
PRACTICE NOTE

PN 169/11

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Late Return Penalties for Employers and Contractors

Introduction

This guidance explains the new late return penalty system for employers and contractors and sets out the Assessor's view of what will be considered to be an unacceptable return.

Legislation¹ was introduced in the 2010 Budget which amended the Income Tax (Instalment Payments) Act 1974 and the Income Tax (Modified ITIP) Regulations 1987. Penalties can now be charged when annual returns are not submitted on time.

These new measures took effect from 6 April 2010 and will affect full and part year returns for the 2010/11 tax year and subsequent years.

Late return penalty

Employers and contractors must submit their annual return (T37 or C37 respectively) no later than 30 days after the end of the tax year to which it relates; or no later than 30 days after the date of ceasing to be an employer or contractor.

These returns have to be completed in full and accurately, and must be accompanied by any supporting documentation which is required. For example, a form T14 or C14 must be sent in for each employee or subcontractor engaged during the tax year, even if no wages were paid to them during the year. In addition, T9 benefit in kind forms must also be submitted where appropriate.

If a complete and accurate return is not submitted on time, the employer or contractor will be liable to a £250 penalty. They may also be liable to a penalty charge of £50 per day for each day that the return continues to remain outstanding: commencing from the day after that on which the £250 penalty is charged.

Examples of returns which will not be accepted as complete

1 Unsigned annual return

If an annual return has not been signed, it will be returned to the employer/contractor for signature. Where the original unsigned return was received by the due date, no penalty will be charged, if the form was otherwise complete and accurate.

¹ SD 21/10 Income Tax (Instalment Payments) (Temporary Taxation) Order 2010

2 No annual return received

If the required forms T14/C14 and, where appropriate, T9, are received without the annual return (for example, via email or on disc), the employer/contractor will be contacted and, if the return is not submitted by the due date, penalties will be charged.

3 Annual return received but not all required forms T14/C14 and T9 received

If an annual return is received by the due date but some of the required documentation is missing, the employer/contractor will be asked to provide the missing items. If the documentation requested is not received by the due date, late return penalties will be charged.

4 Annual return not fully completed

If the annual return is not fully completed, it will be returned to the employer/contractor for amendment. If the completed return is not received by the due date, penalties will be charged.

5 Forms T14/C14 not fully completed

If the forms T14/C14 are not fully completed, the employer/contractor will be contacted and asked for the missing information. If the information is not received by the due date, penalties will be charged.

6 Forms T9 not fully completed

If any forms T9 are not fully completed, the employer/contractor will be contacted and asked for the missing information. If the information is not received by the due date, penalties will be charged.

In each of examples 2 - 6 above, if the employer or contractor does not provide the required documentation by the due date, a penalty of £250 will be charged. Further penalties of £50 per day will be charged, commencing from the day after that on which the £250 penalty is charged, until everything required has been submitted. The level of penalty charged is not linked to how many documents remain outstanding.

Information omitted from a return

If an employer or contractor completes a return to the best of their knowledge which is accepted by the Assessor but an omission is subsequently identified (e.g. an officer discovers that a taxable benefit-in-kind should have been on the return), no penalty will be charged if the relevant forms are submitted, and any payment due is made, within 30 days of the employer or contractor being notified of the omission.

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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.