February 2021

# LATE FILING PENALTIES FOR TAX RETURNS DELAYED UNTIL 28 FEBRUARY

In a surprise move and with only a week to go until the 2019/20 Tax Return filing deadline, HM Revenue & Customs (HMRC) announced on 25 January that they would not be charging the usual automatic late filing penalties of £100 for any 2019/20 Tax Returns that were not filed by 31 January 2021.

HMRC had come under increasing pressure from various bodies, including the Institute of Chartered Accountants and the Chartered Institute of Tax, to delay the filing deadline due to the pressures which a lot of businesses and individuals are continuing to face as a result of the Coronavirus pandemic. Initially HMRC stood firm and said the 31 January filing deadline would not be changed, but that if any taxpayers could not file their Returns by 31 January due to the impact of the pandemic, they would consider this to be a 'reasonable excuse' for failing to meet the deadline and would cancel the late filing penalty accordingly. This approach would however have meant that penalties were still issued to taxpayers and they would subsequently have to appeal them.

As the month of January progressed, it became increasingly apparent that the number of taxpayers who had not filed their Returns was more significant than usual, so HMRC decided to back down and agree to not charge penalties as long as Returns were filed online by 28 February. This will have come as welcome relief to those taxpayers who have not been able to get their Return filed for various reasons connected with the Coronavirus pandemic, but such individuals should not rest on their laurels.

### Due date for payment of your tax liability remains 31 January 2021

Despite HMRC's relaxation of the issue of penalties until after 28 February, any tax liability payable per your 2019/20 Tax Return (including any payment on account toward your 2020/21 liability) was still due for payment by 31 January 2021. Interest (at a rate of 2.60% per annum) will therefore be charged from 1 February 2021 until payment is made in full.

HMRC have however extended their 'Time to Pay' service in light of the Coronavirus pandemic, so any taxpayers who feel they may struggle to settle their tax liability in full should consider using this facility.

The 'Time to Pay' service can allow you to spread the cost of your tax liability over a period of up to 12 months, with payments being made monthly by direct debit. Prior to 1 October 2020 this was available to those under Self-Assessment with a tax liability of up to £10,000. However, due to Covid-19, this limit has been increased to £30,000 to help ease any potential financial burden that may have occurred as a result of the pandemic.

If you wish to set up your own self-serve 'Time to Pay', you can do so online or by calling HMRC and you must meet the following criteria:

- You must have no outstanding Tax Returns due. Therefore, this can only be set up once your 2019/20 Tax Return has been submitted to HM Revenue & Customs;
- You must have no other tax debts due;
- You must have no other HM Revenue & Customs payments plans set up;
- Your outstanding Self-Assessment tax liability must be between £32 and £30,000;
- It must be set up no more than 60 days since the tax is due for payment. Therefore, it must be set up by no later than 1 April 2021.

If you do not meet these criteria or require more than 12 months to settle your outstanding tax liability, you may still qualify for Time to Pay but will need to contact the Revenue directly to discuss this further. If you set up a 'Time to Pay' arrangement, you will still be charged late payment interest from 1 February 2021 (see above). However, to avoid further penalties the plan must be set up by 2 March 2021, being the trigger date for late payment penalties.

### Any Tax Returns filed after 31 January 2021 are still classed as late Returns

HMRC have confirmed that although they will not automatically charge a late filing penalty as long as 2019/20 Tax Returns are filed by 28 February, any Returns that are filed after 31 January are still considered to be "late" Returns.

One implication of this is that HMRC have longer than usual to enquire into your Return. For example, if your Return was filed on 31 January 2021 then HMRC usually have to raise any enquiries into the Return by 31 January 2022 (the enquiry window runs to 12 months from the date of submission of your Return). However, the enquiry window for any late 2019/20 Returns is twelve months from the end of the quarter in which you file your Return (with quarters starting on 1 February). So, if you file your 2019/20 Return on, say, 14 February, HMRC have until 30 April 2022 within which to enquire into your Return.

It is also worth pointing out that late submission of your Tax Return can have other, perhaps less immediate, financial implications which can include invalidating any insurance policy which you may have in place for professional fees arising on any tax enquiry that HMRC undertake in respect of your tax affairs. You may therefore want to read the small print of any such insurance policies very carefully.

The key message is not to bury your head in the sand. The level of penalties, interest and other implications for not filing your Tax Return will become worse with the passage of time, not better. Please contact us if you would like any assistance with bringing your tax affairs up to date or if there is anything else you would like to discuss.

*The above is for general guidance only and no action should be taken without obtaining specific advice.*

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