

Operation Rize

The Metropolitan Police raids in June 2008 on safe deposit boxes at 3 London locations, has produced a succession of ever more sensational headlines since news of the story first broke.

In total, 6717 boxes have been opened and searched, over half of which had items inside. Searches are now complete at all of the venues. Officers have recovered well in excess of £70 million.

Items found include: hand guns, ammunition; fraudulent passports, credit cards and cheque books; a large amount of gold; classic works of art; a great deal of jewellery; a huge drugs haul; incriminating documents with the potential for blackmail use.

Three safe deposit company directors have been charged in connection with Operation Rize, following an investigation into alleged money laundering. Operation Rize used search and seize powers under section 352 of the Proceeds of Crime Act 2002 (POCA), because they considered the investigation may have been seriously prejudiced if immediate access to the material was not secured.

Innocent Until Proved Otherwise

Also, though, much of the material found is legitimately stored by rightful owners. Yet each safety deposit box has been treated as a single potential crime scene. We are concerned that the authorities will consider unprecedented action against other box holders, many of who will be innocent. Many of the box holders are likely to be someone with a high profile where a successful prosecution would attract publicity and act as a powerful deterrent to others.

We are told that 1,800 individual investigations are likely to ensue, with the search and seizure phase of the operation now at an end. Where criminality is suspected, evidence from the boxes is being passed to the relevant police units to investigate further and arrest those who have sought to use safe custody facilities to hide the proceeds of illegal activity.

Jeffrey Lewis, senior partner of law firm Lewis Nedas, which has represented more than 70 box-holders, said: "If police want to search a flat rented by a drugs dealer in a block of flats, they would ordinarily be granted a warrant to search the flat used by that particular suspect. In this case, they have in effect smashed their way into every flat on no real credible basis."

The Taxman Cometh

Operation Rize has, not surprisingly, caught the eye of the HMRC in the expectation that the police will eventually provide details of all cases where the contents of the boxes may be the proceeds of tax evasion rather than any wider criminality.

It will be interesting to see the protocol that emerges for transfer of responsibility from the police to RCPO and HMRC. Where HMRC gain access to a safe deposit box as part of a serious tax fraud investigation it is invariably on an individual basis. But the scale of what is likely to come its way as a result of Operation Rize is wholly unprecedented.

HMRC will assume the amounts represent undeclared business takings and, after opening any enquiry, will require the owner of the cash or documents to prove otherwise by evidencing the source of the money. Where a previous investigation into the Tax affairs of the box holder has occurred HMRC will check its records to see if the money or assets were previously disclosed in tax returns.

Should the contents include documents that reveal assets, investments, properties that should have been reported on their annual Tax returns the same questions over the original source of the monies that funded the assets will be asked and explanations sought for the omission from the returns. In the more serious of cases where HMRC may be considering criminal prosecution it may embark on its own investigation without the knowledge or involvement of the safe deposit box holder particularly

This makes Operation Rize classic territory for Appleton Richardson & Co.

Window of Opportunity for Those Affected to Seek Help

At the moment there is a window of opportunity for anyone with tax issues associated with the contents of a safe deposit box to seriously consider making a voluntary disclosure to HMRC.

With specialist advice and an approach to the relevant office, the opportunity exists to enhance the chances for the matter to be settled on a civil basis and avoid HMRC using its criminal investigation powers. A voluntary disclosure followed up by full cooperation during the course of a subsequent enquiry can lead to a significant reduction in the penalties ultimately imposed.

Anyone with such a tax issue should seek our advice immediately rather than waiting for Operation Rize to take its inevitable course and HMRC to instigate its own enquiries.

Legal challenge

With some commentators concerned at how many innocent customers have become caught up in the aftermath of the raid, there is potential for a legal challenge to the manner in which the police exercised its powers. In these circumstances the police may be inclined to let the dust settle before determining the appropriate course of action in each case.

A number of police officers are under investigation after allegations that they stole cash or other valuables during an unprecedented police raid on safe deposit boxes in three security vaults in London last year. Scotland Yard's professional standards directorate is investigating nine complaints, include two allegations of theft. Three claims for compensation arising from damage to property caused by police, understood to total around £5,000, are also being processed.

When Roger Mortlock, 59, had his box returned to him after an exhaustive verification process for the £110,000 he had stored, he said it contained £8,500 less than it had the last time he counted the cash. Mr Mortlock, who is being treated for cancer, said: "I got the box because we had been burgled twice. Having a box doesn't make you a criminal. I couldn't believe the way I was treated; I felt as if I was guilty until I had proved myself innocent. It took months to even get to the stage where I was allowed to retrieve my belongings, and then I found that a substantial amount of the money had gone missing."

Appleton Richardson & Co

Have been engaged by the leading solicitors in our role as Forensic Accountants to help and explain the difficult circumstances clients find with this type of investigation

If you require any help or assistance, whether your case is serious or not, we can assure you of confidentiality at all times.

Please use the Enquiries Form on our website including a brief summary and any other relevant information. Initial consultations are free if you prefer to speak with someone rather than e-mail. We operate a strict, highly confidential code of practice.