



**Isle of Man
Government**

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PRACTICE NOTE

PN 151/08

Date: 31 July 2008

IMPROVING COMPLIANCE WITH TAX RETURN OBLIGATIONS

Background

A system was introduced by the Income Tax Division (the Division) in 2005 to penalise people who had not submitted their tax return by the legal deadline date.

A penalty of £50 is charged when the return for a tax year ending on 5 April has not been submitted by 6 October. An additional £50 penalty is charged if the return remains outstanding at 5 April in the following year.

It is a criminal offence if an individual's tax return has not been sent to the Division within 24 months of the end of a tax year, and we may take prosecution action in such cases. The penalty on conviction can be a fine of up to £5,000, custody for a term not exceeding six months, or both.

The penalty system has led to an improvement in the number of returns submitted, but the level of non-submission remains unacceptable. The Division will be making a number of changes in the coming year to improve compliance with tax return obligations.

Default Assessments

When a taxpayer fails to deliver a tax return on time, the Assessor will issue what is commonly referred to as a 'default assessment'. These assessments are made to the best of the Assessor's judgement and include estimated income and deductions where applicable.

If the return is subsequently submitted within six months of the default assessment being issued, the Assessor is required by law to revise the assessment. Concessionally, the Assessor normally revises default assessments when the return is submitted within three years of the date of the default assessment. Default assessments have also been revised concessionally on a case by case basis where the returns were submitted more than three years after the default assessment had been issued.

In order to give taxpayers and their advisers greater clarity we intend to change the law so that all default assessments will be revised if the relevant tax return form is submitted by an individual within six years of the end of the tax year and by a company within four years of the end of its accounting period. This new approach will apply to returns received after 6 April 2008, and will operate by concession pending amendment of the statute.

Refunding Default Assessment 'Overpayments'

It is the current practice of the Division to make a refund of any balance of tax held on account by Treasury (for example, deductions remitted to the Division under the subcontractors in the construction industry scheme) which exceeds the tax liability shown in a default assessment, or to credit the balance against other liabilities due; even when the tax return for the year in question is outstanding. We intend to move away from this practice.

In the absence of the relevant tax return, default assessments are by definition estimated, and so any overpayment is notional until we hold accurate tax return information.

From 6 April 2008, if a default assessment results in a notional overpayment a refund will not be made. Similarly, and from the same date, we will not set any notional overpayment against other liabilities that the taxpayer may have, other than those in the same tax year such as Class 4 National Insurance Contributions or late return penalties.

The default assessment will be revised (subject to the time limit referred to above) when we receive the relevant tax return. Any overpayment at that time will be credited against other outstanding liabilities or refunded.

Default Codes

It is the current practice of the Division to include estimated amounts of tax relief (for example, mortgage and loan interest) when calculating income tax instalment payments (ITIP) codes for the current year; even when the return for the previous year, which includes a claim for the tax relief, has not been submitted.

When returns for two or more tax years are outstanding we will now consider that a valid claim for relief or deductions has not been made and so they cannot be taken account of when calculating the current ITIP code. The code will continue to take account of personal allowances.

Prosecutions

In order to deal with the significant number of tax returns that have not yet been submitted, the Assessor intends to use the prosecution route more frequently. Individuals and companies are required by law to submit tax returns, and the Assessor will consider prosecution when returns have not been delivered to the Division. An officer of a company can also be prosecuted for failing to submit the company return. Our procedure will be as follows.

A warning letter will be issued before we start formal prosecution proceedings. If the outstanding return/s is then submitted, the prosecution will be halted.

Where the return/s remains outstanding after the warning letter, we will send a further letter notifying the taxpayer of impending court action (please see the example at the end of this note). If we have not received the returns specified in the letter after 14 days, the case will be referred to the Attorney General. A summons will follow, requiring the taxpayer to appear in court. Where a taxpayer fails to enter a plea through the coroner or to attend court, the case will be dealt with in their absence. The court may fine or imprison taxpayers for failing to submit tax returns as mentioned earlier in this note. An order will also normally be made by the court that the outstanding return must be submitted within one month. If the taxpayer fails to submit the return in compliance with the order, the case will be taken back to court.

M Couch

Assessor of Income Tax

This Practice Note is intended only as a general guide and must be read in conjunction with the appropriate legislation. It does not have any binding force and does not affect a person's right of appeal on points concerning their own liability to income tax.

Comments and suggestions for improvements of issued Practice Notes and suggestions for future Practice Notes are always welcome.

The Treasury *Yn Tashtey*

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Please Contact :
Our Reference :
Your Reference :
Date :

Dear

Income Tax Returns for

I do not appear to have received a reply to my letter of concerning your failure to submit the tax return/s detailed above. It is an offence not to submit a tax return.

If the outstanding tax return/s has not been submitted to this office within 14 days of the date of this reminder, the matter will be referred to the Attorney General.

No further reminders will be issued. Should you fail to submit the outstanding returns or to contact me within 14 days, you will receive a summons to appear in court in relation to your failure to submit the outstanding return/s as required by section 62(1) of the Income Tax Act 1970, which is an offence under section 111J of that Act. The penalty on conviction for this offence is a fine of up to £5,000, custody for a term of not exceeding six months, or both. An order will also be sought that the outstanding return must be submitted within one month.

All correspondence or outstanding returns should be addressed to me in an envelope clearly marked **"FOR THE ATTENTION OF THE PROSECUTIONS OFFICER"**. You will receive written acknowledgement of the receipt of your income tax return forms.

If you have any queries regarding this matter, please contact me on the above telephone number.

Yours faithfully