

COVID-19

MANAGING YOUR RELATIONSHIP WITH HMRC (BASIC RULES) / BRIEFING NOTE

We anticipate and hope that HMRC will apply a more relaxed approach in the way it interacts with ordinarily complaint businesses who are facing difficulties as a result of COVID-19. However, an understanding of the basic rules around managing disputes with HMRC will be helpful when navigating the ramifications of COVID-19.

Should businesses tell HMRC about problems?

It is helpful to communicate with HMRC in advance when a business is anticipating a problem meeting a deadline. This could be a payment which can't be met, a return that is going to be late or you require further to time to deal with an existing enquiry. We are expecting HMRC's resources to be stretched so in the event it is not possible to speak to HMRC, document the instances you have tried to contact it and consider writing a letter to discuss the issue.

I have received a penalty, assessment or notice from HMRC - what should I do?

The first thing you should do is ensure that this is appealed within the time limit. The deadline is often 30 days but the guidance accompanying the letter will make this clear. Try not to panic - penalties are often automated, but we anticipate HMRC will be more sympathetic to taxpayer defaults in this climate.

How do I appeal?

An appeal should be made in writing stating what you are appealing and why. It does not need to be detailed and can be a very short letter.

On what basis can I appeal?

There can be a variety of reasons why a taxpayer might disagree with an HMRC decision. However, in the context of COVID-19, we anticipate the most typical reason for appeal will be 'reasonable excuse'.

What does 'reasonable excuse' mean?

Reasonable excuse is a term provided in most penalty provisions and broadly means that, considering the circumstances, a taxpayer is not at fault for the failure resulting in a penalty.

We would strongly expect a global pandemic with the associated government measures to fall squarely within this category.

Ordinarily being unable to meet your HMRC debt is not a reasonable excuse but given the circumstances leading to the current economic situation, we are in very different times. While we do not think it is necessary to provide a detailed letter at this stage, given management resources are likely to be stretched, it would be helpful to provide some narrative around reasonable excuse.

I've missed the deadline to appeal - what should I do?

HMRC is able to accept late appeals. Simply follow the above steps and indicate you wish to make a late appeal. Late appeals are largely at the discretion of HMRC, although there is some scope to appeal to the First Tier Tribunal against an HMRC decision not to allow a late appeal.

Beyond that, the only route to challenge HMRC's opinion is judicial review, but given the extenuating circumstances faced by businesses we hope this won't be necessary.

What if I still don't agree with HMRC's decision?

If you have appealed and HMRC doesn't agree, in many instances you can request an internal review. This will mean that a separate part of HMRC (outside the existing team) will review the case file and decide whether it agrees with the current outcome.

This enables taxpayers to have their case heard by another party without the costs of going to Tribunal.

One further route is to use Alternative Dispute Resolution (ADR).

To summarise, wherever possible try and stay on top of tax compliance and keep HMRC informed of any expected delays or defaults. This will make conversations about any assistance you may require much easier to manage later. Hopefully, this will also reduce the need for HMRC intervention which invariably is more time consuming to manage than if a taxpayer takes control of the situation themselves.