

Academic Year 2009/2010

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Taxation

Northern Ireland



CHAPTER 1: Administration and Procedures

This chapter will provide students with a broad understanding of the UK and Northern Ireland tax system. Throughout this chapter the focus will be on the following syllabus areas:

Syllabus Topic
Overview of the Operation of Revenue Authorities and Sources of Tax Legislation:
<ul style="list-style-type: none"> ○ Overview of tax legislation, including Taxes Acts, Taxes Management Act, Budget Day, Finance Bill and Finance Acts
<ul style="list-style-type: none"> ○ Role of HM Revenue & Customs in particular General and Special Commissioners, HM Inspector of Taxes and Collector of Taxes
Self Assessment System:
<ul style="list-style-type: none"> ○ Definition of chargeable person for the purposes of submitting income tax returns
<ul style="list-style-type: none"> ○ Obligation to submit personal tax returns
<ul style="list-style-type: none"> ○ Due dates for the submission of returns
<ul style="list-style-type: none"> ○ Consequences for the late submission of income tax returns
Due Date for Payment of Taxes:
<ul style="list-style-type: none"> ○ Calculation of tax due, due dates for payment and payments on account
<ul style="list-style-type: none"> ○ Consequences of failing to adhere to payment dates for tax due
<ul style="list-style-type: none"> ○ Completion and submission of returns online
Procedures for Raising Assessment and Collection of Taxes
<ul style="list-style-type: none"> ○ Procedures for the raising of assessments
<ul style="list-style-type: none"> ○ Collection of taxes
Appeal Procedures
<ul style="list-style-type: none"> ○ Appeal procedures up to hearings before the General or Special Commissioners
Ethical Issues and Responsibilities Accruing
<ul style="list-style-type: none"> ○ Relevant professional ethical issues
<ul style="list-style-type: none"> ○ Communication with relevant parties in writing in a professional manner

UK Tax System

Central Government raise revenue through a wide range of taxes. The Treasury formally imposes and collects taxation. The management of the Treasury is the responsibility of the Chancellor of the Exchequer. Her Majesty's Revenue and Customs (HMRC) carries out the administration function for the collection of tax.

HMRC staff are referred to as "Officers of the Revenue and Customs". They are responsible for supervising the self assessment system and agreeing tax liabilities.

General Commissioners are appointed by the Lord Chancellor to hear appeals against decision which have been made by HMRC. Each division / local area is allocated a General Commissioner.

Special Commissions, also appointed by the Lord Chancellor, hear the more complex appeals. Unlike General Commissioners, these officers are full time, paid professionals.

A summary of the main taxes is shown below, together with the statute law governing the tax:

Tax	Type	Tax Payer	Statute Law
Income Tax	Direct Tax	Individuals Partnerships	Income and Corporation Taxes Act 1988; Income Tax (Earnings and Pensions) Act 2003; Income Tax (Trading and Other Income) Act 2005; Income Tax Act 2007; Capital Allowances Act 2001
Corporation Tax	Direct Tax	Companies	Income and Corporation Taxes Act 1988; Capital Allowances Act 2001

			Taxation of Chargeable Gains Act 1992
Capital Gains Tax	Direct Tax	Individuals Partnerships Companies	Taxation of Chargeable Gains Act 1992
Inheritance Tax	Direct Tax	Individuals	Inheritance Tax Act 1984
National Insurance Contributions	Direct Tax	Individuals	Social Security Contributions & Benefits Act 1992
Value Added Tax	Indirect Tax i.e. it is charged on the final consumer	Businesses	Value Added Tax Act 1994

These statutes are updated every year by the Annual Finance Act. The Finance Act incorporate the proposals set out in the Budget. These statutes set out the general rules for the application of each tax; however there is no single source of UK tax law. Therefore HMRC also provide the following guidance on the application of statutes:

- Statements of Practice – set out how the law will be applied in practice.
- Extra-statutory concessions – set out circumstances in which HMRC will not apply the law strictly, as it would create hardship or be unfair.
- Leaflets – Aimed to provide the general public with a non-technical explanation of how the tax system works.
- Business Economic notes – notes on a particular industry which are used by HMRC and are published for general knowledge.
- Internal guidance – a series of internal manuals are used by HMRC staff for guidance.

- Tax bulletins and press releases – these are issued throughout the year and a range of issues and offer HMRC's opinion on certain issues.

On occasions where tax payers and tax authorities cannot agree on the interpretation of the tax Acts, the case is brought to court. The outcome of the case forms an important point of law and becomes a precedent which may be referred to in subsequent cases.

Self Assessment System

The self assessment system places reliance on the taxpayer to file a tax return and to pay any tax due. The system is enforced by penalties and interest charges for failure to submit returns within the relevant period.

Many taxpayers earn income from a limited number of sources and the income can all be taxed at source i.e. through PAYE system or by a bank deducting tax at source on interest. These taxpayers do not have to complete tax returns as the tax has already been collected. Generally, individuals who are self employed, company directors or who have complicated tax affairs, are required to complete a tax return.

The tax return is prepared by a taxpayer or their agent, and then is submitted to HMRC for checking along with any outstanding liability. Alternatively, taxpayers can choose not to perform the calculation and HMRC can advise them of their tax liability.

Once the taxpayer is within the self assessment system, they will be required to submit a tax return each year until HMRC decide that their tax affairs are straightforward and that a tax return is not required.

Taxpayers whose tax affairs have become more complicated and believe they may have an additional tax liability are obliged to notify HMRC within six months of the end of the tax year. An individual is not chargeable if all of the following are satisfied:

- All income is taken into account under PAYE
- The individual does not have any capital gains
- The individual is not a higher rate tax payer
- Income tax has been deducted at source

Tax Returns

A taxpayer is issued with a formal notice requesting them to prepare and submit a tax return to HMRC. The tax return is posted to relevant taxpayers and comprises a six page form. It may contain supplementary pages for particular sources of income if HMRC believe they are relevant to the tax payer i.e. income from self employment or property etc. Guidance notes to completion accompany the tax return. Tax returns can be completed and filed electronically; this process is known as “Filing by Internet” (FBI). Taxpayers with simple tax returns may be asked to submit a short return of four pages. The short return must be submitted in paper format.

Partnerships must submit a separate return containing a partnership statement, showing all sources of income and expenses in the year. Each partner must include their share of the partnership profits in their personal tax return.

Tax returns must be completed in full and cannot be submitted with outstanding information.

Due Date for Submission of Tax Returns

Tax returns must be submitted by:

- 31 October following the relevant tax year, if submitted in paper format; or,
- 31 January following the relevant tax year, if submitted in electronic format.

There are two exceptions to this:

- If HMRC did not issue notice to file a tax return until after 31 July, the latest filing date for paper returns is three months from the date of the notice. The date for electronic filing remains 31 January.

- If the notice to file a tax return was not issued until after 31 October, the latest filing date is three months from the date of the notice.

Penalties are imposed if tax returns are submitted after the “filing date”, which is generally 31 January. These penalties are detailed below:

Tax Return Submitted	Penalty
Up to 6 months late	£100
More than 6 months late but less than 12 months late	£200
More than 12 months late	£200 + 100% of the tax liability

It may also lead to the taxpayer becoming liable to interest and surcharges on overdue tax.

HMRC can correct obvious errors in a tax return within nine months if they believe it to be incorrect. If the taxpayer does not agree with HMRC's decision, they can object within 30 days and an enquiry into the return will occur.

A taxpayer may correct their return or tax liability within twelve months of filing the return. If the individual believes that there is an error in the tax return which has significantly overstated the tax liability, he can submit an error or mistake claim within five years after the filing date.

Due Date for Payment of Tax Liability

The tax due in relation to self assessment is payable in the form of payments on account and a final balancing payment. The payments are due as follows:

Date	Payment
31 January in the tax year	1 st payment on account – 50% of previous year's liability

31 July following the tax year	2 nd payment on account – 50% of previous year's liability
31 January following the tax year	Final payment to settle any remaining liability

Payments on account (POA) are not required if the liability is below £500. Also, payments on account are not required if 80% or more of the liability for the previous year was paid through PAYE or otherwise deducted at source.

POAs are usually fixed on the previous year's liability, however if the tax payer believes their liability will be lower this year they can claim to have the POA reduced.

Interest and Surcharges on Late Payment

Interest may be charged on late payments of POAs and balancing payments. The interest rate will be given in the examination and it runs from due date i.e. 31 January to the day before the actual date of payment.

Surcharges are imposed on the late payment of tax and apply to:

- Balancing payments
- Tax due on an amended tax return
- Tax due on a discovery assessment by HMRC

The surcharge percentages are:

Paid	Surcharge
Within 28 days of due date	None
More than 28 days but less than 6 months after the due date	5%
More than 6 months after the due date	10%

Enquiries

HMRC officers are empowered to enquire into any tax return. The most common reason for an enquiry is that HMRC suspect that something is wrong with the return submitted. However, officers can also select cases at random and HMRC are not required to justify the reason for the enquiry.

The window of opportunity for HMRC to commence an enquiry is limited to 12 months from the date the return is filed. If the return was filed late or an amended return was submitted, the deadline is extended until the quarter day following the first anniversary of the actual filing date. Quarter days are 31 January, 30 April, 31 July & 31 October.

Discovery Assessments

HMRC may raise a discovery assessment if it is discovered that full disclosure not made on a tax return and as a result tax has been lost. The time limits for raising discovery assessments are:

- If due to fraud or negligence - 31 January in the twenty first tax year following the year to which the assessment relates.
- If due to incomplete disclosure without fraud or negligence - 31 January in the sixth tax year following the year to which the assessment relates.

Determination

A HMRC officer can make a determination of tax due if an individual ignores the notice to submit a tax return. The officer can determine the tax liability to the best of their information and belief within five years of the due date. A determination cannot be appealed or postponed. It can only be displaced if the individual submits their tax return.

Records

Taxpayers are required to keep proper records so they can make a correct return. Taxpayers in business or who let property must keep records for five years of the date the return was made. In other cases, the records must be kept for 12 months of the return date. So for 2009/10 the limits are:

- If individual in business or property rental – 31 January 2016
- Otherwise – 31 January 2011

Appeals

Under self assessment, a taxpayer has the right to appeal HMRC decisions. Appeals are normally made against a discovery assessment or against an amendment by HMRC to an assessment. Appeals must be in writing and within 30 days of the HMRC decision. The taxpayer can apply to postpone payment of all or part of the tax assessed, pending settlement of the appeal.

Most appeals are settled by informal discussion between HMRC and the taxpayer, however appeals can be referred to the General Commissioners or the Special Commissioners. The appeal commissioner may confirm, reduce or increase the assessment. The taxpayer or HMRC can take their appeal further, first to the High Court, then Court of Appeal and finally House of Lords.

Chapter Summary

- HMRC carries out the collection of taxes.
- There is no single source of UK tax law; however statutes, statements of practice, extra-statutory concessions, leaflets, business economic notes, internal guidance and tax bulletins are all used to impose taxes.
- There are two types of taxes: direct and indirect.
- Direct taxes are charged on income, profits and other gains; they include income tax, capital gains tax, corporation tax etc.
- Indirect taxes are taxed on spending; they include VAT and stamp duty.
- The tax year runs from 6 April to 5 April the following year.
- Self assessment relies on taxpayers to submit accurate and complete tax returns.
- HMRC check the tax liability submitted through self assessment.
- Paper tax return must be submitted by 31 October following the tax year; the electronic returns are due on 31 January following the tax year.
- Payments on account are due on 31 January in the tax year, 31 July in the tax year and the balancing payment is due 31 January following the tax year.
- Penalties are payable on late submission of tax returns, interest and surcharges may be imposed on the late payment of income tax.
- HMRC can make enquiries, discovery assessment and determinations on a taxpayer.
- All taxpayers have the right of appeal.

Question 1:

You have been asked to draft a memo to a new client outlining the Key Self Assessment tax return filing and payment deadlines together with the associated late return and late payments penalties that may be levied.