

Interest, Surcharge and Penalties Under Self Assessment (for Individuals and Partnerships)

INTEREST

Under self assessment interest accrues daily on unpaid tax/NIC liability from the payment due date (the 'relevant date') until the amount has been fully settled or otherwise discharged. However, interest only applies to the daily balance outstanding and *is never charged on unpaid interest itself*. Interest applies as follows in respect of the items below:

Balancing Payment: the relevant date is 31 January following the end of the tax year unless that year's tax return was issued after 31 October. In this case the due date for both payment and interest would be 3 months and 7 days from the tax return issue date. Note that an amendment made to a tax return after submission, whether made by the individual or the Revenue, does not change the date for interest purposes. An amendment will therefore automatically attract interest where further unpaid liability for the year arises, for example:

John's 2002/03 tax return was submitted by the fixed filing date of 31 January 2004. On 31 July 2004 he submits an amendment resulting in additional tax and NIC payable of £1000. The tax office processes his amendment on 31 August and John makes a payment of £1000 on 1 October. What is the interest position following the amendment to his return?

Although the additional £1000 is *payable* 30 days from the amendment, the *relevant date* for interest purposes remains 31 January 2004. Interest is therefore charged on £1000 from 1 February to 1 October 2004 and entered onto John's self assessment account when the amendment has been processed by the Revenue.

Payments on Account: the relevant dates for interest are 31 January *before* the end of the tax year concerned and the following 31 July.

Assessments: These are issued by the tax office and usually described as 'Revenue', 'Jeopardy' or 'Discovery' assessments. The relevant date is 31 January after *the end of the tax year to which the assessment refers*. Such assessments issued for earlier years may therefore give rise to substantial retrospective interest charges.

Determinations: The Revenue may impose an estimated calculation of your liability where the year's tax return has not been submitted. Interest applies under the same circumstances as for a 'balancing payment' outlined above.

Penalties and Surcharges: the payment and interest charge date is 30 days from the date the penalty or surcharge notice is issued.

Can I appeal against interest?

There is no right of appeal against interest. However, a formal objection to an interest charge can be made where, for example, the Revenue have used the wrong payment or due date, or where the interest relates to a delay by them in acting on information you have provided. Your objection should be addressed to the Inland Revenue office responsible for your tax affairs (the office that issues your self assessment tax returns and statements of account).

SURCHARGES

Surcharge is a further disincentive for late payment of tax/NIC and is charged in addition to interest. An 'initial' surcharge is imposed on a late **balancing payment** equal to 5% of the amount that was unpaid 28 days after the due date. A 'further' 5% surcharge will then be imposed on any amount still unpaid 6 months after the due date. Surcharge is payable 30 days from the issue of the surcharge notice by the Revenue and interest runs from that date.

Surcharges will only apply to **payments on account** where these remain unpaid on 31 January and 31 July *following* their due date (i.e. payments on account for 31/01/2004 and 31/07/2004 will only attract surcharges if not fully paid at 31/01/2005 and again at 31/07/2005).

Surcharges also apply to unpaid amounts relating to 'Revenue', 'Discovery' or 'Jeopardy' Assessments entered onto your self assessment account. Surcharge is imposed 28 days after the date the tax/NIC is payable as shown in the assessment notice. A further surcharge arises 6 months later if appropriate.

Revenue determinations (see under 'Interest' above) attract surcharges from 28 February *following the end of the tax year* to which the determination relates. These will therefore apply retrospectively in the same way as interest.

Can I appeal against Surcharges?

Yes, on the basis of the facts where the amount of liability on which surcharge is based is wrong, or on the basis of 'reasonable excuse'. Reasonable excuse is broadly defined as circumstances beyond your control which prevent you from making timely payment of your self assessment liability. A fuller explanation of this, together with examples, is given in Inland Revenue leaflet SA/BK7 (accessible on the Revenue's website) and the Business Support Helpline can give you guidance on this topic.

An appeal against surcharge must be made to the Inland Revenue within 30 days of the date of the surcharge notice.

PENALTIES UNDER SELF ASSESSMENT

There are three types of penalty chargeable under self assessment for late submission of a tax return:

Fixed Automatic Penalties: An initial penalty of £100 is imposed for a late individual tax return submitted after the fixed filing date. The filing date is usually 31 January following the end of the tax year unless the Return was issued after 31 October in which case it is three months and seven days after the issue date.

A second £100 penalty is applied if the return is still outstanding 6 months after the filing date. However, a fixed automatic penalty cannot exceed the amount of liability itself for that year which was unpaid on the filing date. If this is below £100, the penalty should be 'capped' to that amount. It may be necessary to appeal to the Inland Revenue where this applies as their computer system has previously failed to apply this restriction automatically.

A late Partnership tax return results in a £100 penalty levied on *each* partner. This is not tax-geared in the same way as penalties for individual returns and the penalties will stand even where a partner has no individual tax or NIC liability for the year.

Appeal can be made against fixed automatic penalties (for both individual and partnership returns) on the basis of 'reasonable excuse' (see definition under 'Can I appeal against Surcharges' above) and must be made within 30 days of the issue of the penalty notice.

Daily Penalties: Where a tax return has not been submitted by the filing date the Revenue can ask the Commissioners for Inland Revenue to impose daily penalties of up to £60 for each day the return remains outstanding. In the case of a late Partnership return, the penalty applies to each partner. The Revenue are seeking daily penalties in an increasing number of cases. These were originally envisaged only where, for example, several years' returns are outstanding or where large amounts of unpaid liability are believed to be due. **Appeals** against Daily Penalties are subject to the same criteria as fixed automatic penalties as outlined above. Daily penalties are not "tax geared" and so will not be reduced once imposed even where there is no liability for the year concerned.

Further Tax Geared Penalty for Individuals: Where an individual tax return remains outstanding 12 months after the filing date, the Revenue can impose a further penalty equal to a maximum of 100% of the liability unpaid at the return filing date. However, such a further penalty is not automatically raised and usually only sought as part of a settlement figure following an Inland Revenue enquiry (investigation). This type of penalty is not imposed in respect of a late partnership tax return.

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