# VAT default surcharge: time for change?

Technical Indirect Tax

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## Background

We wrote to HMRC on 18 November 2014 because members had expressed concern about the operation of the default surcharge system and the raising of default surcharge penalties.
In our submission, we suggested that there were several options for change. These included implementing FA 2009 Sch 55/56 penalties for late payments, a change in procedures or possibly applying the VATA 1994 s 69 penalties instead of the s 59 default surcharge penalty.

HMRC responded by agreeing to a meeting with the CIOT to discuss the issues. This took place on 27 February 2015.

At the meeting, HMRC said that there were several drivers for possible change:

- the need for a system better tuned to their digital strategy;
- the move towards a more harmonised single account approach, by which compliance with all tax obligations is viewed as a whole;
- the fact that, like taxpayers and their advisers, HMRC had concerns that the system was not working as they wished –that is to encourage compliance rather than seek revenue from penalties; and
- the suggestion by the Office of Tax Simplification that there should be a post-implementation review of the 2007-09 changes.

The meeting considered the need for measures in the short-term. Both HMRC and the CIOT considered that there was a need for more effective communication. Thus, if a warning given to a taxable person should clearly advise the consequences of non-compliance and seek to engage with them or their agent on the options

available to avoid sanctions.

HMRC are reviewing how they communicate with taxable persons or their agents and have indicated they would be interested in working with us on this issue. Therefore, if you have any input on how to improve communications, in particular to help taxpayers appreciate the risk of default surcharges, email comments to indirecttax@ciot.org.uk.

Other issues discussed included the possibility of allowing a few days' grace, but the concern was that this would shift the deadline a little but fail to resolve the problem. Also raised was the idea of more reliance on interest as a sanction, given it can better reflect the level of risk, delay and amounts involved. It also fits with the single account concept.

Further possibilities included directing payments on account and allowing flexibility for monthly return staggers. However, most of these will be dealt with as part of the current penalties review.