

DEALING WITH INCOME TAX DEBT

FACTSHEET 7 (2019)

Taxes are dealt with and collected by Her Majesty's Revenue and Customs (HMRC). There are different types of tax, which include those most commonly used which are listed below:

- **Income tax.** This is a tax you pay on income you receive.
- **National Insurance contributions (NICs).** These are paid to build up your entitlement to certain state benefits.
- **Pay As You Earn (PAYE).** HMRC uses this system to collect income tax and NICs from someone's income at source if they work for an employer. If people work for you, you will have to take income tax and NICs from their earnings at source and pay this to HMRC.
- **Value Added Tax (VAT).** This is a tax that is charged on most goods and services which certain businesses provide.

Tax debts should be treated as priority debts. This is because HMRC have strong powers to collect the money from you.

This factsheet explains what you can do if you cannot pay your income tax bill. For information on the other types of tax **contact us for advice.**

How does HMRC work out how much income tax I owe?

The tax year runs from **6 April** in one year to **5 April** the following year. You need to send HMRC an income tax return for each tax year.

This gives details of your circumstances and the money that has come into, and gone out of, your business.

The deadline for sending in your income tax return depends on how you send it in. If you send it in by post, the deadline is usually **31 October** each year. If you send in your income tax return over the internet, the deadline is usually **31 January** each year.

Your return enables HMRC to work out how much tax you need to pay.

You should put aside a regular amount each month to help pay your income tax bill when HMRC calculates it. To help you work out what you should put aside, you can complete a business and household budget sheet. If you need assistance with this **contact us for advice.**

If you have sent in your return but you think you made a mistake on it, or missed some information off the return, you may still be able to sort it out. You usually have **12 months** from the end of the tax year concerned to correct the mistake. **Contact us for advice.**

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How should I deal with an income tax demand?

Your income tax bill for a particular tax year has to be paid by **31 January** following the end of that tax year. A demand is sent when you do not pay your income tax on time.

The demand will show the amount of income tax HMRC state you owe, plus any interest and penalties. Whenever you receive an income tax demand, check whether it can be reduced or challenged.

Ask yourself the following questions:

- Did you send in your income tax return? If not, the income tax demand will be for an estimated amount. This is often called a 'determination'. The only way you will be able to challenge it will be to make sure that you send in your income tax return with the correct figures. See the next section 'Returns' for more information.
- If you did send in the income tax return that the bill is based on, did you complete it correctly? For example, did you leave something out that you now realise you should have included? Or did you include a wrong amount and now need to correct it? You may still have time to correct any mistakes. **Contact us for advice.**
- Did you make sure that you made full use of tax allowances to reduce your tax bill? If you are not sure what tax allowances you can get, **contact us for advice** or contact Advice NI tax and benefits service on **0800 988 2377**.
- Have any interest and penalties been correctly charged? See the later section 'Interest and penalties' for more information.
- Is an appeal possible? Appealing an income tax decision by HMRC can be complicated. For more information about income tax appeals go to the government website www.gov.uk and search for 'tax appeals'. Alternatively, **contact us for advice.**
- Have HMRC staff correctly processed all payments and information?
- Has HMRC made an error in sending the income tax demand.

Do not ignore a tax demand. If you do, legal action could be taken against you. This could put your business and any assets that you own at risk.

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If there are mistakes in your tax return, the amount HMRC calculates you owe could be wrong. Also, some types of errors in your tax return can lead to penalties being added to your debt.

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Contact us for advice.

Returns

HMRC will not agree to any payment arrangements or negotiations unless you have sent in your income tax return. You must do this as soon as possible. You will also be out of time to send in your return four years after the date when it should have originally been sent in.

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If you have an income tax bill for an estimated amount, the rules about how long you have to send in your return are different. You have:

- **3 years** from the original deadline for sending in your tax return; **or**
- **12 months** from the date of the determination;

to send it in (whichever is later). **Contact us for advice.** If you are outside these timescales, you may be able to claim 'special relief'. See the next section for more information.

If you are having difficulty with your tax return and are on a low income, you may be able to get help from Advice NI Tax and Benefits service. See 'Useful contacts' at the end of this factsheet.

Special Relief

If you have missed the deadline for sending in your tax return to replace an estimated income tax bill, you may be able to claim 'special relief'.

There is no time limit for claiming special relief. 'Special relief' is a scheme that was introduced on **1 Apr 2011**. It allows HMRC to choose not to pursue their legal right to recover an estimated income tax debt. HMRC will consider giving special relief if:

- they believe it would be clearly unreasonable to recover the estimated debt;
- your income tax affairs are up to date, or you have made arrangements to bring them up to date; **and**
- you have not previously made a similar request to HMRC.

Send your request to the office recovering the debt and explain your reasons fully. HMRC should tell you what information is required to make a decision about your claim.

If your request for special relief is successful, you should be able to give HMRC information about your income and outgoings for the tax year in question. You will be expected to pay any remaining debt that is due in full. If your request is refused, you can appeal. See the earlier section 'How should I deal with an income tax demand?' for details of how to find out more information about appeals.

The rules about special relief are complicated. **Contact us for advice.**

HMRC Delay

You may be able to ask for your income tax arrears to be written off if HMRC has not made prompt and correct use of the information you have given them. This request can be made under 'Extra Statutory Concession A19'. To use Extra Statutory Concession A19, you usually need to show that you reasonably believed your income tax affairs were in order and:

- you were told about the arrears more than **12 months** after the end of the tax year in which HMRC received the information from you; **or**

Ask HMRC to stop further action against you whilst they consider your request for special relief. However, HMRC does not have to agree to do this.

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- HMRC told you about an ‘over-repayment’ after the end of the tax year following the year in which the repayment was made to you. An over-repayment is where HMRC has previously refunded you too much tax.

In very limited circumstances, arrears of tax that you were told about **12 months** or less after the end of the tax year concerned can be written off by HMRC. This may be done if HMRC:

- failed more than once to make correct use of information you gave them about one of your sources of income; **and**
- allowed the arrears to build up over two consecutive whole tax years by failing to make correct and prompt use of information you gave them.

If HMRC refuses your request under Extra Statutory Concession A19, you can appeal.

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Contact us for advice.

Can I ask HMRC not to pursue my debt in other situations?

HMRC may consider a request for them not to pursue you for an income tax bill in other circumstances. This is sometimes known as HMRC ‘remitting’ the debt. You will usually need to show that:

- you have very little or no spare income after your essential household bills and this is likely to continue for a long time; **and**
- you have no assets which could be sold to raise money to help clear the debt.

For example, these circumstances may apply if you:

- are elderly;
- have a disability or long-term illness; **or**
- are long-term unemployed.

HMRC does not remit debts very often but they should consider requests on a case by case basis.

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HMRC will not formally write off a tax debt in these circumstances, but may agree not to pursue it based on your circumstances. This still allows HMRC to pursue the debt if your situation improves.

Can I ask HMRC for more time to pay?

‘Time to pay’ is an arrangement to pay your tax bill back in instalments after the date it should have originally been paid. Ask HMRC for time to pay if:

- the tax demand cannot be challenged;
- you do not have grounds to ask for it to be remitted; **and**
- you cannot afford to pay it straight away.

HMRC will not agree to any payment arrangements or negotiations unless you have sent in your outstanding income tax returns.

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Contact us for advice.

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Contact HMRC Business Payment Support Services helpline as early as possible. See the 'Useful contacts' section at the end of this fact sheet. They are more likely to accept an arrangement before further action takes place. Making a payment arrangement helps to avoid 'penalties' being added to your bill. See the later section 'Interest and penalties' for more information. Tell HMRC that you have received advice from Advice NI's Business Debt Service. This can help to show that you have been taking steps to deal with your debts fairly.

HMRC will ask for details of your income and outgoings when discussing time to pay. It is important to show that you are not refusing to pay, but that you cannot pay in full immediately. Use your business and household budget sheet to show this and to work out how much you can afford.

You should also give HMRC the following information:

- Details of how long the offer you have made is for (for example, 3 – 6 months).
- The reasons why the debt has come about (for example, ill health, loss of customers and so on).
- The date you propose to start making the payments you have offered.
- Your preferred payment method.
- Any payments you are able to make as a goodwill gesture.
- An explanation of whether any of your assets are going to be used to help pay the debt. If you do not have any assets, this may make negotiating with HMRC easier. This is because HMRC will be more limited in the ways in which they can recover the money from you. See the later section 'Enforcement' for more information.
- Details of any form of unsecured finance that you can raise to clear the debt. You will usually need to provide evidence of a creditor agreeing to lend you the money. Before taking out further credit to deal with a debt to HMRC, check to make sure that you can afford the repayments and **contact us for advice**.

Under the 'HMRC Charter' your case should be dealt with sympathetically, fairly and promptly. You can mention this in any request you make for time to pay. For more information, see the later section 'What service should I expect when dealing with HMRC?'

You may want to follow up your conversation with HMRC Business Payment Support Services by sending details of your offer through the post, along with all the information described earlier in this section. See 'Useful contacts' at the end of this factsheet for HMRC's contact address.

Have all this information ready when you contact HMRC. You will also need to provide your tax reference number, full address details of your business and a contact telephone number.

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If you need further advice **contact us**.

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When HMRC consider requests for time to pay, they should take into account:

- why you are in difficulties;
- what assets you have; **and**
- the length of time your offer will take to clear the debt.

If your business is still trading, HMRC will expect you to offer a payment that will include your arrears and future bills. They will usually expect you to be completely up to date as soon as possible, but extra time may be given depending upon your circumstances.

- Up to **three months** may be given in straightforward cases.
- If you need more than **three months**, HMRC will require extra information from you about your income, outgoings and circumstances before they decide your request. You should complete a business and household budget sheet before you negotiate with any of your creditors, including HMRC.
- On occasions HMRC may give you up to **three years** to pay. This is only done where your circumstances are exceptional. **Contact us for advice.**
- All requests should be considered on a case-by-case basis and your previous payment history will be taken into account.

Interest and Penalties

If you send in your income tax return late or pay the debt late, penalties can be added onto what you owe. See the table at the end of this fact sheet for more information.

HMRC will not add penalties to your debt where a time to pay arrangement is made before the penalties would have been applied, as long as you keep to the arrangement.

If you pay your income tax bill late, you will have to pay interest on what you owe. The amount you owe includes any penalties that have been added. From **29 September 2009**, interest will be charged at **3%**.

HMRC staff use a

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‘Debt Management and Banking Manual’ to help them make decisions. There is a section of this manual that contains information about time to pay arrangements. It can be helpful to look at this when preparing the proposal that you will put to HMRC. To find this part of the manual, see www.gov.uk and take the following steps.

- Search for ‘Debt Management and Banking Manual’.
- Click on the link ‘Debt Management and Banking Manual’.
- Click on the link ‘Time to Pay’.

When contacting HMRC in writing, keep copies of the letters you have sent and received. When making contact with HMRC by telephone, record:

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- the name and title of the person you speak to;
- the time and date you spoke to them;
- brief details of what was said; **and**
- details of what was agreed.

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Enforcement

If you do not reach an agreement with HMRC to repay what you owe, your case will be transferred to the collection office. The office will consider different ways of recovering the debt from you.

You should still try and negotiate with HMRC and make an offer to pay, if you have not already done so. It is good practice to start paying what you have offered straight away. You can use the same ways of negotiating as described in the earlier section 'How should I deal with an income tax demand?'. If you have previously been refused time to pay, but your circumstances have now changed, tell HMRC this immediately. If you are not given time to pay, they may consider taking the following types of action:

If you are working for an employer either full or part time and your income tax debt is below **£3,000**, HMRC may try to recover the money by changing your tax code. This allows them to recover the debt from your wages before you get them. If you think HMRC are trying to do this for an income tax debt you owe, **contact us for advice.**

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Debt collection agencies: HMRC may pass your debt to a debt collection agency. A debt collection agency is a private company that will usually contact you by phone or post you to arrange a payment plan for what you owe. It is usually best to negotiate with them in writing. Remember to keep copies of all letters you send to HMRC or any of your creditors. Send them a copy of your business and household budget to show what you can afford to pay. On rare occasions debt collectors may visit your home or business premises. However, they have no right to force entry and cannot take any of your goods away from you.

Court Procedures: HMRC may make a claim through the court to make a judgment against you. This will be recorded on your credit reference file for **six years** and can affect your ability to get further credit.

On receipt of the court claim you may:

- do nothing;
- pay the amount claimed;
- admit the claim and make a written application about payment;
- acknowledge service and have a 14 day extension to file a defence;
- admit the claim and attend court to make an application about payment;
- defend part of the claim, admit part of the claim and pay the admitted part; or
- defend part of the claim, admit part of the claim and ask for time to pay the admitted part

If you want to dispute all or part of the debt, **contact us for advice.**

The court should consider your circumstances and your income and outgoings before making a decision about how the debt should be paid back. The final decision about how much you should pay back each month is taken by the court, even if HMRC wants a higher amount. This agreement is known as an 'administration order'.

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If HMRC applied for a judgment against you on or after **1 October 2012**, they can apply to secure the debt against any property you own, even if you have not missed payments on the judgment. If HMRC applied for a judgment against you before **1 October 2012**, the rules are different. **Contact us for advice.**

If you miss payments on a judgment, HMRC can take other types of enforcement action against you through the court, which could include:

- freezing money in your bank account (called a 'third party debt order');
- taking regular deductions from your wages, if you are working for an employer (called an 'attachment of earnings order'); **and**
- applying to court for a 'judgment summons' (see the section 'Judgment summons' below).

Judgement Summons: The court can issue a 'judgment summons' for you to go to court and explain why you have not paid. If HMRC does this, you can be sent to prison if you:

- have had the money to pay the amount of the judgment summons since the original court judgment was made; **and**
- have wilfully neglected or refused to pay as the court ordered.

In practice, HMRC does not use this procedure very often and it is usually for large debts owed.

Bankruptcy Proceedings: If HMRC has been unable to recover the debt by other methods, they will pass the debt to the Enforcement and Insolvency Service office in Worthing. Once the debt reaches this stage, HMRC may try to make you bankrupt if the debt you owe is at least **£5,000**. Bankruptcy is a court order which means that valuable things you own (your 'assets') could be sold to help pay your debts.

Even at this stage, you can still try to negotiate a payment arrangement. If you have a lump sum of money to offer, you could try to offer this to HMRC as well as instalments that you can afford, based on your business and household budget sheet. However, if HMRC have initiated bankruptcy proceedings, it is always more difficult to negotiate at this stage.

If HMRC still refuses to accept the offers you make and you own your home, you could consider offering to secure the debt on your property. If the debt is secured against your property, this would mean that the debt will be paid when the property has been sold. This may help to persuade HMRC not to make you bankrupt. If you are ill and can only make very small payments, or none, explain this to HMRC. If you are considering this option, **contact us for advice.**

What service should I expect when dealing with HMRC?

HMRC have a service commitment laid out in a Charter (called the 'HMRC Charter') which includes the following commitments:

HMRC will act 'fairly and impartially' by:

treating your affairs in strict confidence within the law

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HMRC will 'communicate effectively' by:

- providing clear and simple guidance; **and**
- giving accurate and complete information.

HMRC will provide 'good quality service' by:

- handling your affairs promptly and accurately;
- being accessible;
- keeping your costs to a minimum;
- helping customers with special needs; **and**
- being courteous and professional.

How to Complain

If you are unhappy with the way HMRC has dealt with your case, there is a complaint procedure that you can follow.

You may want to complain if you have been refused time to pay your arrears and you feel that this is unreasonable in view of your circumstances.

- You should first contact the HMRC office that has been dealing with your case. If you are not happy with the response, your complaint will usually be passed to a 'complaints handler'. HMRC accept complaints by telephone and in writing.
- If you are still not happy with the response, you can ask HMRC to look at your case again. They will usually ask a different complaints handler to consider your case.
- After going through these steps, if you are still not happy you can contact the Adjudicator's Office at the address at the end of this factsheet. The Adjudicator is not part of HMRC and they can act as an impartial referee in unresolved complaints.

Details of how to **BDS** contact HMRC to make a complaint can also be found on the website, www.gov.uk, by searching for 'complaint' and clicking on the link 'Make a complaint to HM Revenue & Customs'.

If you need help with this **contact us for advice**.

If you are not happy with a decision that HMRC has made, such as the amount of tax you owe, or the charges they have asked you to pay, you may need to follow the review and appeals process instead of complaining. **Contact us for advice.**

CREDIT CONTROL

Useful Contacts

TaxAid

304 Linton House
164 – 180 Union Street
London
SE1 0LH

Phone: 0345 120 3779

Mon – Fri 10am – 12 midday

www.taxaid.org.uk

Advice NI Tax and Benefits Service

This is a fee helpline that offers advice on all personal tax and benefit issues.

Phone: 0800 988 2377

(Monday to Friday 9am to 5pm).

HMRC Business Payment Support Helpline for Time to Pay

Phone: 0300 200 3835

Mon – Fri 8am to 8pm, Sat – Sun 8am to 4pm

www.gov.uk

The Adjudicator's Office

PO Box 10280
Nottingham
NG2 9PF

Phone: 0300 057 1212

www.adjudicatorsoffice.gov.uk

CREDIT CONTROL

Penalties for missing the income tax return deadline

Delay	Penalty you will have to pay
At least 1 day	£100 You will still have to pay this, even if HMRC work out that you don't owe any tax, or if you pay the tax they say you owe.
At least 3 months	£10 for each day, up to a maximum of £900. For example, if HMRC receive your return 3 months and 6 days after the deadline, this charge will be £60. This penalty will be added as well as the fixed penalty above.
At least 6 months	£300 or 5% of the income tax you owe, whichever is higher. This penalty will be added as well as the penalties above.
At least 12 months	£300 or 5% of the income tax due, whichever is higher. In some serious cases, this penalty may be 100% of the tax due instead. This penalty will be added as well as the penalties above.

Penalties if you pay your income tax late

Delay	Penalty you will have to pay
30 days	5% of the income tax you owe at that time
6 months	5% of the income tax you owe at that time, which includes the penalties above.
12 months	5% of the income tax you owe at that time, which includes the penalties above.