

Status: Point in time view as at 01/07/2008.

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SCHEDULES

SCHEDULE 24

PENALTIES FOR ERRORS

Modifications etc. (not altering text)

- C1** Sch. 24 applied (N.I.) (1.4.2008) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2000 \(S.R. 2000/121\)](#), **regs. 7(2A)(b)**, 26(4) (as amended by [S.R. 2008/129](#), **regs. 1**, 3(a), 4)
- C1** Sch. 24 applied (6.4.2008) by [The Social Security \(Contributions\) Regulations 2001 \(S.I. 2001/1004\)](#), Sch. 4 paras. 22(7), **31(8)** (as amended by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/636\)](#), **regs. 1(3)(b)**, 7)

PART 3

PROCEDURE

Assessment

- 13 (1) Where P becomes liable for a penalty under paragraph 1 or 2 HMRC shall—
- (a) assess the penalty,
 - (b) notify P, and
 - (c) state in the notice a tax period in respect of which the penalty is assessed.
- (2) An assessment—
- (a) shall be treated for procedural purposes in the same way as an assessment to tax (except in respect of a matter expressly provided for by this Act),
 - (b) may be enforced as if it were an assessment to tax, and
 - (c) may be combined with an assessment to tax.
- (3) An assessment of a penalty under paragraph 1 must be made within the period of 12 months beginning with—
- (a) the end of the appeal period for the decision correcting the inaccuracy, or
 - (b) if there is no assessment within paragraph (a), the date on which the inaccuracy is corrected.
- (4) An assessment of a penalty under paragraph 2 must be made within the period of 12 months beginning with the end of the appeal period for the assessment of tax which corrected the understatement.
- (5) For the purpose of sub-paragraphs (3) and (4) a reference to an appeal period is a reference to the period during which—
- (a) an appeal could be brought, or
 - (b) an appeal that has been brought has not been determined or withdrawn.

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- (6) Subject to sub-paragraphs (3) and (4), a supplementary assessment may be made in respect of a penalty if an earlier assessment operated by reference to an underestimate of potential lost revenue.

Commencement Information

- II** Sch. 24 para. 13 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

Suspension

- 14 (1) HMRC may suspend all or part of a penalty for a careless inaccuracy under paragraph 1 by notice in writing to P.
- (2) A notice must specify—
- (a) what part of the penalty is to be suspended,
 - (b) a period of suspension not exceeding two years, and
 - (c) conditions of suspension to be complied with by P.
- (3) HMRC may suspend all or part of a penalty only if compliance with a condition of suspension would help P to avoid becoming liable to further penalties under paragraph 1 for careless inaccuracy.
- (4) A condition of suspension may specify—
- (a) action to be taken, and
 - (b) a period within which it must be taken.
- (5) On the expiry of the period of suspension—
- (a) if P satisfies HMRC that the conditions of suspension have been complied with, the suspended penalty or part is cancelled, and
 - (b) otherwise, the suspended penalty or part becomes payable.
- (6) If, during the period of suspension of all or part of a penalty under paragraph 1, P becomes liable for another penalty under that paragraph, the suspended penalty or part becomes payable.

Commencement Information

- II** Sch. 24 para. 14 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

Appeal

- 15 (1) P may appeal against a decision of HMRC that a penalty is payable by P.
- (2) P may appeal against a decision of HMRC as to the amount of a penalty payable by P.
- (3) P may appeal against a decision of HMRC not to suspend a penalty payable by P.
- (4) P may appeal against a decision of HMRC setting conditions of suspension of a penalty payable by P.

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- I3** Sch. 24 para. 15 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

- 16 An appeal may be brought to—
- (a) the General Commissioners, in so far as the penalty relates to direct tax, or
 - (b) a VAT and duties tribunal, in so far as the penalty relates to VAT.

Commencement Information

- I4** Sch. 24 para. 16 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

- 17 (1) On an appeal under paragraph 15(1) the appellate tribunal may affirm or cancel HMRC's decision.
- (2) On an appeal under paragraph 15(2) the appellate tribunal may—
- (a) affirm HMRC's decision, or
 - (b) substitute for HMRC's decision another decision that HMRC had power to make.
- (3) If the appellate tribunal substitutes its decision for HMRC's, the appellate tribunal may rely on paragraph 11—
- (a) to the same extent as HMRC (which may mean applying the same percentage reduction as HMRC to a different starting point), or
 - (b) to a different extent, but only if the appellate tribunal thinks that HMRC's decision in respect of the application of paragraph 11 was flawed.
- (4) On an appeal under paragraph 15(3)—
- (a) the appellate tribunal may order HMRC to suspend the penalty only if it thinks that HMRC's decision not to suspend was flawed, and
 - (b) if the appellate tribunal orders HMRC to suspend the penalty—
 - (i) P may appeal to the appellate tribunal against a provision of the notice of suspension, and
 - (ii) the appellate tribunal may order HMRC to amend the notice.
- (5) On an appeal under paragraph 15(4) the appellate tribunal—
- (a) may affirm the conditions of suspension, or
 - (b) may vary the conditions of suspension, but only if the appellate tribunal thinks that HMRC's decision in respect of the conditions was flawed.
- (6) In sub-paragraphs (3)(b), (4)(a) and (5)(b) “flawed” means flawed when considered in the light of the principles applicable in proceedings for judicial review.
- (7) Paragraph 14 (see in particular paragraph 14(3)) is subject to the possibility of an order under this paragraph.

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- I5** Sch. 24 para. 17 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

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