

## SCHEDULES

### SCHEDULE 26

#### PENALTIES FOR FAILURE TO PAY TAX

#### PART 2

##### LIABILITY TO A PENALTY

*No penalty if payment in full before end of 15 day period*

- 4 No penalty is payable if—
- (a) the tax due is paid in full before the end of the 15 day period, or
  - (b) the 15 day time to pay condition is met,
- (but see paragraph 7).

*First penalty: tax remains due at end of 15 day period*

- 5 (1) A penalty is payable under this paragraph if—
- (a) the tax due is not paid in full before the end of the 15 day period, and
  - (b) the 15 day time to pay condition is not met.
- (2) If the tax due is paid in full after the end of the 15 day period but before the end of the 30 day period, the amount of the penalty is amount A.
- (3) If the tax due is not paid in full before the end of the 30 day period, the amount of the penalty is—
- (a) if the 30 day time to pay condition is met, amount A, and
  - (b) if the 30 day time to pay condition is not met, the total of amount A and amount B,
- (but see paragraph 7).
- (4) Amount A is 2% of so much of the tax due as is unpaid at the end of the 15 day period.
- (5) Amount B is 2% of so much of the tax due as is unpaid at the end of the 30 day period.

*Meaning of “15 day time to pay condition” and “30 day time to pay condition”*

- 6 (1) The 15 day time to pay condition is met if a time to pay agreement is made (whether before or after the end of the 15 day period) as a result of proposals for paying the tax due made by the person before the end of the 15 day period.
- (2) The 30 day time to pay condition is met if a time to pay agreement is made (whether before or after the end of the 30 day period) as a result of proposals for paying the tax due made by the person after the end of the 15 day period, but before the end of the 30 day period.

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*Status: This is the original version (as it was originally enacted).*

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*First penalty: effect of breaking time to pay agreement*

- 7 (1) This paragraph applies where—
- (a) the 15 day time to pay condition or the 30 day time to pay condition is met, and
  - (b) the person breaks the time to pay agreement by virtue of which the condition was met.
- (2) If HMRC give the person notice that a penalty is payable under paragraph 5, a penalty is payable under that paragraph as if the condition in question had never been met.

*Second penalty: tax remains due at end of 30 day period*

- 8 (1) A penalty is payable under this paragraph if any amount of the tax due is unpaid at the end of the 30 day period.
- (2) The amount of the penalty is calculated by applying the penalty rate, during the further penalty period, to so much of the tax due as is from time to time unpaid.
- (3) The penalty rate is 4% per annum.
- (4) The further penalty period is the period—
- (a) beginning with the day after the last day of the 30 day period, and
  - (b) ending with the day on which the tax due is paid in full.
- (5) But if a time to pay agreement has effect during the further penalty period, the further penalty period does not include the period—
- (a) beginning with the relevant day, and
  - (b) ending with the day on which the tax due is paid in full,
- (but see paragraph 9).
- (6) The relevant day is the day on which the person makes the proposals to HMRC for paying the tax due, as a result of which the time to pay agreement is made.

*Second penalty: effect of breaking time to pay agreement*

- 9 (1) This paragraph applies where—
- (a) a time to pay agreement has effect during the further penalty period, and
  - (b) the person breaks the time to pay agreement.
- (2) If HMRC give the person notice that a penalty is payable under paragraph 8, a penalty is payable under that paragraph as if the time to pay agreement had never had effect.

*Interpretation of Part 2*

- 10 (1) This paragraph gives the meaning of terms used in this Part of this Schedule.
- (2) The “15 day period”, in relation to tax due, is the period of 15 days beginning with the day after the specified date.
- (3) The “30 day period”, in relation to tax due, is the period of 30 days beginning with the day after the specified date.

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*Status: This is the original version (as it was originally enacted).*

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- (4) A “time to pay agreement” is an agreement between HMRC and a person that payment of an amount of tax due (the “deferred amount”) may be deferred for a period (the “deferral period”).
- (5) A person breaks a time to pay agreement if—
- (a) the person fails to pay the deferred amount when the deferral period ends, or
  - (b) the deferral is subject to the person complying with a condition (including a condition that part of the deferred amount be paid during the deferral period) and the person fails to comply with it.
- (6) If a time to pay agreement is varied at any time by a further agreement between the person and HMRC, references in this Schedule to the agreement include the agreement as varied.

*Power to amend figures by regulations*

- 11 The Commissioners for HMRC may by regulations amend this Part of this Schedule so as to—
- (a) change references to 15 days (or to another number of days resulting from the previous exercise of powers under this sub-paragraph) to references to a greater or lesser number of days;
  - (b) change references to 30 days (or to another number of days resulting from the previous exercise of powers under this sub-paragraph) to references to a greater or lesser number of days;
  - (c) increase or reduce the percentage specified in paragraph 5(4);
  - (d) increase or reduce the percentage specified in paragraph 5(5);
  - (e) increase or reduce the percentage specified in paragraph 8(3).