Avoid the trap

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Laurence Field considers the risk to companies of being fined millions due to inconsistent Covid-19 guidance

It’s not too late for some joined up government thinking in response to Covid-19. Clearer, more coordinated guidance from the relevant authorities around corporation tax filing deadlines could save UK businesses from exposure to fines and penalties. In the meantime, organisations need to stay on top of the requirements and not fall into the trap of assuming that all government agencies are doing the same thing.

Earlier in the summer, Companies House outlined a series of extensions to key filing deadlines for documents such as financial statements. For private companies, a blanket extension to the filing date of three months was granted where the normal filing date falls between 27 June 2020 and 5 April 2021 – extending the filing deadline at Companies House by three months to 12 months. Companies with a 31 December year end must now file their financial statements by year end.

However, if a company takes advantage of this blanket extension, it should not assume that the tax filing deadlines have moved as well. These financial statements need to be included (and tagged) as part of the corporate tax return, as well as being the basis of the tax calculations, which must be filed within 12 months of year end. This could certainly make for a busy year end. Ordinarily there would be a three month gap between the financial statements and tax filing deadlines but the mismatched guidelines now mean that, this year, there is potentially none.

Complex times

Covid-19 has meant that many businesses have had difficulties in completing and auditing their financial statements. The dislocation of finance department staff and emergence of more pressing priorities, such as engagement with banks, the Coronavirus Business Interruption Loan Scheme (CBILS) and handling the furloughing process, along with a changing business environment, may all have played a part in the normal accounts preparation process slipping. Businesses and their auditors have also had difficulties in accessing records and making the necessary accounting judgments. This has made the process of finalising and filing financial statements more difficult, expensive and time consuming amidst unprecedented economic circumstances.

It may seem a minor detail but, in recent months, when the financial statements are not available by the filing deadline, HMRC has shown a welcome flexibility in agreeing to an extended filing period. However, this isn’t available automatically. In reality, it requires taxpayers to contact HMRC to agree a tax filing extension if they wish to avoid penalties. A number of taxpayers may assume that the Companies House extension automatically applies for tax purposes – it doesn’t!

HMRC problems

Government authorities are, of course, not immune from the disruptive effect of the pandemic. We know that HMRC has suffered some disruption and anecdotal

evidence suggests that the waiting times to get through to the helplines to request extensions have been longer than ideal. The process seems a little hit and miss, with some companies being advised to call back nearer the time, even close to the deadline, and written confirmation from HMRC hard to come by. The ultimate outcome has also not always been consistent, meaning that some taxpayers are permitted a longer extension than others, with some taxpayers fined as a result of not understanding the process. While it's understandable that HMRC wants to review the facts and circumstances of each case, it will have already received the tax due or agreed a deferral so the payment of tax is not dependent on the filing.

This could all be made so much easier if HMRC were to agree to a blanket three month extension to the tax filing deadline, mirroring the additional three months at Companies House. Businesses wouldn't need to clog up helplines, especially at a busy time of year, and the UK's 4.1 million companies wouldn't find themselves at risk of late filing penalties. An extension would reduce the administrative burden on both sides, eliminate the danger of confusion and make a public show that the government is not intentionally raising late filing penalties on businesses that inadvertently assume extensions are aligned and uniform across all government departments.

At a time of great administrative – and even existential – stress for many organisations, the hope is that HMRC is sympathetic to those businesses that are either unaware or are lacking the clear guidance they need. Indeed, this would be the perfect opportunity for the government to demonstrate some joined up thinking in helping UK businesses navigate Covid-19.