Finance Bill 2023-24 briefing: Penalties

Management of taxes | Personal tax



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LITRG have published a briefing setting out some concerns relating to the proposed piecemeal introduction of the new late filing and late payment penalty regimes.

Clause 36 introduces a regulation-making power that allows for the new penalty regime on late filing and late payment (FA2021 ss 116-118 and Sch 24-27) to be brought into effect for income tax from 6April 2024 for those volunteering for the Making Tax Digital (MTD) for income tax self-assessment (ITSA) pilot. We have not yet seen the regulations, but HMRC's policy paper and notes accompanying the Finance Bill state that the new regime will be adapted for those joining the pilot, such that it will apply only to annual obligations and only from January 2026.

Furthermore, HMRC updated their Policy Paper on penalties for late submission (tinyurl.com/yadwuc93) to say that introduction of the new penalties would be staged to coincide with being mandated to join MTD. It would therefore come into effect from 6 April 2026 for those with relevant turnover above £50,000, and from 6 April

2027 where turnover exceeds £30,000. There is no clarity when the new penalty regime will come into effect for those outside the scope of MTD – HMRC have only noted that this will be 'after the introduction for MTD taxpayers'.

As a result, LITRG have raised two concerns in our briefing to MPs ahead of the Finance Bill debates.

The first is that, although it is perhaps not unusual to see incentives for joining pilots, we question whether the difference in penalties for non-compliance is fair on those unable to access the MTD pilot, given that there could be significantly different outcomes for people in an otherwise similar position. For example, a taxpayer who volunteers for MTD from April 2024 and misses their annual filing obligation in January 2026 would receive one penalty point but no financial penalty. A £200 financial penalty would only be applied (presumably) if that taxpayer were also late in their filing obligation arising in January 2027. If the same taxpayer does not sign up to MTD in April 2024, the financial penalties for late filing are not only applied sooner (£100 immediately for the missed obligation in January 2026) but they also have the potential to increase to £1,600 if that return is still outstanding 12 months later.

Our second concern is that the piecemeal introduction of the new penalty regime – meaning both the old and new regimes will run concurrently – is likely to result in significant confusion for taxpayers, with HMRC having to produce guidance on both regimes and taxpayers having to understand which they fall under.

LITRG's suggestion is that the government should introduce the new regime for all, at the same time, from 6April 2026. If that is not possible, full clarity over the timing of its rollout should be given as soon as possible, with a clear commitment to minimise the period during which the two regimes run concurrently.

The full LITRG briefing can be found on the LITRG website under Submissions at: www.litrg.org.uk

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