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## PRACTICE NOTE

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PN 113/05

Date: 8 April 2005

### Initial Income Tax Return Penalty Estimates and Requests for Default Assessments

#### Background

Every person liable to pay income tax should submit their fully completed return of income by the due date. See PN 112/05 - Income Tax Return Penalty. However, the Division recognises that in certain circumstances it may not be possible to submit a fully completed return, or even to file a return by the due date. Therefore, the Division proposes to introduce systems to accommodate these situations.

This Practice Note is intended to provide guidance in this respect.

#### Estimates on Returns

- i) According to the legislation, a return must be true and correct.
- ii) However, where a client is unable to file a true and correct return and there is concern that a penalty may be triggered, the Assessor *may* accept the return even though it includes estimates where the actual details are not known.
- iii) In order that an estimate may be considered the following points must be satisfied:
  - a) The amount on the return must be clearly marked as being an estimate.
  - b) The estimate must be realistic and, as far as possible, be supported by a computation or relevant documents.
  - c) The estimate must be **replaced by the actual amount** as soon as practicable, and no later than the second penalty trigger point.

#### Request for a Default Assessment

The request for a default notice of assessment where it can be demonstrated that the return cannot be submitted by the due date, must be made **in writing** by 30 September following the year of assessment to which the return relates.

- i) The request must clearly state:-
  - a) The name of the individual to which the outstanding return relates,
  - b) The relevant tax reference number,
  - c) The year of assessment to which the return relates.

- ii) Having made a successful request, a default assessment will be issued and the first penalty will not be imposed. The Division will use its normal procedures in arriving at the amounts contained within the default notice of assessment. However where it is evident that there is likely to be a significant change in the anticipated liability the Division may accept a request for a specific tax amount.
- iii) **Repayment Supplement** – Section 107B Income Tax Act 1970 states that there will be no Repayment Supplement in respect of any repayment of tax where a second penalty has been issued or a default assessment has been issued in respect of the year of assessment to which the return relates. Therefore, should a default assessment subsequently be revised and generate a refund, it will still not be given a Repayment Supplement.
- iv) **Interest charged on overdue tax** – Section 111A Income Tax Act 1970 amends the date from which interest will be charged from “the 31<sup>st</sup> day after the date on which the tax becomes due and payable” to 6 January in the year to which the payment relates, or the actual due and payable date, whichever is the sooner. It also introduces a different rate of interest (the surcharge rate) which will apply if the return has not been submitted by 5 April in the year following the year of assessment to which it relates.
- v) Failure to submit the completed return by the following 6 April will result in the issue of the second penalty notice and will prevent participation in the scheme for the following tax year.

**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.