

Interest Harmonisation and Sanctions for Late Payment: HMRC Consultation

Indirect Tax

Management of taxes

01 February 2018

HMRC are consulting on proposals to harmonise interest rates and rules and introduce a standardised approach to late payment penalties across taxes.

The consultation is seeking views on:

- aligning late paid and repayment interest for VAT with similar rules for Income Tax and Corporation Tax which will enable a common set of rules to apply across these regimes.
- introducing a new model for charging penalties on late payments to help address the current diverse late payment penalty models, promote positive behavioural change, and facilitate the opportunity to apply this same model across other regimes at some point in the future.

This is part of HMRC's wider work to simplify and harmonise tax administration processes across taxes, taking into account the introduction of Making Tax Digital for Business

HMRC has set out three broad principles for the design of a good penalty regime; that it should be:

- Fair
- Effective in supporting good compliance
- Simple to understand and operate

Interest harmonisation

HMRC's intention around interest harmonisation is to smooth out the current anomalies across the taxes, but they recognise there will be winners and losers, particularly in relation to VAT.

In summary, the changes proposed to the interest rules for late payment of VAT are that the default surcharge, statutory interest and repayment supplement rules will be replaced, as follows:

1. Interest on late payment of VAT returns – to follow the basic Finance Act 2009 rules, namely, interest would be charged on any amount remaining outstanding from the date the payment for the return was due until it was paid.
2. VAT assessments and amendments – to adopt the existing rules in Finance Act 2009 meaning that interest would be charged as if the return had been correctly made on the due date until the payment for the amendment is received. For any assessments or amendments resulting in amounts due to taxpayers, broadly, interest would be paid from the date of the payment of the amount that is being repaid to the date the repayment is made.
3. Interest on delayed payment by HMRC of a repayment return – the current 'repayment supplement' is to be replaced by the basic Finance Act 2009 repayment interest rules which HMRC believe will provide a more proportionate response to a delay and, unlike the current repayment supplement, reflect the length of time that repayment has taken to be made. The current 30 day rule would not be retained. Various anomalies in the current regime would also be removed.

Late payment penalties

The intention behind the proposals for late payment penalties is to encourage timely payment of tax, or agreement of time to pay (TTP), and the removal of the penalty 'cliff edges' which exist in some current regimes. Current rules on appealing penalties and reasonable excuse will be retained.

HMRC are proposing that where tax is not paid by the due date and there is no reasonable excuse, a penalty payment of 5% of the tax unpaid at the due date would become payable after 30 days. However, no penalty would be charged if payment of the unpaid tax was made or a TTP agreed within 15 days from the due date and the penalty would be halved if payment was made or a TTP agreed from day 16 to day 30.

The consultation gives the following example where £3,000 is outstanding at the due date:

Paid or TTP in first 15 days	No penalty
Paid or TTP from day 16-30	£75 penalty (5% x 50%)
Not paid or TTP at day 31	£150 penalty (5%)

If the tax remains unpaid after day 30 an additional penalty would then be charged from 30 days from the proper due date until full payment is made, and would be calculated in a similar way to interest.

Late payment interest would be payable in addition to any late payment penalty.

There would be special rules for situations such as where an HMRC determination is made where a return is not provided, but subsequently a return is made which displaces the determination.

The late payment penalties would apply to accelerated payment notices. However, HMRC have said that there is no intention to double count penalties. It is unclear whether this means the current APN penalty regime in Finance Act 2014 will be replaced, or not.

The consultation runs until 2 March 2017 and can be found on the [GOV.UK website](#).

Please send any comments you would like us to incorporate into the CIOT's response to technical@ciot.org.uk.