



**FACT SHEET NO. 12**

**DEALING WITH TAX DEBT**

**i INFORMATION**

This fact sheet gives an outline on what you can do if you cannot pay your tax bill. Tax is administered and collected by Her Majesty's Revenue and Customs (HMRC)

**HOW TO DEAL WITH A TAX DEMAND**

A tax demand is sent when you do not pay your tax on time. The demand will show the amount of tax HMRC state you owe plus any interest, penalties and surcharges. Whenever you receive a tax demand you should check whether it can be reduced or challenged.

Consider the following questions:

- Did you complete your tax return correctly on which the bill was raised?
- Did you make sure that you made full use of the tax allowances to reduce your tax bill?
- Did you send in your tax return? If not, the tax demand will be an estimate and the only way you will be able to challenge it would be to make sure that you submitted your tax return with the correct figures.
- Are any penalties and surcharges correctly charged?
- Is an appeal possible?
- Have all payments and data been correctly processed by HMRC staff?
- Has HMRC made an error in sending the tax demand?

What are your rights as a tax payer in dealing with the tax demand?

**HOW TO NEGOTIATE WITH HMRC**

If the income tax demand cannot be challenged and you cannot afford to pay your bill then the first step would be to contact HMRC to ask for 'time to pay'.

When making contact with HMRC by telephone always make sure that you take the name and title of the person you speak to and the time and date for your records.

When corresponding with HMRC in writing always make sure you keep copies of the letters you have sent and received.

**Returns**

HMRC will not agree to any payment arrangements or negotiations unless you have first submitted your tax return. You must do this as soon as possible. If you are having difficulty or are on a low income you may be able to get assistance from TaxAid, an independent charity that specialises in tax. See 'Useful addresses'.

**Equitable liability**

If your tax bill is based on a 'determination' you should submit your tax return for this in order to reduce the bill. You will be out of time to do this after five years from the statutory filing date. In this case you should submit your return with a letter asking the Revenue to consider the principle of 'equitable liability' to the Debt Management office chasing the debt.

You should also ask that enforcement is suspended whilst this is considered. You will be expected to pay any remaining debt that is due in full. If your request is refused you can apply to the Adjudicator's office. See 'Useful addresses'.

## HMRC delay

You may be able to ask for income tax arrears to be waived in the event of HMRC failing to make proper and timely use of the information you have supplied them. For this to be the case:

- you must have reasonably believed you're your tax affairs were in order;
- you were notified of the arrears after 12 months from the end of the tax year in which HMRC received the information; **or**
- you were notified of an over-repayment after the end of the tax year following the year in which the repayment was made.

In exceptional circumstances arrears of tax notified 12 months or less after the end of the relevant tax year may be given up if HMRC:

- failed more than once to make proper use of the facts they had been given about one source of income;
- allowed the arrears to build up over two whole tax years in succession by failing to make proper and timely use of information they had been given.



### ADVICE

If you believe that HMRC has delayed in the above circumstances and they refuse to waive the tax you can ask for your case to be reviewed by the Adjudicator.

## Request to remit or write off the debt

In cases of the elderly, long-term ill, the deceased and long-term unemployed or where no assets are at risk HMRC will consider any request to write off or remit an income tax bill. In effect HMRC will not write off a tax debt but will agree not to pursue collection where there are no assets of realisable value and/or very little financial means to pay back the income tax bill. This would still allow HMRC to pursue collection cases where financial circumstances have actually improved.



### INFORMATION

Generally, remission is very rare. HMRC will consider requests on a case by case basis.

## Time to pay

This is an arrangement to pay your bill back in instalments after the date it should have originally been paid. You should contact HMRC as early as possible as they are more likely to accept an arrangement before further action takes place. You will also avoid surcharges if you get an arrangement to pay before they become due so if your tax bill is outstanding on 31 January and an agreement for time to pay is in place before 28 February you will avoid the 5% surcharge. See 'Penalties and surcharges' for details.

HMRC will ask for details of income and expenditure when agreeing time to pay. It is important to show that you are not refusing to pay but that you can't pay immediately. Use your business and household budget to demonstrate this and to work out how much you can afford.

Tell them you have sought the advice of Business Debtline.



## FACT SHEET

For a copy of our 'Business and household budget sheet' phone us on **0800 197 6026**.

In agreeing time to pay, HMRC will deal with each case on its own individual merits. They will consider why you are in difficulties, what assets you have and the length of time your offer will take to pay the debt. As a guide, if you are continuing to trade, they will expect you to offer a payment that will incorporate arrears and future liabilities. It is expected that you will be completely up to date as soon as possible but within a maximum period of 3 years for self assessed income tax or 12 months for PAYE debt.

If you have ceased trading the length of time should not be an issue as long as it is based on your actual circumstances. In either case, submit a copy of your budget sheet along with:

- the reasons why you are unable to pay the income tax bill in full;
- your offer of payment per month/week;
- your proposed start date of repayment;
- the length of the payment arrangement;
- any goodwill payments;
- stating whether the remaining balance will be cleared after the length of the payment arrangement and how this is going to be done i.e. selling assets, re-financing or raising a loan etc;
- whether you have any assets at all. Having no assets puts you in a stronger position to negotiate as it limits HMRCs alternative options to recover the debt.

## ENFORCEMENT

If you do not agree an arrangement with HMRC then the debt will be transferred to the local

office. The office will consider a number of different means to recover the debt. You should still try and negotiate with them and make an offer to pay if you have not already done so. If you have previously been refused time to pay but your circumstances have now changed, tell them this. If you cannot get time to pay they may consider the following action.

### Bailiff action (distrain)

HMRC do not require a court order to take distraint[bailiff] action. The Collector of Taxes is responsible for carrying out distraint and may very occasionally be accompanied by a certificated bailiff. HMRC should attempt to gain entry to your premises peacefully. You do not have to let them in to your premises but if entry is refused they can apply for a warrant to break in if they can demonstrate that you are neglecting or refusing to pay. This power is rarely used in practice.



### WARNING

It may be impossible to stop them entering your business premises if it is open to the public.

Once gaining entry, the Collector of Taxes will look to take a levy on goods that you own. They can not take goods owned jointly by you and another party unless it is a joint debt. Once the Collector of Taxes has gained entry they will seize assets and usually make a list of goods and ask you to sign it. This is called a distraint notice and inventory form otherwise known as a 'walking possession agreement'. If you do not then pay the debt in full within five days they will return to remove the goods and, if you refuse to allow entry, are entitled to gain access for instance by employing the services of a locksmith to force entry. The Collector can seize goods such as:

- your car, van or lorry;
- office equipment;
- furniture and electrical items;
- personal belongings;
- stock.

They will not take;

- essential tools of the trade;
- basic household items necessary for the domestic need of the family such as clothing, bedding and cooking equipment;
- items on hire purchase or where there are other third party financial interests.

If you do not pay they will remove goods to sell at auction after five calendar days.

## County court procedures

HMRC may use the county court to recover the debt. You will receive a claim form through the post to which you can reply and make an offer of repayment. You should use your business and household budget to support your offer of payment. If the offer is accepted and you keep to it then no further action will happen.



### FACT SHEET

For a fact sheet on 'Replying to a county court claim form' phone Business Debtline on **0800 197 6026**

## Magistrates court action

If your income tax bill is less than £2,000 HMRC is more likely to recover the tax debt through the magistrates' court by issuing you with a summons. You will be asked to attend a hearing where you can offer instalments based on your ability to pay. You must attend the hearing and you should take a copy of your business and household budget. Try to negotiate with the

collector before the hearing, if this is agreed, the magistrates may accept this.

If you do not pay as ordered to by the magistrates they can issue a distress warrant to use private bailiffs as with a magistrates' court fine.



### FACT SHEET

For a fact sheet on 'Magistrates court fines' phone Business debtline on **0800 197 6026**

As with magistrates court fines, HMRC could ask the court to issue a judgment summons if you have not paid the debt. You can be sent to prison if you have wilfully refused or neglected to pay. In practice HMRC do not use this method of enforcement.

## Bankruptcy proceedings

If HMRC have been unable to recover the debt by any other means, they will pass the debt to the Enforcement and Insolvency Service office in Worthing. The likely course of action once it reaches this stage is that you will be made bankrupt as long as the debt is at least £750. In practice it is unlikely that HMRC will do this if your debt is less than £2,000.

Even at this stage it may be possible to negotiate a payment arrangement. If you have a lump sum to offer you could try and negotiate a full and final offer. Each case will be viewed on its own merits but you will be more likely to have success if you can demonstrate that this will give them more towards the debt than if they were to make you bankrupt for example.



### WARNING

If you are made bankrupt you may lose assets of value including your home. If you are threatened with bankruptcy, **phone us for advice.**



## FACT SHEET

For a fact sheet on 'Bankruptcy' phone Business Debtline on **0800 197 6026**.

### Charge on your property

If you own your property but are in ill-health and cannot make payments you may consider offering a charge on your property as opposed to being made bankrupt. The debt will then be paid upon the property being sold or upon your death. If you are considering this, **phone us for advice**.

### Penalties and charges

- A £100 penalty will be applied for a late return.
- Interest will be charged at 7.5%.
- Daily penalties charged later, if the return is still not submitted after reminders, of up to £60 per day per return. (This is not reduced upon submission of a return once charged).
- 5% surcharge after 28 days from when the tax is due (i.e. 28 days from 31 January).
- Further 5% surcharge on any outstanding balance after 6 months (i.e. 31 July).

HMRC will not charge surcharges where a time to pay arrangement is in place, before the surcharge would be applied, providing the arrangement is kept to.

It is crucial that you submit returns as the penalty cannot exceed the tax due. Hence if the tax owed is nil there cannot be a penalty and therefore no interest or surcharges.

## WHAT SERVICE SHOULD I EXPECT IN DEALING WITH HMRC?

HMRC have a service commitment to say they will:

### 'Act fairly and impartially'

treating your affairs in strict confidence within the law;

### 'Communicate effectively'

by providing clear and simple guidance;  
giving accurate and complete information;

### 'Provide good quality service'

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

## HOW TO COMPLAIN

HMRC operates within a code of practice therefore if you are unhappy with the service that you receive you should complain initially to your local tax office. Write or speak to the customer relations or complaints manager. Keep a copy of your letter or a record of any conversation you have had. HMRC aim to contact you as soon as possible to resolve your complaint at this stage. If you are still unhappy you can follow their complaints procedure.



### ADVICE

Details of their complaints procedure are set out in the Code of Practice leaflet, 'Putting things right'. **Phone us if you would like a copy.**

## USEFUL ADDRESSES

### Business Debtline

[www.bdl.org.uk](http://www.bdl.org.uk)

**0800 197 6026**

Mon – Fri 9:00am to 5:00pm

### TaxAid

[www.taxaid.org.uk](http://www.taxaid.org.uk)

**0845 120 3779**

Mon – Thur 10:00am to 12:00pm

### HMRC

[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

### The Adjudicators Office

Haymarket House

28 Haymarket

London

SW1 4SP

**0207 930 2292**

[www.adjudicators@gtnet.gov.uk](mailto:www.adjudicators@gtnet.gov.uk)

**Remember: You can always contact us for advice about any difficulty you have in dealing with your debts.**

**Freephone 0800 197 6026 Website [www.bdl.org.uk](http://www.bdl.org.uk)**

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