Penalties update

Management of taxes

22 February 2022

The government announces postponement to introduction of penalty reform for VAT, but this postponement does not affect the introduction of the new penalty regime for Income Tax Self-Assessment.

The government announced on 13 January 2022 that the start date of the new penalties regime for VAT registered taxpayers is postponed by nine months to 1 January 2023. This is to allow more time for testing the IT systems needed so that the changes can be introduced as effectively as possible. The new penalty regime had been due to come into effect for VAT on 1 April 2022. The existing rules will continue in the meantime.

We have posted a table prepared by HMRC on our website that shows the first affected accounting period for penalty reform for VAT under a range of representative filing frequencies, and the corresponding dates on which the earliest possible late submission penalty, late payment penalty and interest could be applied (see www.tax.org.uk/penalty-reform-for-vat).

The VAT penalty postponement does not affect the introduction of the new penalty regime for Income Tax Self-Assessment (ITSA) which is still due to start in April 2024 for Making Tax Digital (MTD) taxpayers, and April 2025 for all other taxpayers in ITSA.

CIOT, ATT and LITRG continue to engage with HMRC regarding penalty reform and the practical implications of the delay, including the impact on those voluntary VAT registered businesses that will be brought within MTD for the first time from April this year. In this regard, HMRC have confirmed that the default surcharge will continue as normal throughout 2022, without any specific easement or ‘soft landing’ for new MTD businesses. This is because the default surcharge already includes rules which do not punish historically compliant customers with a taxable turnover of £150,000 – these customers will not receive a surcharge for their first two defaults –

and those who have already joined MTD voluntarily have not faced difficulties in meeting their obligations.

Once the new regime is in place from 1 January 2023, HMRC will take a light-touch approach to the initial 2% late payment penalty for taxpayers in the first year of operation under both VAT and ITSA. In the first year, where a taxpayer is doing their best to comply, HMRC will not assess the first penalty at 2% after 15 days, allowing taxpayers 30 days to approach HMRC before HMRC charges a penalty.

The full ministerial statement from the Financial Secretary to the Treasury confirming the postponement is at: tinyurl.com/2p88huxn.

HMRC guidance has been updated and is available at: tinyurl.com/2p9es7fp and tinyurl.com/2n3u7sfs.

CIOT/ATT penalties checklist

We have recently updated the checklist of penalties applying to tax avoidance and offshore tax evasion and non-compliance which can be found on the CIOT and ATT websites (see tinyurl.com/3z925b3t and tinyurl.com/2p9hytsn). The checklist also includes the penalty provisions in relation to overclaimed coronavirus support payments with links to CIOT and ATT guidance. Members may find this checklist useful in ensuring they have considered the penalty implications in relation to both their practice and their clients and therefore meet the professional standards required from them.