Tax Facts associated with TaxAid training modules: September 2013

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Benefits in kind – tax on company cars and benefits

Likely problems

If HMRC does not have up-to-date information on taxable benefits in kind, employees may be on the wrong tax code and hence be paying the wrong amount of tax. This could lead to overpayment of tax, or hidden tax bills. Changing jobs and changing benefits can complicate the position and mean that HMRC's information is not up to date.

Information

Tax is due on company cars, medical insurance, free or reduced interest loans and other perks provided because of employment. This tax is usually collected via **PAYE**. The code number of the **PAYE tax code** is reduced to reflect the benefits. This means that more tax is deducted from the employee's pay each pay day. At the end of the tax year, the employer should give the employee a summary of the taxable benefits provided on a form **P11D**.

An additional complication is that some employers now tax benefits in kind through the payroll – called 'payrolling' the benefits. To do this, the employer includes the cash equivalent of the benefit in the employee's pay on a month by month or week by week basis. This can have implications for both Universal Credit (where payrolled benefits are included as income, but ones reported only on form P11D are currently not included as income) and tax codes (as payrolling benefits is an alternative to adjusting the benefit in a tax code).

This means that there are even more reasons for employees to be clear about what benefits in kind they are receiving and how they are being taxed.

Further information

On the HMRC website: http://www.hmrc.gov.uk/incometax/codes-company-benefits.htm

How to handle

The employee should have been given a form **P11D** by their employer. If they do not have this, the employee will need to confirm details of their benefits in kind with their employer, and obtain a **P11D** from the employer. Any dispute about the amount of the benefits should be taken up with the employer.

Once the employee has a **P11D** form, they will need to check this against their PAYE notice of coding (P2 form). If they do not have a PAYE notice of coding, they will need to ask HMRC for one: phone the **HMRC income tax enquiry line**.

If the **PAYE coding notice** for the current year is incorrect, the employee should contact HMRC on the **HMRC income tax enquiry line** and ask for it to be changed.

If the query relates to previous years, the employee will need a **P60** form for each employment, **P11D** form and details of any other income. They should then contact HMRC for advice.

Where an employer 'payrolls' benefit in kind the employee should check both their tax code and their payslip. Queries over payrolled benefits should be taken up with the employer; queries about the tax code with HMRC.

If the employee is registered for self assessment, see the self-assessment section below.

Employee expenses – work expenses and tax deductions for employees

Likely problems

Employees may become aware that other people are claiming tax relief for certain work expenses and want to follow suit. They may have received advertising from a business claiming to be able to get them a tax refund for work expenses. They may have incurred work-related expenses and be hoping to reduce the cost by getting a tax refund. Some people may have made a claim for work expenses only to find that HMRC later rejects it and asks for some of the refund back.

Information

Employees may be due tax relief for work expenses, but the rules are very restrictive. They require that:

1. the employee is obliged to incur and pay the expenses as holder of the employment, and
2. the amount is incurred wholly, exclusively and necessarily in the performance of the duties of the employment.

These terms are interpreted very restrictively by HMRC. For example, they would normally expect an expense to be necessary for every employee undertaking a particular job, not just necessary for one particular employee.

Relief may be available for professional subscriptions, business mileage in the employees car – when this is reimbursed at less than the HMRC approved rates - business travel and accommodation and other work costs. In some cases, employees may be given an allowance for working from home, but only where they are required under their contract to work from home. There are a number of hurdles to pass in order to get tax relief on work expenses for an employee. In particular, it is difficult to argue that an expense is necessary if it is not reimbursed by the employer.

For some occupations there are agreed 'fixed rate' tax deductions. These can cover uniforms, tools etc. Other than this, employees can claim tax relief for work expenses on **form P87**, so long as the total gross amount of the claim is no more that £2,500. Above this limit it would be necessary to submit a self assessment tax return to make the claim.

Further information

On the TaxAid website see: http://taxaid.org.uk/info/employee-expenses. This section has links to the HMRC website.

How to handle

If the situation is straightforward, the employee could contact HMRC about a **flat rate expenses allowance** or for advice about mileage claim or relief for professional subscriptions. They could download **form P87** from the HMRC website.

If there is a dispute, they will need advice from a **tax adviser**. **TaxAid** can advise such individuals if they are on low income. If a tax refund company is to be used, care should be taken to ensure that any expenses claimed are legitimate and the taxpayer should check the fees the company will charge.

Employees and pensioners who need to complete tax returns – when might an employee need to complete a tax return?

Likely problems

HMRC may have sent a tax return to an employee or pensioner and they do not know how to complete it, or whether it is relevant to their circumstances. Other individuals may have multiple sources of income, including rental, savings and taxable benefits, and be unsure if they need to complete a tax return.

Information

Anyone who has a new source of income on which tax is due must notify HMRC within 6 months of the end of the tax year in which the income first arises. HMRC will then decide if the individual needs to submit a tax return. Sometimes any additional tax due can be collected through **PAYE** without the need for the individual to complete a self-assessment tax return.

Further information

On the HMRC website:

Employees in self assessment: http://www.hmrc.gov.uk/saemployees/

Do I need to complete a tax return?: http://www.hmrc.gov.uk/sa/need-tax-return.htm

How to register for self assessment: http://www.hmrc.gov.uk/sa/register.htm

On the TaxAid website:

Guide to undeclared income http://taxaid.org.uk/guides/undeclared-income

How to handle

If an individual thinks that they should not have been sent a tax return, they can ask HMRC to withdraw the return. They do this by phoning HMRC on 0300 200 3310. There is a time limit for doing this of two years from the end of the tax year for which the return is due.

Someone who is uncertain if they need to submit a tax return should look at the information on the HMRC and TaxAid websites.

If the individual needs to complete a tax return, they may need a **tax adviser**. If they are on low income **TaxAid** may be able to help.

Employment Status and Payslips – why you need a payslip and what they should show?

Likely problems

Migrant and other workers can be at risk of being taxed as self employed if they do not have sufficient evidence that they are employed. Evidence of employment would include a payslip showing tax and National Insurance deductions. People who work for a firm which becomes insolvent will find it difficult to obtain credit from HMRC for any tax and National Insurance deducted if they have insufficient evidence that they were employees for tax purposes. Such evidence would include payslips showing the appropriate deductions from gross pay.

Information

Employment status is a question of fact, not choice. It is important to know if you are employed or self employed for many reasons. These reasons include employment rights, such as in redundancy, and liability to pay tax and National Insurance. In general, the self employed are responsible for paying their own tax and National Insurance though self assessment, whereas employees pay tax and National Insurance via their employer through PAYE.

Further information

There is guidance on these issues on the HMRC website via the links below.

There is a comprehensive section on migrants on the LITRG website:

http://www.litrg.org.uk/Migrant/start-here

How to handle

People who are unsure of their employment status can use the HMRC on-line status checker to obtain some guidance: http://www.hmrc.gov.uk/calcs/esi.htm. The results of this test are indicative only, when performed by an employee. They should also read the guidance on employment status on the HMRC website.

Employment status: http://www.hmrc.gov.uk/employment-status/index.htm

For workers in construction: http://www.hmrc.gov.uk/cis/intro/con-or-sub.htm#3

If there is a dispute about employment status, then advice from a tax adviser should be sought.

Tax codes: Checking tax codes

Likely problems

Employees and pensioners need to check their **PAYE tax codes**. HMRC expects this to be done and individuals who fail to check their tax codes may face unexpected bills or miss out on refunds.

About 15% of PAYE taxpayers are likely to pay an incorrect amount of tax over the tax year.

There are some specific problems that are considered in the sections below.

Information

The standard tax code for someone born after 5 April 1948 in 2013/14 for their main job, or main source of income, is 944L. This represents £9,440 of tax-free income and is taxed on a cumulative basis. For a second source of income taxed under PAYE the standard code is BR – Basic Rate, a 20% deduction. There are some circumstances in which these codes will not result in the correct deduction of tax over the tax year. Some of these are considered in the sections below. There are no standard codes for people born before 6 April 1948.

HMRC has a new contact number for employee enquiries. It is 0300 200 3300.

Further information

There is information on how tax codes are worked out for pensioners and employees on the TaxAid website at:

http://taxaid.org.uk/situations/employee

http://taxaid.org.uk/situations/pensioners

http://taxaid.org.uk/info/income-tax/your-personal-allowance

How to handle

For general enquires about ‘am I on the right tax code?’ the HMRC website has information to assist in checking the basic tax codes: http://www.hmrc.gov.uk/incometax/codes-basics.htm.

If this does not resolve the problem, the individual should phone HMRC. For more complex cases, the information below should be reviewed. If the individual has tried to resolve the position unsuccessfully with HMRC, then those on low income may contact the **TaxAid helpline**.

Tax Codes: Changing jobs / Back to work

Likely problems

Employees may query an unexpected change in the tax or National Insurance deductions when they change jobs.

Information

The tax codes for someone changing their main job should come from form **P45**. This form should be given to the employee by the former employer and the appropriate page of it given to the new employer. Sometimes the issue of a **P45** by the former employer is delayed. This can mean that the new employer will use an emergency code. People returning to work from benefits may receive a **P45** from the jobcentre. The tax code on this **P45** needs to be checked to ensure that it is appropriate.

If the employee has no **P45**, perhaps because they were on a career break or self employed before they started employment, then the employer should ask them to complete a **Starter Checklist** (similar to the old P46 form) so that the employer can submit the information online to HMRC. Their tax code will be determined by the box selected on this form.

Tax codes on return to work can be affected by the receipt of taxable out-of-work benefits like Jobseeker's Allowance.

Most employers are now reporting Real Time PAYE Information (RTI) for PAYE and no longer send P45 or P46 forms to HMRC. Instead information about joiners and leavers is included in their RTI returns. Employees still need to provide new employers with information (i.e. confirm that this is their only or main job etc.) or give their new employer a P45 from their previous employer.

Further information

HMRC website: Tax when you are starting work, leaving or retiring from work: http://www.hmrc.gov.uk/incometax/starting-work.htm .

See also the TaxAid website: http://taxaid.org.uk/situations/employee/paye-and-tax-codes

How to handle

Employees should ensure that they have received a **P45** from their former employer and that the correct page of this has been handed to their current employer. If this has been done, and it looks as if the **P45** may not have been processed, or processed correctly, then the employee should take this up with their current employer.

If the employee has done this and still thinks that their tax code is incorrect, they should review the information on the HMRC website page 'What to do if your tax code is wrong': http://www.hmrc.gov.uk/incometax/code-wrong.htm , and contact the **HMRC income tax enquiry line**

Tax Codes: Multiple part-time jobs, including pensions and jobs

Likely problems

Employees or pensioners may be short of money because too much tax is being deducted from their income under PAYE. This may be because HMRC is unaware of a significant change of circumstances which would affect their tax code, such as a change in their main source of income. Other people may be underpaying tax when they are given too much tax-free pay over all their sources of income.

Information

Individuals are entitled to a particular amount of tax-free pay each tax year. This depends on their age and income. For everyone, it is tapered away where income is over £100,000 pa. For those born before 6 April 1948, any extra age allowance will be progressively reduced where income is over £26,100 pa (2013/14 rate).

PAYE tax codes are designed to spread this tax-free amount over all sources of PAYE income. But there may be errors, particularly if HMRC's information is not up to date or there have been mistakes.

Further information

The situation of people with more than one source of income under PAYE is discussed on the TaxAid website: http://taxaid.org.uk/situations/employee/paye-with-two-jobspensions

TaxAid website - income tax: http://taxaid.org.uk/info/income-tax

How to handle

Tax codes for taxpayers with multiple jobs or pensions can be checked on the HMRC website: http://www.hmrc.gov.uk/incometax/check-multiple-codes.htm . If this does not resolve the position, the individual should phone the **HMRC income tax enquiry line.**

Tax Codes: Retirement and approaching retirement

Likely problems

The complexity of many people's tax affairs increases following or approaching retirement. This is due to a number of factors such as higher amounts of tax-free income available to some older taxpayers, multiple-income sources such as a number of small pensions, part-time work, savings income and taxable benefits, like state pension. Decisions, such as when to stop work or reduce hours, whether to take state pension or defer it and the possibility of commuting small pensions can add a degree of uncertainty.

The overall result is that there is a much increased opportunity for error. Errors can mean unexpected tax bills or refunds and incorrect tax deductions.

Information

During 2013-14 the PAYE Real Time Information (RTI) system is being introduced for employers and pension providers. RTI and the withdrawal of the Age-related Personal Allowance for new claimants from 6 April 2013, means that procedures for those approaching pension age has changed.

In previous years, form P161 was sent to most PAYE pensioners. This form was used by HMRC to work out the correct tax code for other PAYE sources of income, such as part-time work or an occupational pension.

Now HMRC expects to collect the information it needs to issue correct tax codes for pensioners via RTI.

A special version of form P161 is still used for people who are bereaved, under state pension age and due to receive taxable bereavement benefits.

Anyone approaching retirement, particularly if they are due to receive a state pension, should check their tax codes carefully to ensure that any taxable state benefits (such as state retirement pension) are correctly included.

Further information

There is comprehensive information about these issues on the TaxAid website: http://taxaid.org.uk/situations/pensioners.

How to handle

Pensioners can use the information on the HMRC website: http://www.hmrc.gov.uk/pensioners/pension.htm to check their tax codes. If this does not resolve the issue, they should phone the **HMRC income tax enquiry line**.

See also the guidance on **P800** PAYE underpayments in the section below.

If the issue is still unresolved, pensioners on low income may ask **Tax Help For Older People** 0845 601 3321 for assistance.

Refunds of PAYE

Likely problems

People who stop work part way through the tax year may expect refunds of PAYE. People who have been on 'emergency' or incorrect tax codes may expect tax refunds. This can happen where workers have multiple part-time jobs.

Employees can experience difficulties through involvement with firms which offer to obtain tax refunds, or reduced tax bills for employees. Such firms may charge significant fees and the tax refunds offered may not be in accordance with the tax legislation.

Information

Where an individual leaves work part way through the year, and is then on out-of-work benefits, or not working and not claiming benefits, it is likely that they will have overpaid tax. This is because the PAYE system will usually spread an individual's personal allowance, (the amount of tax-free pay they are due) over the 12 months of the tax year. If they stop working they will often have some unused personal allowance.

Other people may have paid too much tax because their income has not been taxed on the correct PAYE tax code. This is particularly likely for people with multiple part-time jobs. For example, an individual with three part-time jobs all earning £4,000 pa might be taxed with a 944L tax code on one job and a BR code (20% deduction) on the other two. But this arrangement would mean that they had not obtained the benefit of all their personal allowance.

Refunds may also be due when individuals are paying tax on a **Month 1 or Week 1 basis**. These are emergency codes and should only be in place as a temporary measure until HMRC has the necessary information to issue a permanent code.

Some refunds will be given via the payroll, once HMRC has the necessary information. Other refunds need to be claimed. In other cases, claiming a refund will simply speed up the process meaning that the individual gets their refund sooner.

Further information

Tax refunds and reclaiming overpaid tax: http://www.hmrc.gov.uk/incometax/refund-reclaim.htm

PAYE with more than one job / pension: http://taxaid.org.uk/situations/employee/paye-with-two-jobspensions

How to handle

If someone wants to know if they are due a refund, and their circumstances are reasonably simple, they could use the HMRC tax checker: http://www.hmrc.gov.uk/calcs/stc.htm.

Anyone who claims benefits after stopping work should give the **P45** from their former employer to the Jobcentre plus. Jobcentre plus will then issue any refund due at the end of the tax year, or at the end of the claim, if sooner.

Individuals who stop work and do not claim benefits can claim an in-year refund after 4 weeks from HMRC on form **P50** – see Form P50 download page on the HMRC website.

HMRC's year end PAYE reconciliation (P800 calculations), may catch up with many of these cases, but any refund would be issued some time after the end of the tax year, once all the PAYE returns have been processed.

For these and other situations, individuals can review the information on the HMRC website page 'Claiming a refund when you stop work': http://www.hmrc.gov.uk/incometax/stop-work-refund.htm

Taxable and non-taxable state benefits

Likely problems

People of working age who receive a taxable benefit are at risk of unexpected tax bills. This can particularly apply to women born after 5 April 1948, who are claiming state pension but are also working, people on a taxable incapacity-related benefit who are receiving sick pay, an occupational pension (possible following early retirement on medical grounds) or other taxable source of income; working people who are in receipt of bereavement benefits.

Information

Some state benefits are taxable, for example the State Pension is taxable. But only in exceptional circumstances are state benefits taxed at source (and this only for Incapacity Benefit). As a result, any tax due on taxable state benefits must be collected in another way.

The tax due is usually collected by a change to the individual's tax code for another source of income - one which is already taxed under PAYE (such as an occupational pension or employment). In exceptional cases, where there is tax due on state benefits and there is no PAYE source of income, any tax due may need to be paid via self assessment – so annual tax returns would be required.

If someone in receipt of a taxable state benefit is also an employee or pensioner, the PAYE tax code for their employment or occupational pension should be adjusted to take account of the taxable benefit. Sometimes this does not happen and the result is likely to be an underpayment of tax.

There is no simple rule to decide if a benefit is taxable. For example, income-based **ESA** is not taxable, whereas contributions-based **ESA** is taxable. Yet both income-based and contributions based **JSA** are taxable.

Further information

There are lists of taxable and non-taxable benefits on the HMRC website:

Non taxable benefits: http://www.hmrc.gov.uk/manuals/eimanual/EIM76100.htm

Taxable benefits: http://www.hmrc.gov.uk/manuals/eimanual/EIM76101.htm

How to handle

Individuals can check the principles of how tax due on taxable state benefits should be collected on the HMRC website: http://www.hmrc.gov.uk/incometax/codes-pensions-benefits.htm.

If a **P800 tax calculation** has been issued by HMRC, see the section below on PAYE underpayments.

Redundancy

Likely problems

Employees who are made redundant often assume that the tax paid on their redundancy package is correct. The problem is that the tax may not be correct once other income of the tax year is taken into account. Tax may be underpaid or overpaid.

There is a danger of underpayment of tax where large redundancy payments have been made and the taxpayer is liable at higher rates of tax in that year. The employee may be unaware of the additional liability until a bill arrives later. The delay between the redundancy payment and the final tax bill could be up to 22 months, by which time the redundancy money may have all been spent.

Information

It is often assumed that the first £30,000 of any redundancy payment for compensation for loss of office is automatically free of income tax and National Insurance. But HMRC's interpretation of 'compensation for loss of office' is narrow.

Not all payments made at the time of redundancy fall into this category. Some payments, like arrears of holiday pay, or other amounts arising out of the contract of employment, are taxable.

Any excess over £30,000 will be taxed, but the amount of tax deducted at source is unlikely to be exactly right.

Employees are often paid a lump sum after they have left the payroll. When this happens during 2013-14, a PAYE of 0T should be used on a Month 1 basis. (In previous years the code BR may have been used. This was more likely to result in underpayments). The 0T month code gives no tax free pay and only one month's allocation of each tax band. So for 2013-14, 40% tax will be due after £2,667 of income (one twelfth of the £32,010 basic rate band).

For most employees this should ensure that sufficient tax is paid, but it is unlikely to be exactly the right amount - taking account of any other income for the year.

If someone is a basic rate taxpayer, taking account of the whole year, then they are likely to overpay tax on a redundancy lump sum of more than £32,667 (£30,000 tax free, plus £2,667 at 20%). If they are a higher or additional rate taxpayer over the whole year, then they may underpay tax on any lump sums over £30,000.

Further information

There is information on the TaxAid website: http://taxaid.org.uk/situations/employee/redundancy

How to handle

This is a specialist area and a tax adviser should be consulted if there is any dispute about what elements of a redundancy package are taxable.

If the redundancy was recent, the individual should be advised to check their tax position with HMRC or a tax adviser to see if any additional tax, or a refund, may be due.

Individuals who were unaware of an underpayment of tax on their redundancy may need guidance on dealing with tax debt.

Underpaid PAYE – P800 tax calculations

Likely problems

Individuals may face unexpected tax demands. PAYE taxpayers expect that the correct amount of tax is paid at source and are unprepared for a bill. Some individuals may receive unexpected refunds of tax and want reassurance that these are correct.

Information

Since the introduction of the National PAYE computer system (NPS) in autumn 2009, HMRC has been able to keep all the PAYE records for each individual on a single system. Employers, pension providers and the Department for Work and Pensions send HMRC information about employment income, pension income and taxable benefits.

At the end of each tax year, HMRC processes this information and see if the correct amount of tax was collected for each individual. This process is usually started in about May and may continue until December.

If there have been errors, the individual may have overpaid or underpaid tax. HMRC expects all PAYE taxpayers to check and understand their tax codes. If the code was incorrect, or not understood, HMRC expects the taxpayer to make contact. There are only limited possibilities for challenging underpayments of PAYE:

1) If HMRC has made an error and has delayed in telling the taxpayer about the underpayment, then in certain cases, it may give up some or all of the tax demanded under Extra Statutory Concession A19 (ESCA19). HMRC normally allows itself 12 months from the end of the tax year in which the underpayment arose to notify the taxpayer (though strictly they have 12 months from the end of the tax year in which they receive information). This means, for example, that for most P800 notices issued for 2012/13, HMRC has until 5 April 2014 to notify the taxpayer of the underpayment. Only after this date could ESCA19 apply. Exceptionally, ESC A19 may also apply if HMRC has allowed arrears of tax to build up over two or more tax years.
2) Employer or pension provider error. If the underpayment was caused by a systematic error by an employer or pension provider, then HMRC may, in certain cases, agree to collect the underpayment from the employer or pension provider rather than from the taxpayer.
3) It may be possible to arrange time to pay. There are also options where repayment would cause hardship; this is a developing area of policy. See the further information link for details. HMRC will usually allow up to 36 months to repay any tax due.

Further information

There is more information and sample letter on the TaxAid website: http://taxaid.org.uk/guides/tax-debt/paye

How to handle

It is important to identify the exact error or errors which have caused the underpayment of tax. This may identify a possible claim for ESC A19 or employer error. The timescale for ESC A19 must be checked. In many cases extended time to pay will be the only solution.

HMRC will often automatically recover underpayments of PAYE via a change in future tax codes (initially over 12 months, but, on application extended to 36 months in cases of hardship). So all future tax codes should be checked and hardship applications made where needed.

HMRC is consulting on possible changes to the rules about recovering debts through PAYE codes (called 'coding out'). Currently there is an upper limit of £3,000 and larger debts cannot be partially coded out. This means that in some cases HMRC will not be able to code out the underpayment. Sometimes underpayments cannot be coded out because there is insufficient income for the underpayment to be collected within the parameters of the PAYE system.

If the PAYE underpayment cannot be coded out, urgent action is required. If HMRC are not contacted promptly, they will issue self assessment tax returns in order that they can legally collect the underpayment. This is to be avoided wherever possible as it increases costs (by adding interest and penalties). The way to avoid tax returns being issued is to attempt to reach a time to pay arrangement (direct debit) with HMRC or to ask them to suspend collection due to hardship. If the underpayment is to be disputed, provisionally agreeing time to pay, while other options are investigated, may be the best option, but it is essential to make clear to HMRC that this payment is "on account" pending the outcome of the dispute. HMRC should be contacted on 0300 200 3300, but the discussion over time to pay or hardship needs to be with the Underpayments Support Team and a transfer to that team should be requested.

Self employment and self assessment

Construction Industry Scheme (CIS)

Likely problems

Construction workers who are self employed usually suffer 20% tax deduction at source. They may mistakenly think that this means that their tax affairs are in order. This can particularly affect migrant workers.

Information

Self-employed workers in construction must, like other self-employed workers, complete a tax return each year. Only then will they obtain credit for the tax deducted at source. Depending on their level of profits, they may then get a refund or need to pay some additional tax.

Construction workers can be at risk of identity fraud and scams involving fake tax refunds.

Further information

On the TaxAid website:

http://taxaid.org.uk/situations/cis-subcontractor

http://taxaid.org.uk/info/construction-industry-tax

On the Low Income Tax Reform Group website:

http://www.litrg.org.uk/Migrant

On the HMRC website:

http://www.hmrc.gov.uk/cis/index.htm

How to handle

If the individual is simply unaware of their responsibilities under self assessment and needs help completing returns, they may need to find a reputable tax adviser (see completing tax returns below).

Sometimes there may be additional issues such as tax debt, identity fraud or fake refunds. In such cases specialist tax advice will be needed. Those on low income may contact **TaxAid** for advice.

Registering for self employment and self assessment: how and when to register

Likely problems

There are likely to be two main groups of people, those who want to know how to register for self assessment and those want to know if they should register for self assessment. In addition, there may be some people who need to register, or at least notify HMRC, but are unaware of their obligations.

Information

Anyone with taxable income on which there will be an additional tax liability must notify HMRC within 6 months of the end of the tax year in which the income arises – so by 5 October after the end of the tax year. This applies to employees or pensioners with untaxed income, such as rental income as well as to the self employed. If you are self-employed, whatever the level of profits, HMRC would expect you to contact them.

People who already have a source of income taxed under **PAYE** may not need to register for self assessment if the additional tax due can be collected via their **PAYE tax code**; but they still need to notify HMRC of the additional income received. People in this category would include employees and pensioners whose main source of income is taxed under PAYE and their:

- Gross income from savings and investments is under £10,000,
- Untaxed income from savings and investments is under £2,500 ,
- Gross income from property is under £10,000 , and
- Income from property after deducting allowable expenses is under £2,500.

It is also necessary to notify taxable **chargeable gains**.

If they are only renting out a room in your home to a lodger, they may be able to use the rent-a-room scheme. This simplifies record keeping and means that:

- Income of under £4,250 per annum from a lodger is not taxable
- Where income is more than £4,250, then £4,250 may be deducted from income before tax is calculated (in lieu of actual expenses)

There are a number of restrictions so it is a good idea to take advice. There is a guide to rent-a-room on the www.gov.uk website: https://www.gov.uk/rent-room-in-your-home/the-rent-a-room-scheme.

Once registered for self assessment, an individual can in addition register for self assessment online. Self assessment online enables someone to keep track of their tax affairs more easily and to submit tax returns online. Online submission of tax returns has a number of advantages such as a later filing date – of 31 January following the end of the tax year (rather than 31 October date for paper tax returns).

Registering for self assessment online is a separate process, but, if an individual registers via the HMRC website, this can be done at the same time as registering the business with HMRC. If the individual has already registered as self-employed, they can register for online filing: https://online.hmrc.gov.uk/registration.

It will normally take around six weeks to receive the Unique Tax Reference Number (UTR), and about two weeks to receive the activation code for online filing. HMRC now normally send out a 'notice to file' letter, rather than a paper tax return. As this is a single sheet, it is easily overlooked – but if sent, this is the only notification of the need to file. If an individual receives a notice to file, they must either file online or ask for a paper return (or download and print a tax return from the HMRC website – see the self assessment page forms page: http://search2.hmrc.gov.uk/kb5/hmrc/forms/selfassessmentforms.page).

Further information

On the HMRC website:

Do you need to complete a tax return?: http://www.hmrc.gov.uk/sa/need-tax-return.htm

Registering for self assessment: http://www.hmrc.gov.uk/sa/register.htm

Understanding and using self assessment on-line: http://www.hmrc.gov.uk/sa/understand-online.htm

Technical guidance on rent-a-room: http://www.hmrc.gov.uk/manuals/pimmanual/pim4001.htm

How to handle

Employees and pensioners who need to register for self assessment use a different route to register from the self employed. They should complete a form SA1 or register online. The form can be downloaded, and there is a link to on-line registration from the SA1 download page .

See also the section above - Employees and pensioners who need to complete tax returns – when might an employee need to complete a tax return?

Individuals who are trading should register online via http://www.hmrc.gov.uk/online/new.htm or by phoning HMRC on the newly self-employed helpline - 0300 200 3504.

Registering for self employment and self assessment: Consequences of failing to register

Likely problems

Some people will not have notified HMRC of untaxed income on which tax is due, for example as soon as they started trading or letting out a house. They may sometimes be unaware of the requirements to register, or simply not have got round to it. The result can be a great deal of anxiety and fear of prosecution.

Information

As discussed above, individuals have 6 months from the end of the tax year to notify HMRC of income on which there is tax to pay, and the tax has not been fully paid at source. After this time limit has expired, the individual is technically guilty of a criminal offence of tax evasion.

Interest and penalties for late payment of tax are likely to apply if these deadlines have been missed. Where a tax return is issued late, self assessment late filing penalties run from three months from the date of issue.

Where there has been a failure to notify liability, then special 'failure to notify' penalties can apply. These are based on the tax due and unpaid at 'due date' – normally the 31 January following the end of the tax year. The size of these penalties depends on taxpayer behaviour. See http://www.hmrc.gov.uk/manuals/chmanual/ch70000.htm and a summary on compliance factsheet CC-FS11 Late notification penalties, which can be downloaded from: http://www.hmrc.gov.uk/compliance/factsheets.htm

Only in exceptional cases does HMRC prosecute, but this is always a possibility until full disclosures have been made. In particular, if HMRC has already had a campaign encouraging disclosure of undeclared income in that business sector, prosecution is more likely and penalties are likely to be higher. See HMRC campaigns page: http://www.hmrc.gov.uk/campaigns/index.htm for details or recent campaigns.

Specialist help should be sought in all cases where the notification time limit has expired.

Further information

TaxAid website:

Undeclared income guide: http://taxaid.org.uk/guides/undeclared-income

Deadlines and penalties under self assessment: http://taxaid.org.uk/guides/tax-returns/late-tax-returns

HMRC website:

How to tell HMRC about undeclared income: http://www.hmrc.gov.uk/undeclaredincome/index.htm

How to handle

First of all it is important to work out if the individual has actually broken the law. Under the rules, in some cases, it is possible to delay almost 18 months and still be in time. The rule is that notification must be by 5 October following the end of the tax year in which the income or gain (on which there is a tax liability) arose.

If this deadline has not passed, the individual should notify HMRC at once and register for self assessment on-line. They should proceed to file an accurate return and to pay any tax due by the 31 January due date.

If the notification deadline has been missed but it is before the 31 January filing deadline and payment due date, the individual should notify HMRC at once and register for self assessment on-line. So long as they have the necessary information to file the return accurately and on time, and to pay any tax due by the due date of 31 January, they should experience no particular difficulty. In particular, the failure to notify penalty is nil where there is unprompted disclosure within 12 months of the due date for the tax.

In either case, if they do not have sufficient information to prepare an accurate tax return, or are likely to have difficulty paying the tax due on time, then they should contact a **tax adviser**.

If the individual has not only passed the 5 October notification deadline, but has also missed the subsequent 31 January filing and payment deadline, then specialist tax advice should be sought.

If the individual has undeclared income for a number of years, then they should consider the information in the TaxAid website's undeclared income guide: http://taxaid.org.uk/guides/undeclared-income

National Insurance for the self employed

Likely problems

The most likely problems are people being unsure which types of National Insurance they are due to pay, and confusion as to whether they are employed or self-employed. Individuals may also be concerned about possible overpayment of National Insurance, benefit rights attaching to their National Insurance Contributions and refunds of overpaid National Insurance.

Information

The self employed are liable to pay both class 2 National Insurance (usually paid by monthly direct debit) and class 4 National Insurance. Though there are exceptions.

- National Insurance is only payable between age 16 and state retirement age
- When self employed earnings are less that the Small Earnings Exception Limit (£5,725 in 2013/14) then it is possible to apply for an exception certificate so you do not have to pay class 2
- Until 1977 married women could make an election to pay reduced rate National Insurance. Where such an election is still current , there is no liability to pay class 2
- Class 4 is only payable when profits exceed the Lower Profit Limit (£7,755 in 2013/14)
- Some high-earning individuals who are both employed and self employed may apply for deferment of some of their National Insurance.

People who are both employed and self employed may be liable to pay class 1 National Insurance as an employee, as well as class 2 and class 4 as self-employed taxpayers.

Refunds of National Insurance are possible, but there are time limits for applying. The details are considered under further information link on refunds.

Note: HMRC is proposing to change the way National Insurance is paid for the self-employed. This will affect class 2 exemptions and refunds, as well as how deferments are dealt with. The changes are not due to take effect before April 2016.

Further information

On the TaxAid website:

National Insurance for the self-employed: http://taxaid.org.uk/info/national-insurance/national-insurance-for-the-self-employed

National Insurance if you are employed and self employed: http://taxaid.org.uk/info/national-insurance/if-you-are-employed-and-self-employed

Refunds of National Insurance: http://taxaid.org.uk/info/national-insurance/refunds-of-national-insurance

On the HMRC website:

Reduced Rate for Married Women: http://www.hmrc.gov.uk/ni/reducedrate/marriedwomen.htm

Class 2 National Insurance: http://www.hmrc.gov.uk/working/intro/class2.htm

Class 4 National Insurance: http://www.hmrc.gov.uk/working/intro/class4.htm

How to handle

For most people, once they are clear which categories of National Insurance apply to them in their particular circumstances, it should be apparent if there is any action needed. If action is needed, it will normally involve contacting the HMRC National Insurance Contributions Office on the National Insurance Self-Employed Helpline - 0300 200 3505.

Tax returns: Late filing penalties

Likely problems

Individuals may face increasing penalties for unfiled tax returns, when they delay submission because they consider that they do not need to submit a return or do not know how to submit one online. Sometimes delays are due to exceptional circumstances such as bereavement, health or mental health issues.

Information

Starting with the tax year 2010/11, for returns due for filing on paper by 31 October 2011 and online by 31 January 2012, the maximum size of the penalties increased dramatically, to £1,600 (or more) where the return is filed over 12 months late. In addition, the new penalties apply even where no tax is owed. The penalties of up to £1,600 or more apply to each tax year if more than one tax return is unfiled.

Individuals who have been sent a tax return must file the return, unless, exceptionally, they can obtain HMRC's agreement to withdraw the return. In almost all circumstances it will be appropriate to file online.

It is possible to appeal against a late filing penalty if there is what HMRC regard as a "reasonable excuse" for missing the deadline. It is necessary to demonstrate that the reasonable excuse applies for the whole period between the date the penalty arises and the date the return was eventually filed.

Different rules applied to the tax year 2009/10 and earlier years.

Further information

On the TaxAid website:

Tax return deadlines and penalties: http://taxaid.org.uk/guides/tax-returns/late-tax-returns

On HMRC website:

Appeals against self assessment decisions: http://www.hmrc.gov.uk/sa/appeals-decisions.htm

How to handle

Where ever possible it is best to try and get individuals out of self-assessment. HMRC may agree to this where there have been no self-employed income in the tax year and all tax due has been paid at source.

Where an individual considers that they do not need to submit a tax return, for example because all their income is taxed under PAYE, they should phone HMRC on 0300 200 3310 and ask for the tax return to be withdrawn. If HMRC agrees, this will means that they no longer have to file a return and any penalties already issued for missing the tax return filing deadline will be set aside.

There is a time-limit of two years from the end of the tax year in which to ask for a return to be withdrawn, though this may be extended in exceptional circumstances. For example, if you have received a tax return for the year to 5 April 2012, you will normally need to ask for the return to be withdrawn by 5 April 2014. Only in exceptional cases will this deadline be extended.

If HMRC will not withdraw the return, then it will be necessary to file the return and then appeal against the penalties.

If there are exceptional circumstances, HMRC may accept an appeal against the penalties on the grounds of reasonable excuse. Guidance on how to do this can be found on the HMRC website: http://www.hmrc.gov.uk/sa/appeals-decisions.htm#e . The grounds of 'reasonable excuse' are quite limited. It is important that the return is filed before any appeal against the late filing penalties or the appeal will be automatically rejected.

Individuals who do need to submit a tax return are likely to need help completing the return and dealing with any related tax bill. These issues are considered in the following sections.

Tax returns: Completing tax returns and correcting errors

Likely problems

Many people in self assessment will have an accountant or tax adviser who can advise them on completing accurate tax returns. Many low-income self-employed taxpayers may be unable to pay for professional help and are at risk of making errors on returns and may need help to complete their return correctly.

Information

Time limits for submitting returns

In most cases, taxpayers have 4 years from the end of the tax year in which to submit a tax return. Where HMRC has raised a **determination** then the taxpayer has only 3 years from the 31 January filing deadline for the return; or 12 months from the date the determination was raised, if this is later.

When a tax return is issued late, it should specify the due date by which it should be returned. This is normally 3 months from the date of issue (plus a week's grace).

Tax returns submitted outside these timescales will not be processed by HMRC (unless they show a liability to tax greater than any determination).

Exceptionally, HMRC may consider revising a **determination** which is out of time, and replacing this with the taxpayer's figures under a process called **Special Relief**. The conditions for obtaining this relief are very onerous and are described below.

Time limits for correcting returns

Tax returns can be **amended** within 12 months of the **normal filing date**. This should be done online for returns originally submitted on-line and on paper for returns originally submitted on paper.

After this, taxpayers may make a claim for overpayment relief up to four years from the end of the relevant tax year. There are strict conditions for overpayment relief and it may not be available in all circumstances.

Help with completing tax return

People who need help completing a tax return will normally need to see a reputable tax adviser. Those on low income and over 60, may ask Tax Help For Older People for assistance. Other low-income taxpayers may ask TaxAid for assistance. Assistance can also be requested from HMRC; currently this would be by asking for an appointment at an HMRC enquiry centre. HMRC is piloting a different model for providing this assistance; if the taxpayer lives in an area where the Enquiry Centres have been shut they should ask HMRC for further details of whether they can get this assistance.

Penalties for errors on returns

It is important that tax returns are accurately completed as there are 'behaviour based' penalties for errors. Even innocent errors can attract a penalty if HMRC considers that a taxpayer ought to have taken advice.

Further information

Guide: Help with your Tax return: http://taxaid.org.uk/guides/tax-returns

Correcting your tax return: http://www.hmrc.gov.uk/sa/correct-repay.htm

Overpayment relief (technical guidance): http://www.hmrc.gov.uk/manuals/sacmanual/SACM12000.htm

Penalties for mistakes on tax returns and other tax documents:

TaxAid website: http://taxaid.org.uk/guides/tax-returns/enquiries-and-other-problems-with-the-returns-you-have-submitted

Technical guidance on HMRC website: http://www.hmrc.gov.uk/manuals/chmanual/CH81110.htm

How to handle

Some individuals may be happy to submit, or amend tax returns themselves. Others may need to be directed to suitable help from a member of one of the professional bodies such as the Chartered Institute of Taxation, Institute of Chartered Accountants, or the Association of Chartered Certified Accountants.

Those on low income may seek help from Tax Help For Older People or TaxAid.

Paying tax – normal cycle and payments on account

Likely problems

Cash flow is difficult for small businesses and managing the cash flow of tax payments is particularly hard. When profits fall, sole traders and partnerships could find it impossible to meet payments on account for income tax as these are based on last year's tax bill. The situation is likely to be more severe for those who delay submission of the returns, perhaps because they cannot afford to pay their accountant.

Information

If an individual's annual bill under self assessment for income tax (and class 4 National Insurance for members of a partnership and the self employed) is over £1,000, then HMRC will require payments on account. These are due on 31 January in the year of assessment and 31 July following. They are each half the tax due for the previous year.

When profits are falling, this can be out of reach. A solution is available in that individuals may apply to HMRC and reduce these payments on account to a more realistic level.

Care also needs to be taken in the opening years of a business as the first tax bill may cover 18 months of income and be due up to 22 months after the business started trading. Budgeting will be needed to avoid a potentially unmanageable bill.

Further information

TaxAid website:

Working out profits and paying tax: http://taxaid.org.uk/situations/self-employed/working-out-profits-and-paying-tax

Tax debt guide – the amount demanded may be wrong http://taxaid.org.uk/guides/tax-debt/wrong

HMRC website:

On payments on account:

- http://www.hmrc.gov.uk/sa/understand-statement.htm#5
- SA303 download page - claim to reduce payments on account
-

Understand your self assessment statement http://www.hmrc.gov.uk/sa/understand-statement.htm

How to handle

Taxpayers registered for self assessment on-line can use the on-line system to change their payments on account. They will need to estimate their tax bill for the correct tax year. Alternatively, payments on account may be reduced by phoning HMRC (on the **Payment Enquiry Helpline**) or by downloading form SA303 and sending it in.

If taxpayers have an accountant, their accountant can advise them how to do this. For those on low income TaxAid may be able to help.

Tricky self-employment issues, especially impacting on migrants

Likely problems

Low paid migrant workers face the same difficulties as other UK workers, but there are certain recurring tax and National Insurance issues. These include:

- Getting a National Insurance Number
- Ambiguous work relationship and unscrupulous employers
- Identity fraud – particularly in association with work in construction
- Dealing with tax paperwork
- Residence status issues

Further information

There is an introduction to these and other areas-

On the HMRC website:

http://www.hmrc.gov.uk/migrantworkers/ - this page include links to download a tax leaflet for migrant workers in eleven languages.

On the TaxAid website:

http://taxaid.org.uk/situations/migrant-workernew-to-the-uk

There is also information for Migrant workers on the Low Income Tax Reform Group website at: http://www.litrg.org.uk/Migrant

How to handle

The guidance on the HMRC leaflet may provide sufficient information to enable the individual to decide on the next step. Specific guidance will depend on the exact problem. Many of the possible areas are covered in other sections of this guide.

Tax debt

Overdue tax bills: Tax bills for in-time and out-of-time years

Likely problems

You may be approached by people with unmanageable tax bills. They may be facing recovery action including seizure of goods or bankruptcy.

Sometimes the underlying debt will include estimated bills which are in turn the result of a failure to file tax returns on time.

People delay filing tax returns for many reasons: such as ill health, bereavement, debt, or ignorance of the rules. But the tax obligations don't wait.

Where there are outstanding returns it is possible that individuals will face unrealistic bills, which are legally collectable.

Information

The general rule is that there are four years from the end of the tax year in which to submit a return and make claims and elections for a tax year – after this, the year is out of time and the figures cannot be changed.

Some claims and elections, such as for loss relief for a trader, need to be made on a shorter timescale.

For limited exceptions to the filing limits, e.g. when returns are issued late, see 'time limits for tax returns' in the **Tax returns: Completing tax returns and correcting errors** section.

Tax bills for in-time years may in some cases be reduced by submitting a return or correcting an error, but it is very much more difficult to change tax bills for out-of-time years. In some cases, even though the tax bill is estimated and unrealistic, the only option will be a debt management solution, possibly including bankruptcy.

Once a tax bill has been issued, it does not go out of time, as it is a Crown Debt and not subject to limitation by statute. In addition, HMRC may raise new tax bills for up to 20 years in cases where the taxpayer has been negligent and HMRC considers additional tax may be due.

Further information

TaxAid website:

Tax returns - deadlines and penalties: http://taxaid.org.uk/guides/tax-returns/late-tax-returns

Tax debt guide – the amount demanded may be wrong: http://taxaid.org.uk/guides/tax-debt/wrong

HMRC website:

Time limits for making an amending claims – technical guidance: http://www.hmrc.gov.uk/manuals/sacmanual/SACM3035.htm

How to handle

If all tax returns have been submitted, and are accurate, then it is likely that the tax bill will be correct.

But if there are outstanding tax returns, particularly if these are for a number of years, it will be important to identify out-of-time years, and those years which are just about to go out of time, as soon as possible. Particular care is needed in the run up to 31 January and 5 April.

This information may not be available from a taxpayer's paperwork and it will usually be necessary to contact HMRC, on the number shown on the most recent demand, to establish the position.

It will be necessary to ask for a full statement of account from HMRC and confirmation of which tax returns are outstanding.

Once the background has been established, an appropriate route forward can be selected. These include:

- Submission of outstanding tax returns - as above
- Making claims and elections – this is likely to need specialist tax advice
- Negotiating time to pay – see below
- Special relief – this applies to out of time estimated tax bills, but is only likely to apply in exceptional cases – this is discussed in a separate section below

Estimated debts

Likely problems

People delay filing tax returns for many reasons: such as ill health, bereavement, debt, or ignorance of the rules. In some cases, where HMRC have not received a tax return they will issue a **determination**. This is HMRC's estimate of the tax debt for a particular year. It is therefore possible that an individual is facing a tax bill which is unrealistic and may be changed.

Information

Once the 31 January filing deadline has passed, HMRC may estimate the tax due from a taxpayer. This estimated bill, the **determination**, can only be replaced by the taxpayer submitting a tax return for that year. The taxpayer has only 3 years from the normal 31 January filing deadline (or 12 months from the issue of the determination if later) in which to submit a return. After this date, HMRC will not process the return to displace the determination.

Penalties and interest will accrue in addition to the estimated bill.

Further information

TaxAid website:

The amount demanded may be wrong: http://taxaid.org.uk/guides/tax-debt/wrong

How to handle

Particular care is needed in the run up to 31 January as this could mark the end of the three year timeframe for replacing a **determination**. It may not be possible to identify a determination from a taxpayer's paperwork and it will usually be necessary to contact HMRC on the number shown on the most recent demand to establish the position.

Once the existence of an estimated debt has been established, an appropriate route forward can be selected. These include:

- Submission of outstanding tax returns – for in-time years - see above
- A Special Relief claim for out of time years – this is only likely to apply in exceptional cases – see section below for details

Time to pay

Likely problems

Many debtor taxpayers mistakenly think that HMRC will behave in a way similar to a commercial creditor. This is not the case so this assumption can produce unrealistic expectations. HMRC's powers are very wide and collection is determined by policy and not necessarily by the wider context.

Information

HMRC's normal maximum time-to-pay period is 12 months. Usually the time offered will be much shorter. HMRC is under no obligation to offer time to pay, so from its angle, all time to pay is a concession – meant as a 'one-off' offer of help in times of unexpected difficulty.

All outstanding tax returns will need to be submitted, and all future liabilities, including payments on account, will need to be met on time. HMRC may provisionally agree time to pay there are tax returns outstanding, but only on the basis that submission of the remaining returns is within an agreed short timescale, usually of up to a month. HMRC are very reluctant to agree time to pay where a previous agreement has broken down so keeping to an agreement, or contacting HMRC in advance of missing any payments is important. Even if an agreement cannot be reached, the taxpayer would usually be best advised to make whatever payments they can.

Further information

TaxAid website:

You need time to pay: http://taxaid.org.uk/guides/tax-debt/time

How to handle

The first consideration is to decide if the tax debt is accurate. If tax returns are outstanding, this is unlikely to be so. See section above on completing tax returns. See also: http://taxaid.org.uk/guides/tax-debt/wrong to check if the debt is likely to be correct.

Particular hazards:

- Estimated tax debts (see above)

- Tax returns which are due to go out of time, or are already out of time (see above)

If a taxpayer cannot agree a time-to-pay framework with HMRC, recovery action as discussed in the sections below, is likely. They are likely to need specialist tax and tax debt advice.

Distraint

Likely problems

Taxpayers may face loss of key business or personal assets.

Information

HMRC has a power to legally take possession of goods. It does not need a court order to do this. HMRC uses its own staff to list the goods, but a private contractor may actually remove the goods. Vehicles are particularly at risk. Goods should be wholly owned by the taxpayer. HMRC has a peaceful right of entry, so the taxpayer may deny entry where this is possible.

However, HMRC could then go to the court for additional powers. The power can be used even when the tax bill is estimated. The taxpayer does not need to be present – HMRC need only to be able to reasonably identify the goods. The financial proceeds of distraint may well be less than the total amount owing. The balance still owing would then be subject to recovery by some other route.

Distraint should be carried out by member of HMRC's field force, not by an external Debt Collection Agency. The information available to the field force may not be complete, or may include only one part of the total amounts owing to HMRC. The oldest part of the debt may have been released for distraint action.

Distraint can be carried out on behalf of overseas tax authorities.

HMRC's powers of distraint do not apply in Scotland. In Scotland, HMRC needs to apply to Sheriff Court before taking enforcement action.

Further information

TaxAid website:

Enforcement action: http://taxaid.org.uk/guides/tax-debt/enforcement-action

HMRC website:

Technical guidance on distraint: http://www.hmrc.gov.uk/manuals/dmbmanual/DMBM655000.htm

Distraint fact sheet England and Wales and Northern Ireland can be downloaded from the HMRC website: http://www.hmrc.gov.uk/leaflets/c14.htm

Leaflet - Visits from HMRC: http://www.hmrc.gov.uk/factsheets/ffc1.pdf

HMRC Leaflet on distraint: http://www.hmrc.gov.uk/factsheets/ef1.pdf

How to handle

It is critical to establish the stage the case has reached. Very little can be done once distraint action has been levied – that is once an HMRC officer has actually listed property for removal to auction. If distraint action is just threatened, the taxpayer should make every attempt to arrange time to pay as an alternative. If the problem in arranging time to pay is that the tax bill includes estimated amounts, then see guidance on estimated debts above. It may be possible to obtain a short suspension of collection while this point is considered.

The taxpayer should consider taking care over access to their private and business premises and the location of any vehicles. However, this will not resolve the problem unless action is also made to establish the correct tax debt and make arrangement to pay.

County court

Likely problems

Taxpayers may mistakenly think that they can challenge the amount of a tax debt in court. In fact, in some cases attempting to challenge a tax debt through the courts may be counterproductive.

Information

HMRC may use the Magistrates' Court or County Court to recover tax debts, but time limits and monetary thresholds favour County Court action rather than Magistrates' Court action. Proceedings in the County Court are conducted on paper.

If HMRC has already obtained a County Court Judgment and this includes an estimated debt, HMRC will agree to collect a reduced amount if the underlying debt can be successfully challenged through the usual routes. See guidance above on tax debts for in-time and out-of-time years, and estimated debts.

HMRC now includes a charge on a sliding scale for its own costs in taking action in the County Court.

Further information

Dealing with County Court proceedings: http://taxaid.org.uk/guides/tax-debt/countycourt

HMRC enforcement fact sheets: http://www.hmrc.gov.uk/leaflets/c14.htm

How to handle

There are a number of dangers here:

1) Contesting an estimated tax debt in the County Court will preclude a claim to Special Relief (see below) or other overpayment reliefs
2) The amount of a tax debt cannot be successfully challenged in court. If the bill is incorrect, tax returns should be submitted for in-time years and Special Relief considered for out-of-time years where there is a **determination**.

Once these issues have been considered, overall debt advice may be needed to establish the most appropriate route. For guidance on procedures see - Dealing with County Court proceedings: http://taxaid.org.uk/guides/tax-debt/countycourt

Enforcement and Insolvency Service (EIS), bankruptcy and options

Likely problems

Taxpayers are likely to be seriously in debt. They could face losing their house and business. This is the last opportunity to obtain a different outcome.

Information

The Enforcement and Insolvency Service is the 'end of the line' as regards enforcement action. When a case has reached the Enforcement and Insolvency Office (Worthing for England and Wales, Edinburgh for Scotland and Northern Ireland) time is short, and the normal guidelines on time to pay do not apply. Negotiations take place in the context that bankruptcy is the default outcome.

Further information

Tax debt and bankruptcy: http://taxaid.org.uk/guides/tax-debt/bankruptcy

How to handle

A realistic assessment of likely outcomes needs to be made at this stage including all the taxpayer's debts – of which tax may only form a part. The presence of a significant tax debt may determine the outcome as:

a) HMRC will decide matters on the basis of policy. This means, for example, that bankruptcy is a more likely outcome if the tax debt is a result of tax evasion.
b) HMRC may have additional knowledge of the taxpayer's affairs over a long period of time which could affect its decision on such issues as an Individual Voluntary Arrangement, where a creditor's vote will decide the outcome.

The key decisions at this stage are:

1) Is bankruptcy an appropriate outcome, for this case? For example, does the taxpayer own a house, or other significant asset which could be lost in bankruptcy? Are there estimated debts (see above) and could Special Relief be an option? Has the taxpayer actually ever traded – or merely registered as self-employed? Are there physical or mental health considerations?
2) Is there any alternative to bankruptcy? Could the taxpayer be eligible for **remission**, would HMRC consider a charge on property or a solicitor's letter as an alternative to bankruptcy?
3) Should the taxpayer take action for self-petition bankruptcy or a DRO rather than wait for further HMRC action?

The answer to these questions will indicate the best route forward.

Special Relief

Likely problems

Individuals may be faced with disproportionate **determinations** which are out of time. Often these have arisen due a turbulent lifestyle or a personal crisis. Enforcement of the estimated bill may result in bankruptcy and in some cases the loss of the individual's home.

Information

Special Relief is a statutory solution to the circumstances where an excessive HMRC determination is out of time.

The basic rule is that HMRC may agree not to pursue its legal right to recover an estimated tax debt, after the time limit for submitting a tax return has passed, so long as acceptable evidence of the correct liability can be provided, and it is 'unconscionable' to pursue recovery of the full amount.

With Special Relief, we have a definition from HMRC's view of 'unconscionable'. The definition considerably restricts the scope of the relief. On the 'not normally' accepted as unconscionable list, we find:

- Someone who registers as self employed, but never trades.
- Someone who ceases to be self employed, but who does not complete final Returns and provide a forwarding address to cover the enquiry window. This is normally 12 months from the date the Self-Assessment Return was filed.
- Construction industry subcontractors who neither file Tax Returns, nor respond to HMRC, on the mistaken assumption that, as they have paid some tax at source, they need do no more.
- Someone who moves abroad and does not respond to HMRC as regards outstanding debts, or leave a forwarding address.
- Someone who is negligent from HMRC's point of view, in that they were aware of their responsibilities, but did not act or respond to communications.
- Anyone who has contested the debt in the courts

These groups might include, for example, employees, non-residents, or self employed who would have been due a refund under CIS. Clients in categories such as these might find it difficult to establish a right to Special Relief on the terms outlined under the new guidance.

Those on the 'acceptable reasons' list include:

- Someone suffering from temporary or sporadic illness, who finds it particularly difficult to engage with the tax system. This could cover both physical and mental illness.
- Someone who has not received communications from HMRC due to factors outside their control.
- Someone who is insolvent: HMRC may be sensitive to the position of other creditors here.

A claim for Special Relief will need to be supported by a tax return for the out-of-date year. Advice from a tax adviser is likely to be needed.

Further information

On the TaxAid website:

http://taxaid.org.uk/guides/tax-debt/bankruptcy

On HMRC website:

http://www.hmrc.gov.uk/manuals/sacmanual/SACM12215.htm

How to handle

It should be possible to establish if there is any possibility of a Special Relief claim in a taxpayer's circumstances – such as if they are on the HMRC 'accepted reasons' list. Such people should be directed for specialist tax advice. This can be to TaxAid if they are on low income.

Tax Facts associated with TaxAid training modules: September 2013

Glossary

Chargeable gains - the taxable capital profit made when selling an investment; can also apply where items are given away

Determination – an estimated tax bill made by HMRC when a tax return has not been submitted on time

ESA – Employment and Support Allowance – a disability-related benefit which can be taxable (if contributions based) or non taxable (if income based)

Flat rate expenses allowance - a fixed tax-free allowance given by HMRC for certain work expenses

HMRC income tax enquiry line - 0300 200 3300 for Income Tax enquiries for individuals, pensioners and employees

JSA - Jobseeker's Allowance – a taxable out-of-work benefit

Month 1 or Week 1 basis - a PAYE tax code which taxes each month or week in isolation; used as a temporary code

Normal filing date - the normal self assessment filing date for on-line returns is 31 January after the end of the tax year; there is an earlier filing date of 31 October for paper tax returns

P11D – the tax form from employers showing company car and other taxable benefits

P45 - the tax form used to transfer between employments

P46 - the tax form completed on behalf of a new employee who does not have a P45, now replaced by Starter Form

P50 - tax form used to claim a refund

P60 - the tax year end statement of income and tax paid given to each employee / pensioner by their employer or pension provider

P87 - a form used by an employee to claim tax relief on work expenses

P161 – a form issued by HMRC to individuals who are approaching state pension age, not now generally issued

P800 tax calculation - tax year end summary form produced by HMRC showing all an individual's PAYE income and the tax deducted; used to check if they have under or overpaid tax

PAYE - Pay As You Earn; a system of tax collection administered by employers and pension providers

PAYE coding notice - a form (P2) showing how a PAYE tax code has been calculated

PAYE tax code – the combination of numbers and letters which tells an employer or pension provider how much tax to take off an individual's pay

Payment Enquiry Helpline - 0300 200 3401 for all self assessment, PAYE and Construction Industry Scheme payment enquiries

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Remission – the process by which HMRC suspends indefinitely recovery action for a debt.

Special Relief – a procedure for reducing out-of-time estimated tax bills

Tax advisor – a member of one of the professional bodies such as the Chartered Institute of Taxation, Institute of Chartered Accountants, or the Association of Chartered Certified Accountants

TaxAid - a Charity providing free tax advice to those on low income (under about £17,000 pa)

TaxAid helpline - 0345 120 3779 open between 10am and 12 midday, Monday to Friday

Advice line for advice agencies only (not to be given to clients) - 0300 330 5477, 9.30am – 4pm Monday to Friday.

Tax Help For Older People - a Charity providing free tax advice to those aged 60 and over where net household income is under £17,000 pa – helpline 0845 601 3321