

Professional fees insurance in respect of tax enquiries

HMRC is changing the way it investigates tax compliance. Due to its efficiency in raising tax revenues, 'aspect enquiries' (investigations into part of a tax return) have become the most common form of HMRC investigations. In addition, since being awarded increased powers of investigation in April 2009, interventions, reviews and inspections have become far more frequent.

We therefore urge all clients to think about taking up professional fees insurance. It protects against the financial burden of a tax investigation, enquiry, dispute and VAT reviews, as well as employer compliance matters, such as PAYE, NIC and P11D.

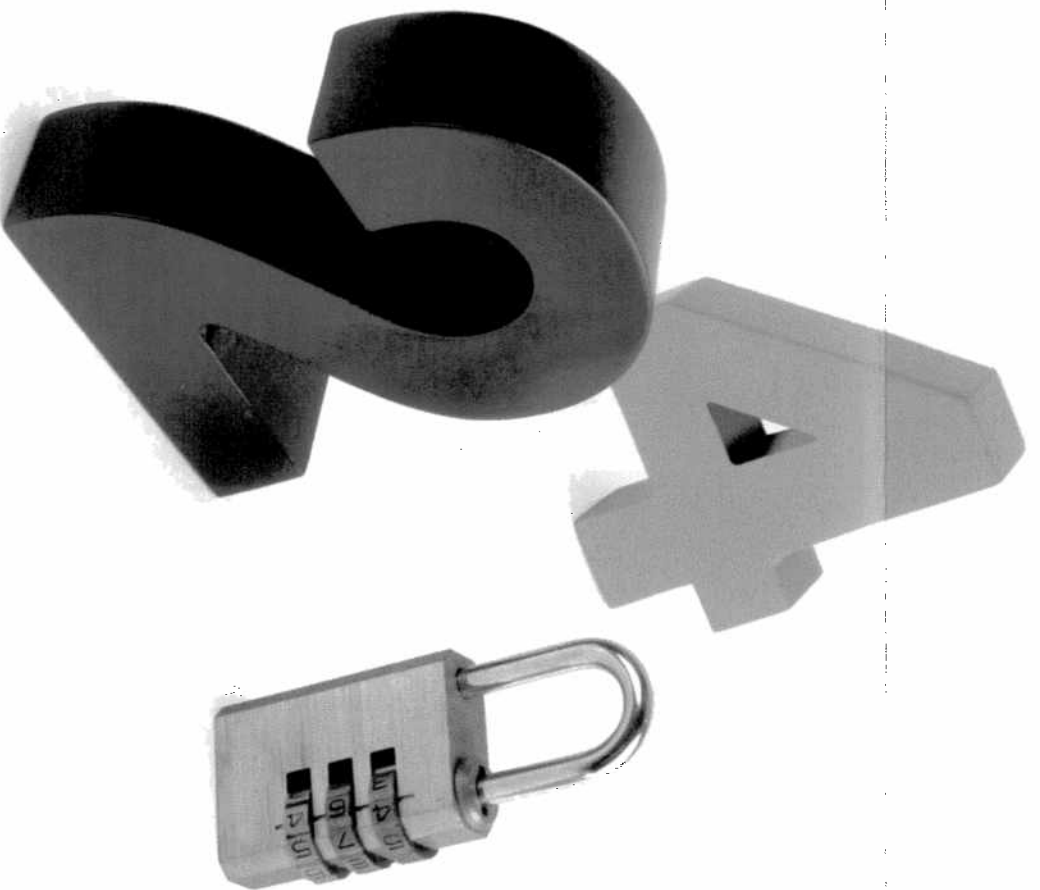
Having reviewed the market, in our view the Premier Plus policy from PFP provides appropriate cover, and terms and conditions to meet most requirements. The wide scope of the Premier Plus policy is in direct response to the new tactics and powers held by HMRC. In particular, the policy covers certain

time spent by us in connection with compliance visits, preparation, attendance at opening meetings, dealing with questions during the course of the visits and subsequent follow up.

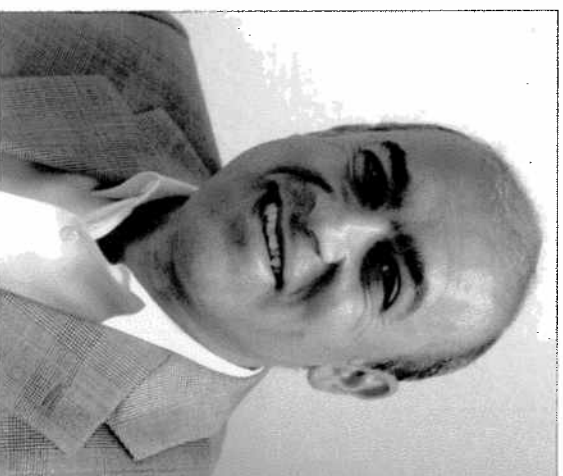
Premier Plus offers personal or business policies. Business policies also provide cover against aspect or full enquiries into the personal tax returns of the partners, directors and their spouses if prepared by us, unless those returns include other business income or gross rental income in excess of £50,000, in which case separate business cover is required.

Also included at no extra cost in Premier Plus is access to a business support helpline that provides specialist advice on matters such as HR, health & safety and legal issues. This service alone stands to save a great deal of time, expense and disruption.

For more details on the premium costs and how to go about setting up a policy, please speak to your contact partner. •



What is 'After the Event' (ATE) insurance?



Managing partner, Razi Mireskandari.

Many individuals and businesses do not have the financial resources to pursue legal claims, even where the merits are good and there is a strong prospect of success.

Some time ago, Lubbock Fine client, law firm Simons Muirhead & Burton (SMB), identified this as an issue and put their minds to finding a solution. Managing partner, Razi Mireskandari, explains, "Irrespective of the subject matter of the dispute, we feel it is essential that our clients, big and small, have access to justice. In order to achieve that, our clients' costs exposure must be such as to make litigation manageable. The way we achieve this is two-fold. First, if we consider that our client has a good claim, we only charge an agreed fraction of our usual fees. If the claim then fails, that is all we get. If the claim succeeds, we get the remainder of our fees (plus a 'success' element on top) from the other side. Secondly, at no cost to the client, the firm itself is able to offer an insurance policy backed by Temple Legal Protection in case a costs order is made against them."

Our charging scheme, backed by ATE insurance, therefore provides the confidence for individuals or businesses to chase an unpaid fee or to pursue a good claim, rather than let it go for fear of costs escalating. In the current economic environment, when every penny counts, this offers a timely opportunity to recover lost funds without worry about further financial damage. It offers real peace of mind against an adverse cost order and, if the client loses, their exposure to their own costs is limited and manageable and they do not have to pay the insurance premium.

A large number of SMB's clients have been able to benefit from this scheme for many different types of litigation, including Heather Brooke (whose freedom of information request kicked off the disclosure of the MPs' expenses claims), Mo George (the birmian in Eastenders) who was falsely accused of beating up his girlfriend, and Mahتاب Chowdhury, owner of Taste of India restaurant, in a claim against a negligent builder. The scheme covers all types of dispute. Whether a breach of contract claim, a negligence action, a professional negligence issue, an intellectual property dispute, there really are no restrictions.

Most civil cases settle before trial and this remains SMB's aim, as it is in everyone's interest if a contested trial can be avoided.

The scheme can also be adapted for use by defendants. "Using ATE insurance means that our clients have access to the best legal advice but in a cost effective way," adds Razi. "The firm was a pioneer in promoting this new way of funding which admittedly challenges the traditional relationship between lawyer and client, turning it into much more of a partnership. Clients often tell me that it's good for a law firm to put its money where its mouth is...."

For further information about ATE, please email or call Razi Mireskandari at razi@smab.co.uk or +44 (0)20 3206 2700, or look at the firm's website www.smab.co.uk •

