

Assessor
M Couch

Telephone: (01624) 685400
Fax: (01624) 685351
E-mail: incometax@treasury.gov.im
Website: www.gov.im/treasury/incometax

PRACTICE NOTE

PN 115/05

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CHANGES TO REPAYMENT SUPPLEMENT

1 INTRODUCTION

The Income Tax (Amendment) Act 2004 (the '2004 Act') inserted a new Section 107B into the Income Tax Act 1970 (the '1970 Act'). The new section changed the way that repayment supplement (RPS) is both calculated and paid to non-corporate taxpayers.

Consequential amendments were also made to Section 107A of the 1970 Act ensuring that, in the main, existing provisions continue to have effect for corporate taxpayers (with the exception of certain changes in respect of Group and Loss Relief which are covered in Section 4 of this practice note).

The new rules apply for the 2004/2005 and subsequent years of assessment.

Section 107B applies for a year of assessment in which the non-corporate taxpayer was resident in the Isle of Man.

You should note that the new provisions will remain subject to a *de minimis* refund limit of £100 for non-corporate tax payers and £250 for corporate tax payers.

2 DEFINITIONS FOR THE PURPOSE OF THIS PRACTICE NOTE

Unless otherwise stated, statutory references are references to the 1970 Act as amended.

The term 'non-corporate taxpayer' includes individuals, trusts, settlements and partnerships, but excludes non-corporate taxpayers not resident in the Isle of Man.

Corporate taxpayers are defined by Section 120.

3 CHANGES AFFECTING NON-CORPORATE TAXPAYERS

3.1 Calculation

Before the introduction of Section 107B, RPS was only paid when a repayment was made more than one full year after the end of the year of assessment to which it related. The new provision removes this delay.

RPS was previously calculated on a monthly basis, but for 2004/2005 onwards will be calculated on a daily basis. It will be calculated for the period between the 'relevant time' and the date on which the refund cheque is issued.

Section 107B(2) provides that the relevant time is the 6th January in the year to which the payment relates but, where the non-corporate taxpayer has failed by that date to pay a sum equal to either –

- (i) the full amount required to be paid under Section 96A (Payment on Account – 'POA'); or
- (ii) the amount of income tax finally assessed as due and payable,

whichever is the lower, the relevant time is the day after full payment is made of the amount of income tax assessed as due and payable.

3.2 Payment of RPS

RPS will normally be included with any refund due, in one cheque. The counterfoil of the cheque will show the amount of the refund and RPS separately, but will not show how the amount was calculated. Where RPS is payable but a refund of overpaid tax is not due (for example where the refund is offset against arrears of tax, Class 4 National Insurance etc.) it will be calculated as normal and set off against the arrears where the refund of tax is insufficient. Any RPS remaining after clearing any arrears will then be paid.

3.3 Treatment of Tax Deducted at Source for the Purposes of RPS

Section 107B(2) provides that Income Tax Instalment Payments ('ITIP') and Construction Industry Tax Deductions will be deemed to have been paid on the 6th January during the year of assessment to which they relate for the purposes of calculating any RPS due.

3.4 Late Submission of Annual Returns

Section 107B(10)(a) provides that where a non-corporate tax payer is liable to a civil penalty under Section 111D, then RPS will not be paid on any refund made relating to a year of assessment to which the penalty relates.

In the majority of cases a penalty under Section 111D is issued where the return form has not been submitted within 12 months of the end of the period to which the return relates.

3.5 Default Assessment

Where a non-corporate tax payer receives a default assessment for a year of assessment, Section 107B(10)(b) provides that no RPS will be paid on any refund made relating to that year, even where the assessment is subsequently revised.

3.6 Loss Relief

In respect of non-corporate taxpayers, Section 107B(11) prohibits the payment of RPS on any repayment of income tax that arises by reason of a loss relief claim where the whole or any part of the loss incurred in any period is carried back to be relieved against profits of an earlier period.

3.7 Examples (using the RPS rate of 3% applicable at the date of this Practice Note)

1. 2004/2005 Assessment Issued 4 th August 2005	Liability	£3480.00
ITIP Credited		<u>£4180.28</u>
Refund		£ 700.28cr

A cheque is issued on 11th August 2005 for £712.83. This includes RPS of £12.55 calculated as follows:

$$6^{\text{th}} \text{ January 2005 to } 11^{\text{th}} \text{ August 2005} = £700.28 \times 3\% \times 218/365 = £12.55.$$

2. 2004/2005 POA due and payable on 6 th January 2005	£1200.00
Paid 31 st December 2004	<u>£1200.00</u>
2004/2005 Assessment issued 12 th December 2005	£1000.00
Less POA made on 31 st December 2004	<u>£1200.00</u>
Refund	£ 200.00cr

A cheque is issued on 14th December 2005 for £205.64. This includes RPS of £5.64 calculated as follows:

$$6^{\text{th}} \text{ January 2005 to } 14^{\text{th}} \text{ December 2005} = £200.00 \times 3\% \times 343/365 = £5.64.$$

3. 2004/2005 Default Assessment issued 7 th November 2005	£ 478.00
ITIP credited	£ <u>923.00</u>
Refund	£ 445.00cr

A cheque is issued on 11th November 2005 for £445.00. No RPS is due as the refund is on a default assessment.

The Return Form for 2004/2005 is then submitted and a revised assessment is issued on 17th January 2006 with a new liability of £450.00.

A further refund of £28.00 is issued on 20th January 2006. Again RPS will not be paid as there has been a default assessment issued on this year.

4 CHANGES AFFECTING CORPORATE TAXPAYERS

4.1 Loss Relief

Section 107A(6A)(a) prohibits the payment of RPS on any repayment of income tax that arises by reason of a loss relief claim where the whole or any part of the loss incurred in any period is carried back to be relieved against profits of an earlier period. This section applies only in respect of claims made on or after 1st October 2004.

4.2 Group Relief

Section 107A(6A)(b) provides that no RPS will be paid in respect of a refund arising as a result of a claim for group relief under Schedule 2 Income Tax Act 1980. This section applies only in respect of claims made on or after the 1st October 2004

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.