

APPENDIX II ANNEX A - [Source: ACCA technical factsheet 64]

EXAMPLE - A PERSONAL (INCLUDING SOLE TRADER) ENGAGEMENT LETTER

This is not intended to be used in all cases and must be tailored to meet specific circumstances.

Dear *[complete]*

Personal (Including Sole Trader Business) Tax Compliance: Terms of Engagement

1 Introduction

1.1 This letter sets out the basis on which we *[are to]* act as your tax agent and adviser.

1.2 Your spouse is legally responsible for *[his/her]* own tax affairs and should be dealt with independently. *[However, if both spouses sign this letter you agree that we can disclose to your spouse such details of your financial affairs as are required to consider your combined tax position.]*

2 Period of Engagement

2.1 This engagement will commence with your tax return for the year to *[...]*.

2.2 *[Either]*

We will deal with matters arising in respect of years prior to the above year, as appropriate.

[or]

We will not be responsible for earlier years. Your previous advisers, *[insert name of advisers]*, will deal with outstanding returns, assessments and other matters relating to earlier periods and will agree the position with the tax authorities.

Scope

3 Our Service to You

3.1 *Note: Paragraph 3.1 is intended for use where the business accounts comprise no more than an income and expenditure account drawn up for the purpose of completing the tax return. The terms of engagement for the preparation of more extensive accounts are outside the scope of this guidance note.*

[Either]

We will prepare the income and expenditure account of your business and the income tax computations based thereon from your accounting records and other information and explanations provided by you. We will not carry out an audit of those records.

[or]

We will prepare the income tax computations based on the accounts of your business from the accounting records and other information and explanations provided by you.

3.2 We will prepare your personal tax return together with such supporting schedules as are appropriate and we will *[prepare]/[check the Inland Revenue's calculation of]* your self-assessment of tax *[and Class 4 national insurance contributions]*.

3.3 We will send you your tax return *[, business accounts, tax computations]* *[sole traders]* and supporting schedules *[in duplicate]* *[optional]* for you to approve and sign. We will then submit it *[, with the accounts and computations,]* to the Inland Revenue. *[You authorise us to file the return electronically.]*

3.4 We will tell you how much tax [and national insurance contributions] you should pay and when. If appropriate, we will initiate repayment claims when tax [and national insurance contributions] [has/have] been overpaid.

3.5 We will deal with the Inland Revenue regarding any amendments required to your return and prepare any amended returns, which may be required.

3.6 We will advise as to possible claims and elections arising from the tax return and from information supplied by you. Where instructed by you, we will make such claims and elections in the form and manner required by the Inland Revenue.

3.7 We will deal with all communications relating to your return addressed to us by the Inland Revenue or passed to us by you. However, if the Inland Revenue choose your return for enquiry [we will refer you to another practitioner]/[this work may need to be the subject of a separate assignment, in which case we will seek further instructions from you]. [See Annex D.]

3.8 [We will check PAYE notices of coding where such notices are forwarded to us.]

4 Your Responsibilities: Provision of Information by You

4.1 You are legally responsible for making correct returns by the due date and for payment of tax on time. Failure to meet the deadlines may result in automatic penalties, surcharges and/or interest.

4.2 To enable us to carry out our work you agree:

(a) that all returns are to be made on the basis of full disclosure of all sources of income, charges, allowances and capital transactions;

(b) to provide full information necessary for dealing with your affairs – we will rely on the information and documents being true, correct and complete and will not audit the information or those documents;

(c) that we can approach such third parties as may be appropriate for information that we consider necessary to deal with your affairs;

(d) to provide us with information in sufficient time for your tax return to be completed and submitted by the [due date]/[selected date] of [...] following the end of the tax year. In order that we can do this, we need to receive all relevant information by [...]. [You have asked us to submit your self-assessment tax return by 30 September following the end of the tax year so that the Inland Revenue can calculate your tax liability and notify you of your 31 January balancing payment [and code out the first £1,000 of any underpayment] – in order to meet this date you agree to provide us with all relevant information by [...]];

(e) to forward to us, on receipt, copies of all Inland Revenue statements of account, [PAYE coding notices,] notices of assessment, letters and other communications received from the Inland Revenue to enable us to deal with them as may be necessary within the statutory time limits; and

(f) to keep us informed about significant changes in your circumstances if they are likely to affect your tax position.

5 Other Services and General Tax Advice

Insert paragraphs from Annex E as appropriate.

5.1 We will be pleased to assist you generally in tax matters if you so require. To enable us to do this you will need to instruct us in good time.

5.2 Because tax rules change frequently you must ask us to review any advice already given if a transaction is delayed, or if an apparently similar transaction is to be undertaken.

5.3 It is our policy to confirm in writing advice upon which you may wish to rely.

6 Investment Advice

6.1 *[If not authorised or regulated]*

Investment business is regulated under the Financial Services and Markets Act 2000. We are not authorised or regulated under that Act.

[or, if authorised or regulated]

If we are required to provide investment advice we will issue a separate engagement letter.

6.2 *[Practitioners who are authorised or regulated to carry on investment business are referred to the investment business regulations and guidelines issued by the regulatory body who authorise or regulate them to conduct investment business. This guidance should be incorporated as appropriate into the client engagement letter to cover investment business services that are integral to tax advice. If investment services are separately identifiable, then separate engagement letters should be used.]*

7 Excluded Services

Adapt as appropriate. See also paragraph 5 above.

7.1 You will continue to deal with other matters required by law, such as:

- Pay As You Earn including year end returns and matters relating to your employees;
- forms P11D;
- obligations under IR35;
- returns for sub-contractors;
- VAT returns; and
- inheritance tax returns.

7.2 We will be pleased to advise on any of these tax matters if so requested.

Terms

8 Professional Rules and Practice Guidelines

8.1 We will observe the ethical guidelines of the Association of Chartered Certified Accountants and accept instructions to act for you on the basis that we will act in accordance with those guidelines. In particular you give us authority to correct Inland Revenue errors.

A copy of these guidelines is available for your inspection in our offices.

9 Commissions or Other Benefits

The attention of practitioners is drawn to the guidance contained in the Rulebook and the disclosure requirements of the relevant investment business regulations, if applicable.

9.1 In some circumstances, commissions or other benefits may become payable to us [or to one of our associates] in respect of transactions which we [or such associates] arrange for you, in which case you will be notified in writing of the amount and terms of payment. The fees that would otherwise be payable by you as described will [not] take into account the benefit to us of such amounts. You consent to such commission or other benefits being retained by us [or, as the case may be, by our associates,] without our [or their] being liable to account to you for any such amounts.

10 Client Monies

10.1 We may, from time to time, hold money on your behalf. Such money will be held in trust in a client bank account, which is segregated from the firm's funds.

11 Retention of Records

11.1 During the course of our work we will collect information from you and others acting on your behalf and will return any original documents to you following preparation of your return. You should retain them for [...] year[s] from the 31 January following the end of the tax year. This period may be extended if the Inland Revenue enquire into your tax return. *[Practitioners who retain records on behalf of clients will need to amend this paragraph.]*

11.2 Though certain documents may legally belong to you, we intend to destroy correspondence and other papers that we store which are more than seven years old, other than documents which we consider to be of continuing significance. You must tell us if you require retention of a particular document.

12 Regulatory Requirements

12.1 We reserve the right to disclose our files to regulatory bodies in the exercise of their powers. *[Adapt as necessary and for firms who voluntarily undergo external peer review.]*

13 Quality of Service

13.1 We aim to provide a high quality of service at all times. If you would like to discuss with us how our service could be improved or if you are dissatisfied with the service you are receiving please let us know by contacting *[insert name]*.

13.2 We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you. If we do not answer your complaint to your satisfaction you may take up the matter with the Association of Chartered Certified Accountants.

14 Fees

This is an example only – if fees are calculated on any other basis, for example a fixed amount or contingency fee, then different wording should be substituted.

14.1 Our charges are computed on the basis of fees for the time spent on your affairs (which depend on the levels of skill and responsibility involved) and disbursements incurred in connection with the engagement. [If work is required which is outside the scope of this letter, for example dealing with Inland Revenue enquiries into the tax return, then this will be a separate engagement for which additional fees will be chargeable.] We will issue invoices at [monthly/quarterly/six-monthly] intervals during the course of the year. We will add value-added tax, if applicable, at the current rate.

14.2 Our invoices are payable on presentation. We reserve the right to charge interest at [...] % per [month/year] [over base rate] in the case of overdue accounts. We may terminate our engagement and cease acting if payment of any fees billed is unduly delayed. However, it is not our intention to use these arrangements in a way which is unfair or unreasonable.

15 Limitation of Liability

Practitioners who wish to include provisions intended to limit their liability in the event of a claim by a client are strongly advised to take legal advice on this complex matter.

15.1 The advice, which we give to you, is for your sole use and does not constitute advice to any third party to whom you may communicate it.

15.2 We will provide the professional services outlined in this letter with reasonable care and skill. However, we will not be responsible for any losses, penalties, surcharges, interest or additional tax liabilities arising from the supply by you or others of incorrect or incomplete information, or from the failure by you or others to supply any appropriate information or your failure to act on our advice or respond promptly to communications from us or the tax authorities.

15.3 E-mail may be used to enable us to communicate with you. As with other means of delivery this carries with it the risk of inadvertent misdirection or non-delivery. It is the responsibility of the recipient to carry out a virus check on any attachments received.

16 Electronic Communication

16.1 As Internet communications are capable of data corruption we do not accept any responsibility for changes made to such communications after their despatch. For this reason it may be inappropriate to rely on advice contained in an e-mail without obtaining written confirmation of it. All risks connected with sending commercially sensitive information relating to your business are borne by you and are not our responsibility. If you do not accept this risk, you should notify us in writing that e-mail is not an acceptable means of communication.

17 Applicable Law

17.1 This engagement letter is governed by, and construed in accordance with, [English] *[amend as appropriate]* law.

The Courts of [England] will have exclusive jurisdiction in relation to any claim, dispute or difference concerning this engagement letter and any matter arising from it. Each party irrevocably waives any right it may have to object to any action being brought in those courts, to claim that the action has been brought in an inappropriate forum, or to claim that those courts do not have jurisdiction.

18 Data Protection Act 1998

18.1 To enable us to discharge the services agreed under this engagement, and for other related purposes including updating and enhancing client records, analysis for management purposes and statutory returns, crime prevention and legal and regulatory compliance, we may obtain, use, process and disclose personal data about you.

You have a right of access, under data protection legislation, to the personal data that we hold about you. For the purposes of the Data Protection Act 1998, the Data Controller in relation to personal data supplied about you is *[name]*.

19 Contracts (Rights of Third Parties) Act 1999

19.1 A person who is not party to this agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement. This clause does not affect any right or remedy of any person that exists or is available otherwise than pursuant to that Act.

20 Agreement of Terms

20.1 This letter supersedes any previous engagement letter for the period covered. Once agreed, this letter will remain effective from the date of signature until it is replaced. You or we may vary or terminate our authority to act on your behalf at any time without penalty. Notice of variation or termination must be given in writing.

20.2 We should be grateful if you would confirm your agreement to the terms of this letter by signing and returning the enclosed copy.

20.3 If this letter is not in accordance with your understanding of the scope of our engagement, please let us know.

Yours [complete]

I acknowledge receipt of your above letter dated [complete] which fully records the agreement between us relating to your appointment to carry out the work described in it.

Signed Date

[I agree that you can disclose to my spouse such details of my financial affairs as you consider necessary (see paragraph 1.2).

Signed Date

Signed Date]

(Spouse)