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## PRACTICE NOTE

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PN 120/05

Date: 20 December 2005

### INTEREST ON OVERDUE TAX

#### 1 Introduction

Section 9 of the Income Tax etc. (Amendment) Act 1985 introduced Section 111A into the Income Tax Act 1970. This legislation imposed an interest charge on tax which is not paid within 30 days of the date on which that tax becomes due and payable. Its intention was to encourage the prompt payment of tax and seek commercial restitution where payment was made late.

Until the 2003/04 tax year<sup>1</sup>, the due and payable date for tax was on or before 1 January following the tax year. The interest rules did not take effect until 31 days later, giving taxpayers a 'grace period'. As a result, a number of taxpayers began to delay payment until the later date.

The Income Tax (Amendment) Act 2004 (the "2004 Act") updated the rules, aimed at encouraging the timely submission of tax returns and the prompt payment of tax. The 'grace period' before interest would start to be charged on outstanding tax was removed and a surcharge rate of interest for non-corporate<sup>2</sup> taxpayers was introduced in cases where a tax return had been submitted after a certain date.

This Practice Note covers the changes in the interest rules and is an update on interest charging in general. Examples are included both within the body of this note and in a separate appendix.

**Please note:**

- **The new rules are only applicable to the year of assessment 2004/2005 onwards.**
- **Practice Note 30/90 remains valid for earlier years.**
- **The current rate of interest as approved by Tynwald is 7%, and may be changed as future circumstances dictate.**
- **Continuing with current practice, the Assessor will not seek to enforce payment where the total interest charge is less than £100.**

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<sup>1</sup> Our tax year, also known as a 'year of assessment', runs from 6 April to 5 April of the following year.

<sup>2</sup> 'Non-corporate taxpayer' is defined in Section 120, Income Tax Act 1970.

## 2 Scope

Except where otherwise stated this Practice Note applies to all taxpayers.

## 3 Charges

Interest is charged on the late payment of:

- Income Tax (including Non-Resident Tax)
- Class 4 National Insurance Contributions.

It is intended that interest will be due on any late payment of the Distributable Profits Charge once it has been introduced.

## 4 Due & payable dates

For the tax years 2004/2005 onwards the latest dates for the payment of tax are:

### Payment on account

- 6 January in the year of assessment or 30 days from the date of a notice to pay where such a notice is issued after 7 December during the year of assessment.

### Assessments: non-corporate taxpayers

- 6 January in the year following the year of assessment or 30 days from the date of an assessment where such an assessment is issued after 7 December following the year of assessment.
- Where a person dies or ceases to be regarded as resident in the Isle of Man, tax is due 30 days after the date of the assessment.

### Assessments: corporate taxpayers

- 1 January in the year of assessment or 30 days from the date of the assessment if later.

## 5 Calculation of interest – old rules

For tax years **prior** to 2004/2005 interest accrued from the 31<sup>st</sup> day after the date on which the tax became due and payable until the date on which the tax was paid.

### Example

2003/2004 tax of £25,000 was due and payable 21 February 2005

Interest charge commenced 24 March 2005

Tax paid 12 May 2005

Interest calculation: £25,000.00 @ 7% x 49/365 = £234.93

## 6 Calculation of interest – new rules

For the tax year 2004/2005 and subsequent years, the new rules remove the interest 'grace period' following the due and payable date. Interest now runs from the "relevant date" until the date of payment.

### Relevant date

The relevant date is defined by Section 111A (1A) Income Tax Act 1970 as:

- (a) in the case of a non-corporate taxpayer who has failed to pay the full amount of their payment on account (POA) by 6 January in the year to which the POA relates, the relevant date is 6 January in that year;
- (b) where the non-corporate taxpayer failed to make and deliver a tax return by 5 April following the year of assessment to which the return relates, the relevant date is the date on which the tax became due and payable;
- (c) in all other cases, the relevant date is the date on which the tax became due and payable.

### Example

2005/2006 POA of £25,000 was due and payable on 21 February 2006

Relevant date on which interest charge commenced 21 February 2006

Tax paid 12 May 2006

Interest calculation:  $£25,000.00 @ 7\% \times 80/365 = £383.56$

## 7 Special Cases

### Default assessments

We issue default assessments when taxpayers have not submitted their tax returns on time. Interest will be charged on unpaid tax relating to a default assessment.

- Prior to the 2004/2005 tax year interest will commence from the 31<sup>st</sup> day after the due and payable date of the assessment.
- For 2004/2005 and subsequent years, interest will commence from the relevant date.

### Replacement of default assessments

Section 86(7) and (8) Income Tax Act 1970 provides that where a default assessment is replaced (i.e. following the eventual submission of a tax return), the tax associated with the new assessment is deemed to have the same due and payable date as that of the original default assessment.

In such circumstances, interest will also be charged from the due and payable date of the original default assessment.

It is important that taxpayers ensure that they pay the estimate of their overall tax liability on receipt of a default assessment in order to minimise any interest charge. If their tax return is submitted after 5 April of the year following the year of assessment to which it relates, surcharge interest will be charged.

### Example

Corporate taxpayer receives:

2004/2005 default assessment tax due and payable 1 January 2005      £12,000

Payment made 1 January 2005      £12,000

Tax return submitted 5 October 2005

Assessment revised and issued 27 November 2005 - additional liability      £10,000

Additional liability due and payable on or before 27 December 2005; actually paid in full on 5 December 2005

Interest calculation: £10,000 @ 7% x 338/365 = £648.22

(1 January 2005 to 4 December 2005)

## **8 Payment on account**

Where, after receiving a POA notice, taxpayers do not agree that their eventual liability will be as high as that shown on the notice, they may request the suspension (known commonly as “holdover”) of part, or all, of the tax due.

Should any amount of tax suspended ultimately prove to be payable, interest will be charged on that amount from the original due and payable date of the POA.

## **9 Surcharge interest**

The surcharge rate of interest (9% from 1 July 2005) will apply to the tax liabilities of non-corporate taxpayers who have failed to deliver a tax return by 5 April of the year following the year of assessment to which the return relates.

For example, if a return for the year ended 5 April 2005 is not received by 5 April 2006 the surcharge rate of interest will apply where there is an outstanding balance of tax which is not paid until after 5 April 2006.

However, if in the absence of a return a default assessment is raised, and the income tax is paid after the due and payable date but before 5 April 2006, the normal rate of interest will apply.

**Where a default assessment is replaced with an actual assessment and increased tax is due, this may be subject to surcharge interest. In these circumstances, the surcharge interest will be due from the relevant date of the original default assessment.**

**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.

## FURTHER EXAMPLES

### Non-corporate

1) 2005/2006 POA issued 10 September 2005 Liability £15,525

Due and Payable date 6 January 2006 but paid 30 March 2006

Interest calculation:  $£15,525 @ 7\% \times 83/365 = \mathbf{£247.12}$

(6 January 2006 to 29 March 2006)

2005/2006 Assessment issued 28 November 2006 Liability £18,320

Less POA £15,525

Due and payable 6 January 2007 but paid 9 March 2007 £ 2,795

Interest calculation:  $£2,795 @ 7\% \times 62/365 = \mathbf{£33.23}$

(6 January 2007 to 8 March 2007)

As the £100 interest level has been exceeded on the POA, the interest on the assessment will be automatically charged.

2) 2005/2006 POA issued 10 September 2005 Liability £15,525

Due and Payable date 6 January 2006 but paid 28 January 2006

Interest calculation:  $£15,525 @ 7\% \times 22/365 = \mathbf{£65.50}$

(6 January 2006 to 27 January 2006)

2005/2006 Assessment issued 28 November 2006 Liability £18,320

Less POA £15,525

Due and payable 6 January 2007 but paid 9 April 2007 £ 2,795

Interest calculation:  $£2,795 @ 7\% \times 93/365 = \mathbf{£49.85}$

(6 January 2007 to 8 April 2007)

Initially interest would not have been charged on the POA tax due as the £100 interest level was not exceeded. However the additional interest arising in relation the assessment tax liability increases the total interest due beyond the £100 limit. An interest charge of £112.37 reflecting both elements will be payable.

### Corporate

3) 2005/2006 Assessment issued 28 November 2005 Liability £97,000

Due and payable 1 January 2006 but paid 27 January 2006

Interest calculation:  $£97,000 @ 7\% \times 26/365 = \mathbf{£483.67}$

(1 January 2006 to 26 January 2006)

## Surcharge interest

4) Default assessment 2006/2007 issued 26 January 2007 Liability £13,750

Due and payable 25 February 2007 but paid 4 December 2007

Interest calculation: £13,750 @ 7% x 282/365 = **£743.63**

(25 February 2007 to 3 December 2007)

2006/2007 Return of Income submitted 9 April 2008

Assessment revised 9 May 2008 Liability £14,820

Less paid £13,750

Balance £ 1,070

Due and payable 8 June 2008 but paid 20 June 2008

Surcharge interest calculation: £1,070 @ 9% x 481/365 = **£126.90**

(25 February 2007 to 19 June 2008)

5) Default assessment 2006/2007 issued 26 January 2007 Liability £13,750

Due and payable 25 February 2007 but paid 29 March 2007

Interest calculation: £13,750 @ 7% x 32/365 = **£84.38**

(25 February 2007 to 28 March 2007)

2006/2007 Return of Income submitted 9 April 2008

Assessment revised 9 May 2008 Liability £14,820

Less paid £13,750

Balance £ 1,070

Due and payable 8 June 2008 but paid 20 June 2008

Surcharge interest calculation: £1,070 @ 9% x 481/365 = **£126.90**

(25 February 2007 to 19 June 2008)

Initially interest would not have been charged on the default assessment tax due as the £100 interest level was not exceeded. However the additional interest arising following the issuing of the revised assessment increases the total interest due beyond the £100 limit. An interest charge of £211.28 reflecting both elements will be payable.