M46 PENALTIES FOR NON-SUBMISSION OF RETURNS (sections 68 and 190)

For many years, the Director has had the power to impose a financial penalty on a taxpayer who does not submit a tax return when required to do so within the relevant time limits. The maximum penalty provided for by the Law is £300 with a continuing penalty of a maximum of £50 for each day that the return remains outstanding after the initial penalty has been imposed.

Until 2012, this process required manual handling, meaning the potential cases for penalties must be identified by officers and referred to the Director accordingly. Thus it was a relatively arbitrary and resource intensive process.

From 2012, in respect of tax returns requiring income details for calendar years 2011 onwards, the process will be automated, meaning that the Income Tax Office computer system will identify taxpayers whose returns have not been submitted by the relevant date and a penalty will be imposed in all such cases. As this is a significant change affecting all taxpayers, the way in which the process will work, and the relevant time limits, are set out at the end of this Statement.

Taxpayers should also be aware that the Director now has the power to request a prosecution of a person who does not submit a tax return, and this could result in a fine and/or imprisonment. Clearly, however, the power will be used proportionately, for example where tax returns are outstanding for a number of years.

In parallel with the automated penalty system, the Director is also considering ways in which the process of assessing taxpayers' liabilities can be simplified, for example:

- by relieving those who have relatively simple tax affairs (e.g. employment income subject to ETI deductions only) from the need to complete a tax return on an annual basis, and

- by increasing on-line facilities, including enhancing the potential for automatic assessing for those who submit tax returns on-line.

The calendar for the issue and completion of tax returns, and the imposition of penalties, will generally be as follows (and it should be noted that this process applies to both individuals and companies):

Mid-January	Tax returns relating to income of the previous year become available for completion. Since January 2013 the default option for filing by individuals has been on-line (go to www.eforms.gov.gg), although paper forms will be available from various collection points or by printing from the Tax Office website. A notice will be placed in *La Gazette Officielle*, requiring all relevant persons to complete their tax return. For companies, on-line filing will be mandatory.
30 November	Deadline for completion of returns.
December	Reminder letter issued to all taxpayers who have not completed their returns.

January following	Penalty imposed in all cases where the return has still not been received. There will also be a continuing penalty for each further day that the return remains outstanding. The legislation provides, however, that the maximum penalty shall not exceed £50 if the taxpayer proves that they would not have been liable to pay any income tax if the income tax return had in fact been submitted. This does not apply to companies whose income is taxed at 0%, unless they actually have no taxable income or profits.

To be valid, a return has to be fully completed, which means a return where all the relevant sections have been completed and, where relevant, supporting documentation (such as accounts and income tax computations) and information required has been supplied. A return with sections containing estimates and entries such as "accounts to follow" or "to be advised" would not be considered to be a fully completed return and the return would only be considered to be fully complete once the additional information has been provided.

A company tax return should be submitted with, where appropriate:

- the company's accounts and tax computations,
- a Statement of Shareholders' Assessable Income for each beneficial member,
- a distribution report for the year,
- a reconciliation between the Statement of Shareholder's Assessable Income, the distribution return and the company's accounts and income tax computations, and
- a reconciliation of the wages/salaries shown in the accounts to the company's ETI return (apart from where the only difference relates to social security contributions).

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