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New VAT Penalty Regime – Where Points Don't Mean Prizes!

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With effect from 1 January 2023, a new VAT Penalty regime will come into effect. This scheme will see businesses penalised for the late filing of VAT Returns even where a VAT Return would result in a VAT Repayment being due to the taxpayer or where £Nil VAT Returns are submitted. This new regime was due to be introduced after 31 March 2022, but HMRC delayed its introduction because of the Pandemic.

Very broadly, the new scheme will work a bit like the penalty point system that operates for driving offences in the UK, whereby penalty points accumulate for each indiscretion, but points are wiped clean from the record after a certain period of 'good behaviour'.

It is worth noting here that as HMRC continue to roll out MTD (Making Tax Digital), this new penalty points system will eventually be introduced for the other types of tax too. See below for the intended start date when this new penalty system will apply to other taxes:

Taxpayer	Tax Year Starting After
MTD for Income Tax Self-Assessment (ITSA)	6 April 2023
Non-MTD Self-Assessment taxpayers	6 April 2024

Before explaining in more detail how this scheme will operate it is worth stating that HMRC believe this new points-based system will be fairer by being less punitive to those who miss only the occasional tax deadline, whilst penalising more heavily the persistent offenders.

What happens under the new system if I file a Late VAT Return?

HMRC will issue each taxpayer with 1 penalty point each time a VAT Return deadline is missed. When a taxpayer hits a certain 'points threshold' (see table below for threshold details) a £200 penalty will be charged when a VAT Return is submitted late. All subsequent missed deadlines will trigger a further £200 penalty unless their accumulated points have fallen back below the points threshold.

Penalties will be charged when accumulated points reach these thresholds:

VAT Return Cycle	Penalty Points
Annual VAT Returns	2 points
Quarterly VAT Returns	4 points
Monthly VAT Returns	5 points

How can I reduce my penalty points?

Once you have accumulated enough points to trigger penalties, there is only one way in which your points will be removed; you have to meet a test of good compliance and file any outstanding returns which were due in the prior 24 months.

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The test of good compliance means filing all VAT Returns on time for a specified period of time which varies according to your VAT Return Cycle. Once you have demonstrated good compliance and filed any outstanding VAT Returns, then, and only then, will your penalty points be wiped clean.

The duration of the good compliance period is shown below:

VAT Return Cycle	Good Compliance Period
Annual VAT Returns	24 Months
Quarterly VAT Returns	12 Months
Monthly VAT Returns	6 Months

What happens if I pay my VAT Liability Late?

It is worthwhile noting that the new penalty system for filing late VAT Returns is **totally separate** from the penalty system which charges you for not paying your Vat liability on time. Irrespective of whether you are able to pay your VAT liability, you should try your best to file your VAT Return on time.

In terms of the new system for late payment of Vat liabilities, HMRC have confirmed that they will operate a 'soft landing' period for the first 12 months which means that they will not charge a first late payment penalty if any outstanding payments are paid in full within 30 days of the normal payment due date.

The new system will operate in two stages; fixed penalties, and daily penalties. HMRC's new system has been designed so as to guarantee the later you make your payment, the larger the penalty will be!

Lateness of Payment	Penalty
Up to 15 days late	None.
Between 16 and 30 days late	2% of the amount outstanding at day 15.
31 days late or more	2% penalty of the amount outstanding at day 15 plus a further 2% penalty based on the amount outstanding at day 30.
<i>After 31 days, there will also be a daily penalty, calculated at 4% per annum on the amount outstanding. For example, if a VAT liability is left unpaid for 13 months, the total penalty will end up costing 8% of the overall VAT liability.</i>	

In addition to the penalty, interest on overdue tax will continue to be charged from the due date at a rate of 2.5% over the official Bank of England Interest Rate. Interest will continue to accrue even where a time to pay arrangement exists. If a business overpays its tax, interest will be repaid at the official Bank of England Interest Rate less 1%.

How can I avoid penalties?

The simplest way to avoid penalties is to file your VAT Returns and pay the correct amount in full and on time. If you are unable to pay your VAT liability, you should continue to file your VAT Returns on time and then you should approach HMRC for a 'Time to Pay Agreement'. If an instalment payment plan is agreed, standard interest charges will continue to accrue but no further late payment penalties will apply from the date the agreement was made so long as the payment plan is adhered to.

More details of HMRC's penalties for late submission can be found [here](#) and we expect HMRC to release full guidance next month. If you are facing a VAT default surcharge or other VAT penalty, or if you simply need more help, please get in touch with a member of our team.

CONTACT US

If you have any queries or need any advice, please do not hesitate to contact us on:

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