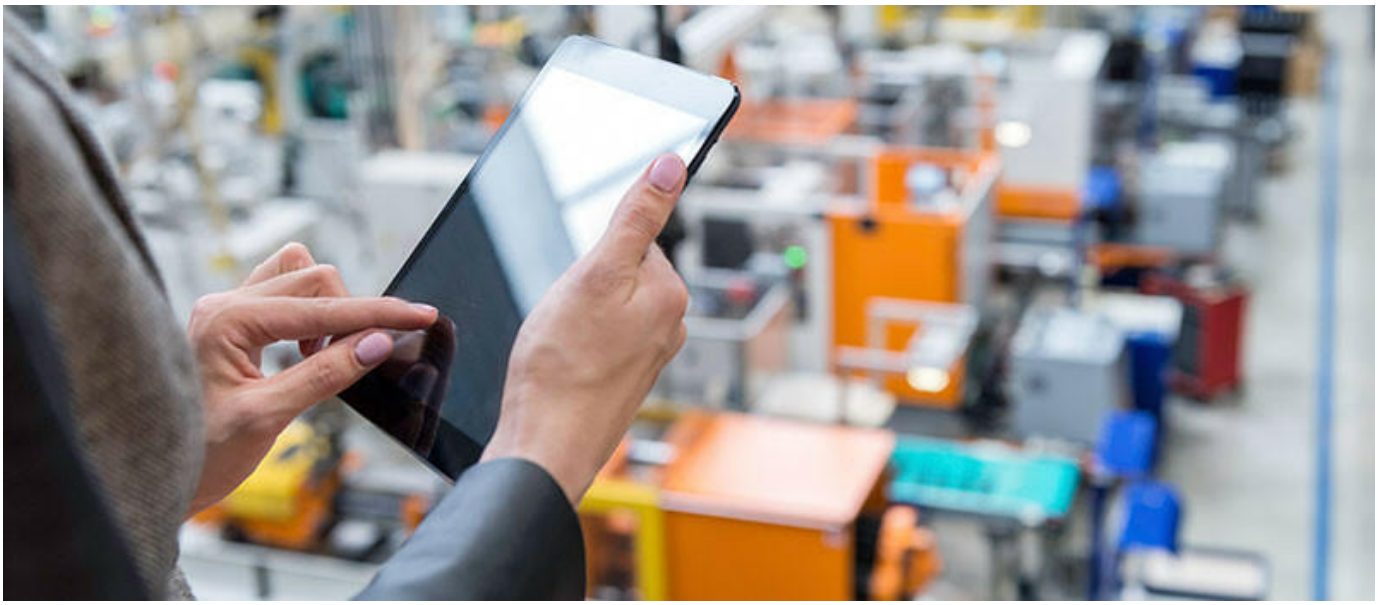
VAT: new penalty system

Indirect Tax



20 April 2023

The penalty system for VAT changed on 1 January 2023. For VAT return periods starting on or after 1 January, new rules apply to late submissions of VAT returns and late payments of VAT, replacing the former default surcharge and default interest system.

The CIOT continues to engage with HMRC on the new penalty system. At a recent Penalty Forum meeting, two points of note arose.

1. Commercial restitution

Interest is generally charged on underpaid taxes in order to represent ‘commercial restitution’; i.e. to compensate the Exchequer for the loss of the use of monies during the period the tax had been unpaid. Under the previous interest system, if output VAT was due from a supplier but the corresponding input VAT had not been recovered by the customer, and also the customer was entitled to fully recover the input VAT, there would be no loss of money to the Exchequer. HMRC could therefore apply an ‘inhibit’ setting on their system so that no interest would be charged to the

supplier.

Under the new system, where interest becomes due from the first day that the unpaid VAT is due, the ability to apply the old inhibit indicator is no longer available. So, interest will still be chargeable even where there is no net loss to the Exchequer. This may particularly impact associated fully taxable businesses or those experiencing delays in a VAT group application.

2. Correspondence with agents

Where an agent is authorised by a business to act on their behalf, the agent will receive exact copies of the penalty notices issued to the business. HMRC have now removed the business's name from the agent letters due to data protection concerns, so only the VAT numbers are supplied. For the time being, the agent will need to identify the business based on their VAT number, either from their client records or at www.gov.uk/check-uk-vat-number. We have been working with HMRC to try to make this interim process easier.

HMRC are working on changes to the agent notification letter so that the client's name (as well as their VAT number) can be included in future communications to agents.

Member feedback

The CIOT would welcome feedback from members on their experiences of how the new penalty system is working in practice, whether it is going smoothly or if they have run into any complications. We would be particularly interested to hear about how the first-year concession is being applied in practice. This means that during the first year, HMRC should not issue a penalty if the VAT due is paid in full within 30 days of the due date. If you have any comments, please email technical@ciot.org.uk with 'penalties' in the title.

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