



A CLEARER VIEW ON TAX PENALTIES

A new way of charging penalties for incorrect tax returns is designed to encourage taxpayers to take care with their tax affairs and comply with all their obligations.

HM Revenue & Customs (HMRC) can impose a financial penalty if an error in a tax return or other tax document results in you paying less tax than you should or means you pay the tax in a later period. What is new is that taxpayers will no longer be liable to a financial penalty if they have taken 'reasonable care' to get their tax right, but have nevertheless made a mistake.

The penalties apply to errors in income tax, capital gains tax, corporation tax, VAT, PAYE, national insurance contributions and construction industry returns. The new rules cover periods starting after 31 March 2008, where the return is due to be filed after 31 March 2009.

HMRC calculates the level of penalty as a percentage of the potential lost revenue and this will be based on taxpayer behaviour: up to 30% for failing to take reasonable care; 20–70% for a deliberate error where no active steps have been taken to conceal it; and 30–100% for a deliberate and concealed error. Disclosing errors early, completely and voluntarily will place the penalty at the lower end of the range.

What counts as 'reasonable care' depends largely on the circumstances and the taxpayer's abilities. HMRC expects a higher degree of care to be

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Driving down the cost of company cars

With the rising cost of car fuel, any way of saving on motoring costs is welcome. One way of doing this is to make use of the generous tax reliefs available on environmentally friendly cars. Fortunately, there is a growing range of cars with carbon dioxide (CO₂) emissions low enough to qualify for tax benefits.

If your business is buying a car, choose a new car with CO₂ emissions of 110g/km or less. That will enable you to write off the whole cost against tax in the year of purchase by claiming a 100% first-year capital allowance. For cars with higher emissions, and all used cars, tax relief is limited to a writing down allowance of 20% of the cost, with an upper limit of £3,000 where the car costs more than £15,000. Cars do not qualify for the new annual investment allowance, which gives immediate tax relief on up to £50,000 a year of expenditure on equipment.

From April 2009, the writing down allowance is expected to go down to 10% on cars with CO₂ emissions above 160g/km. This means it will take much longer for a business to receive tax relief on a more polluting car.

Directors and employees can be taxed heavily on the benefit of a company car, but much less so on a low emission model. Since April 2008, an employee who drives a petrol-fuelled car with CO₂ emissions of 120g/km or

less is taxed on only 10% of the list price. For a diesel car, tax is charged on 13% of the list price. These lower percentages can make a low emission company car a worthwhile benefit for an employee compared to the cost of owning a car personally.

However, it is still worth making a detailed calculation of costs and benefits for the employee and the business, because there are so many variables to consider with company cars. We can help you with this.

You will also pay little or no vehicle excise duty on cars with CO₂ emissions up to 120g/km. Up to 100g/km, car tax is nil; and with 101–120g/km the tax is currently £35. On top of all these tax savings, running environmentally friendly cars will also boost your business's green credentials.

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Coming clean on VAT errors

You will soon be able to correct errors of up to £10,000 in your VAT returns, and in some cases more, without making a specific disclosure. It is tempting to sweep up mistakes without drawing attention to them, but doing so could increase any subsequent penalties and interest charged for the error.

For VAT periods that started before 1 July 2008, errors do not have to be disclosed if their total value is not more than £2,000. This limit goes up to £10,000 for periods starting on or after 1 July 2008, except for businesses with a turnover of more than £1 million. For these larger businesses, the limit is 1% of turnover up to a maximum of £50,000. A potential difficulty arises under the new penalty regime that applies to returns for periods starting after 31 March 2008, where the return is due after 31 March 2009.

If the error arose because the taxpayer did not take reasonable care, or made a deliberate misdeclaration, a voluntary disclosure can significantly reduce the penalty.

But simply correcting errors on a later VAT return will not be enough to qualify as a 'disclosure' under the new penalty rules. For a disclosure to reduce a penalty, you have to

specifically write to HM Revenue & Customs (HMRC) describing how the error happened, give HMRC reasonable help in quantifying it and allow HMRC access to records necessary to verify that you have fully corrected the error.

In future, if you find you have made errors on a past VAT return, as well as quantifying them, you will need to find out how they occurred. There will be no penalty if you took reasonable care but made a genuine mistake. If you are confident of this, you can safely include errors below the limit on a subsequent return, but you should keep evidence of the processes you followed.

If you conclude that the error occurred because you did not take reasonable care, you should make a separate disclosure to HMRC even if the error is under £10,000. From September 2008, any errors separately disclosed to HMRC will also attract an interest charge where that error resulted in an underpayment of VAT.

Clearly it is far better not to make mistakes in the first place. If you need advice on accounting for VAT, completing your VAT returns or correcting or disclosing errors, do ask us.

Enterprise incentives for employees

Giving your employees share options can be a tax-efficient way of providing a performance-related bonus in the right circumstances. It can also encourage valued staff members to stay with you. There are three approved share option arrangements that have tax benefits, of which the most flexible is the enterprise management incentives (EMI) scheme.

Employees granted EMI options pay no tax until they sell the shares acquired under the options. At that point, they pay capital gains tax at 18% on the growth in the value of the shares between the date the option was granted and the sale date, after deducting their annual capital gains tax exemption, currently £9,600. The same amount paid as a bonus

might be liable to higher rate income tax at 40% plus relevant national insurance charges.

EMI options do not require scheme rules, though they must be properly documented and meet other conditions. Certain trades are excluded and the company's gross assets must not have a balance sheet value of more than £30 million.

Above all, share options only have a value to the employee if there is a prospect of selling the shares. Companies planning an Ofex, Alternative Investment Market or full stock market listing are ideally placed to give incentives to senior staff by granting share options. We can help you make the arrangements.

INCOME SHIFTING RULES ON HOLD

The government has postponed new laws that would prevent people reducing their tax liability by shifting business income to another person such as a non-working spouse or civil partner. This may provide some valuable tax planning opportunities. Although proposals were announced last December, aimed at an April 2008 start, the government decided further consultation was needed. The difficulty is to frame legislation that distinguishes between 'acceptable' business arrangements and 'income shifting' to avoid tax, while providing clarity and certainty for businesses. It's a tall order.

The delay gives businesses an extended opportunity to save tax by paying dividends up to 5 April 2009. Since losing the Arctic Systems tax case in the House of Lords last year, HM Revenue & Customs (HMRC) has confirmed that where a non-working spouse holds ordinary shares with rights to the company's capital, dividends can only be taxed as the income of the spouse to whom they are paid.

You can therefore save tax by paying dividends



in the current tax year up to the limit of a non-working spouse's basic rate income tax threshold, ie up to £40,835. Remember though that you have to count as income the 10% tax credit as well as the cash dividend itself. You should also deduct any other

income your spouse might have, such as bank interest. You can even give your spouse shares shortly before paying the dividend, provided the gift is unconditional and is of ordinary shares with full voting rights.

Because the 10% tax credit is not repayable, all or part of the personal allowance of £6,035 is wasted if other income is less than this amount. If your spouse or partner does some work for the business, you could increase the tax saving by paying some salary as well. The salary will be deductible from business profits, provided it is reasonable for the work done.

We can advise you on how to make best use of the current rules. There are some restrictions on paying dividends, but we can check whether they affect your company. This will probably be your last chance to save tax in this way, although further delays cannot be ruled out.

We can also consider whether you should change the way your business is set up for the future.



New allowances on integral features

The new capital allowances rules for equipment installed in buildings make it more important than ever to classify correctly all expenditure on construction, refurbishment and repair of buildings.

This year's reform of capital allowances introduced a new 10% annual rate of writing down allowance for specified equipment that forms an integral feature of a building. Some of the items previously qualified for the 25% writing down allowance. Other items, such as ordinary lighting and cold water systems, did not qualify at all because they were considered to be part of the building itself.

Integral features are defined as electrical and lighting systems, water, heating, ventilation and air conditioning systems. This includes the floors and ceilings comprised in such systems, as well as lifts, escalators and external solar shading. The new 10% allowance will also be available for thermal insulation of a building, except where it is used for a residential property business.

Integral features qualify for the annual investment allowance that gives 100% tax relief for the first £50,000 a year of expenditure on equipment. For smaller businesses, planning the timing of expenditure to minimise the excess over £50,000 in any year will accelerate tax relief. Integral features cannot be classified as short-life assets to obtain faster relief.

Other plant and machinery in buildings, including toilet and kitchen facilities, qualify for the 20% rate of writing down allowances.

The cost of repairs is normally allowable in full. However, if in any 12-month period the cost of repairing an integral feature is more than 50% of the cost of replacing it in full, the expenditure will only qualify for the 10% relief. So if you intend to carry out repairs, for example to a heating system, you will need to get an estimate of the cost of full replacement and keep a running total of your expenditure.

We can help you maximise tax relief on all your expenditure on buildings and equipment. Please get in touch – ideally at the planning stage.

Buy or lease to equip your business?

Should you buy or lease the major items of equipment and vehicles you will need for your business? Both have advantages and disadvantages. This year's reform of capital allowances, which give tax relief for equipment purchases, may affect your decision.

From April 2008, you can claim immediate tax relief on up to £50,000 a year that your business spends on buying any type of plant and machinery, including many fixtures in buildings and vans, though not motor cars. The £50,000 annual investment allowance (AIA) is proportionately reduced if your accounting period started before April 2008. For example, a company with an

accounting year starting on 1 January can claim the AIA on up to £37,500 in 2008 ($9/12 \times £50,000$). Purchases in the two years before April 2008 qualify for the old first-year allowances of 50% for a small business and 40% if your business is medium-sized.

The AIA favours the purchase of equipment. However, if you spend more than the AIA, the excess will only qualify for writing down allowances at 20%, instead of 25% before April 2008. A hybrid rate of writing down allowance will be applied for accounting periods straddling 1 April 2008. 20% is also the current rate for most cars. Tax relief for purchases will therefore take longer. For example, at 25% a year, 76% of the cost of an asset is relieved after five years; at 20%, only 67% is relieved. Relief is even slower for assets classed as integral features of a building, which now attract a writing down allowance of generally only 10% on purchases in excess of the AIA (see 'New allowances on integral features').

If you lease, you cannot normally claim capital allowances unless the agreement is effectively a hire purchase contract. But the lease rentals are an allowable expense, though relief is restricted on leasing payments for a car costing more than £12,000.

Of course, tax is not the only consideration. If you buy outright, you will usually pay less overall than on a leasing agreement, but you might have to



borrow the money to make the purchase, which could be costly. Leasing could tie you into long-term agreements that might be difficult to terminate, but buying could leave you with equipment that you might not need in the future.

There are pros and cons to both. If you are planning to buy or lease major equipment, please come and talk to us, and let us help you understand the costs.

More tax relief on R&D

Companies that carry out research and development (R&D) may be entitled to enhanced tax relief. Small and medium-sized companies can deduct 175% of qualifying expenditure incurred on R&D projects from 1 August 2008 when calculating their trading profits. Large companies can deduct 130% of qualifying costs from 1 April 2008.

To obtain payment of tax credits, the company must make a claim in its corporation tax return. Please get in touch if you would like help in deciding whether to claim a payment.

Tax calendar 2008

September

- 1 Corporation tax due for companies that pay the tax annually with year ending 30 November 2007.
- 12 Instalment of corporation tax due for large companies with year ending 31 May, 31 August and 30 November 2007 and 29 February 2008.
- 19 Pay PAYE/NIC and CIS deductions for period ending on 5 September. Submit CIS contractors' monthly return.
- 22 Due date for PAYE/NIC and CIS deductions if paying electronically.
- 29 File accounts at Companies House for public companies with year ending 29 February 2008.
- 30 Submit CT600 for companies with year ending 30 September 2007. Last day to amend CT600 for year ending 30 September 2006. File accounts at Companies House for private companies with year ending 30 November 2007.

October

- 1 Corporation tax due for companies that pay the tax annually with year ending 31 December 2007.
- 5 Deadline for notifying HMRC of taxable income or gains if no tax return has been issued for 2007/08.
- 14 Due date for CT61 return and payment for quarter to 30 September 2008. Instalment of corporation tax due for large companies with year ending 30 June, 30 September and 31 December 2007 and 31 March 2008.
- 17 Tax and class 1B NIC due under PSA (22nd for electronic payment). Pay PAYE/NIC and CIS deductions for period ending on 5 October. Submit CIS contractors' monthly return.
- 22 Due date for PAYE/NIC and CIS deductions if paying electronically.
- 31 Submit 2007/08 tax return if filing on paper to avoid automatic penalty up to £100 and to have unpaid tax of up to £2,000 collected through the 2009/10 PAYE code. Submit CT600 for companies with year ending 31 October 2007. Last day to amend CT600 for year ending 31 October 2006. File accounts at Companies House for private companies with year ending 31 December 2007 and for public companies with year ending 31 March 2008.

November

- 1 Corporation tax due for companies that pay the tax annually with year ending 31 January 2008.
- 2 Submit P46 (car) for quarter to 5 October 2008.
- 14 Instalment of corporation tax due for large companies with year ending 31 July 2007, 31 October 2007, 31 January 2008 and 30 April 2008.
- 19 Pay PAYE/NIC and CIS deductions for period ending on 5 November. Submit CIS contractors' monthly return.
- 21 Due date for PAYE/NIC and CIS deductions if paying electronically.
- 30 Submit CT600 for companies with year ending 30 November 2007. Last day to amend CT600 for year ending 30 November 2006. File accounts at Companies House for private companies with year ending 31 January 2008 and for public companies with year ending 30 April 2008.

MANAGING THE CASH FLOW CRUNCH

A quarter of Britain's small and medium-sized firms regard the state of the economy as their biggest current concern, and nearly a third describe the present situation as a fully blown recession, according to a new poll by the Orange SMS Business Jury. Overhead costs (23%) and fuel costs (17%) are the other major concerns, suggesting that businesses are increasingly worried about the need to economise.

Keeping a strong and steady cash flow through a business is critical at all times, but particularly during periods of market uncertainty. Nevertheless, many firms fail to take even the most basic precautions. The Bank of England estimates that only half of all companies agree their payment terms in writing.

Here is a checklist of some basics to help you improve your everyday cash flow:

- **Get paid more quickly** – Ask your customers to pay sooner or ask for full/part payment in advance. You could also look at offering a discount if they pay by an agreed date.
- **Avoid late payments and non-payments** – Agree payment terms in writing and set them out clearly on all invoices. Issue invoices promptly and carry out credit checks on potential customers. Consider including a retention of title clause in your contracts for the sale of goods.

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taken over complex matters, including finding out about the correct tax treatment. No penalty will be charged if a taxpayer takes an arguable view of a situation that is eventually not upheld. HMRC would also not impose a penalty if good accounting systems are in place but processing errors occur, provided the errors are relatively small compared with the overall tax liability.

Simply leaving everything to your adviser is not enough. Taxpayers taking reasonable care must make sure they give their adviser all the necessary



- **Be alert to customers changing their behaviour** – If customers start post-dating cheques or become difficult to get hold of, it could be a sign they are struggling with cash flow.
- **Chase debts** – Be prompt and systematic in chasing debts and be firm when you ask for payment.
- **Seek extended credit terms** – If you are in a strong negotiating position, ask your suppliers to give you extended credit terms.
- **Consider factoring** – Debt factoring may be one way of getting cash into your business quickly. This involves selling your invoices to a debt factoring company against which you can draw loans.

Once you have the basics in place, you can use cash flow forecasting to identify problems, avoid cash crises and help make business decisions, such as reviewing recruitment and investment strategies. Now is also a good time to review other business costs, such as VAT arrangements, that tend to get overlooked when the going is good.

information, implement any professional advice received and check the adviser's work to the best of their ability. HMRC recognises that an ordinary person cannot be expected to challenge specialist professional advice on a complex legal point, but they ought, for example, to be able to recognise the complete absence of a major transaction.

Taxpayers also have a duty to choose an adviser who is competent for the task. Please get in touch for advice on how you can ensure you give us all the required information.

Payroll Solutions

- We offer an affordable payroll service for businesses of all sizes. If you are struggling with PAYE records, confused by complex legislation and just want a cost effective alternative for running your payroll, call Karen Rowland on 01872 272100.
- Karen Rowland can also provide assistance with the Construction Industry Scheme, including on-line verification of deduction status, monthly returns, production of contractor statements, and employment status advice.

This newsletter is for general information only and is not intended to be advice to any specific person. You are recommended to seek competent professional advice before taking or refraining from taking any action on the basis of this publication. The newsletter represents our understanding of law and HMRC practice as at August 2008.