when HMRC believe they hold information to suggest that a tax return may not be correct. The work required to check the return(s) and amend a return is deemed to be routine accountancy work and the policy would not provide cover for fees in dealing with this type of letter.

Does the Policy provide cover if my client receives a letter requesting them to make a disclosure under the Worldwide Disclosure Facility or any other HMRC Campaign or Disclosure Facility?

The Policy would not provide cover if the client is in receipt of a letter from HMRC asking them to make a disclosure under the Worldwide Disclosure Facility (WDF) or any other campaign or Disclosure Facility.

This is because this type of letter is not deemed to be an enquiry. HMRC are merely asking the client to consider whether they need to disclose income which may have been omitted from the return submitted. If no disclosure is to be made then no costs will be incurred but if a disclosure is required then the costs associated with this would be routine compliance costs associated with the submission of a tax return and would have been incurred had the original return declared the income in question when first submitted.

Does the Policy provide cover for enquiries into the Coronavirus Job Retention Scheme (CJRS), Self Employed Income Support Scheme (SEISS) and Eat Out to Help Out (EOTHO)?

Yes, the Policy does provide cover for checks or enquiries into CJRS, SEISS and EOTHO. These are conducted by HMRC using their Information & Inspection powers contained within Schedule 36.



Does the Policy provide cover for matters where HMRC have requested information and have mentioned Section 29/Discovery Assessments?

As there has been a request for information, cover can be provided under the Schedule 36 section of the Policy. However, if it comes to light during the enquiry that a disclosure is required because the client has failed to disclose material income, your fees to make the disclosure would be excluded.

What support and assistance is available?

We have a team of investigation specialists who are able to provide support and assistance on any accepted claims together with being able to provide expert assistance on other areas which are excluded from the policy. This includes the following areas:

- Fraud investigations
- Disclosures under the Worldwide Disclosure Facility, the Let Property Campaign and any voluntary disclosures
- Disguised remuneration
- High volume agent reviews
- Invoicing

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