



TOUGHER PENALTIES ON LATE TAX RETURNS

The 31 January deadline for filing tax returns online is fast approaching and HMRC are going to be much tougher this year on those whose returns are submitted late.

In previous years no penalty was due for a late return provided all the tax due had been paid by 31 January, but the rules have changed and penalties are due if a return is filed late whether or not any tax remains payable.

If you file your return at one minute past midnight on the night of 31 January you will incur a penalty of £100.

If your return is more than three months late then for every day after 1 May that the delay continues there will be an automatic £10 penalty, up to a maximum of £900 for returns that are still not received by 29 July. Two days later on 31 July, in addition to the £1,000 charged as described above, there will be a further penalty of the greater of £300 or 5% of the tax liability shown on the return.

After 12 months a further 5% or £300 becomes payable but at this stage HMRC are likely to be considering more serious penalties, such as those for deliberately withholding information from them. Depending on the circumstances this could lead to a further penalty of up to 100% of the tax due.

Although the Tax Tribunal has criticised them strongly for it, where penalties are clocking up on a daily basis, HMRC wait until a significant penalty has been incurred before sending a demand. In a case where the £100 penalty has already been charged, they may well wait for the whole six months before charging the second penalty so they can collect the full £900, rather than imposing a penalty at an earlier date which might act as a reminder to get the return in and reduce the penalties due.

In theory no penalty is payable if you have a “reasonable excuse” for filing late but HMRC have a very narrow interpretation of what constitutes a “reasonable excuse”. If they do charge a penalty the cost of appealing against it and succeeding in establishing a reasonable excuse is likely to be more than the penalty itself – a fact not lost on HMRC.

The penalty regime is getting considerably more severe and the only safe way to deal with it is to submit your return before 31 January 2012.

If you would like advice, please contact James Bailey at Robinson Reed Layton on **01872 276116**.