HMRC - CH153400 - Penalties: Examples

This page provides an example of calculating the penalties for failing to pay on time certain payments required under construction contracts. The person is required to make monthly CIS payments but has been late with some payments. The example has two stages.

Stage 1

This shows a default penalty.

Stage 2

This shows the default and further penalties.

Stage 1

Default penalty

Jonathon is registered as a contractor who uses subcontractors under the Construction Industry Scheme. He makes CIS deductions where appropriate from the payments that he makes to those subcontractors. Jonathon is required to submit these deductions to HMRC by the due date. He fails to make his payments by the due date for every month other than May, July, October and February. It makes no difference to the calculation of the penalty whether the penalties are assessed during the year or after the year end. The table below shows the number of failures and the number of defaults for the tax year 2012/13.

Stage 1

This shows a default penalty.

Stage 2

This shows the default and further penalties.

Stage 1

Default penalty

Jonathon is registered as a contractor who uses subcontractors under the Construction Industry Scheme. He makes CIS deductions where appropriate from the payments that he makes to those subcontractors. Jonathon is required to submit these deductions to HMRC by the due date. He fails to make his payments by the due date for every month other than May, July, October and February. It makes no difference to the calculation of the penalty whether the penalties are assessed during the year or after the year end. The table below shows the number of failures and the number of defaults for the tax year 2012/13.

All the failures except the first are defaults. See CH153200 for meaning of defaults. Jonathon has 8 failures but 7 defaults.

Note that if Jonathon also had an obligation to make PAYE/NIC payments in the above periods, then the CIS obligation and the PAYE/NIC obligation are treated as the same tax when calculating the default penalties for failing to pay on time. A failure to pay two or more elements of the combined amount by the due date for a single month counts only as one failure.

Stage 2

Default and further penalties

In Stage 1 of this example we showed Jonathon’s default penalty for 2012/13. By looking at the tax still unpaid at later dates we can calculate any further 5% penalties that are also due.

Any payment due in the year that remains unpaid 6 months after the penalty date attracts a 6 month 5% further penalty, as well as any default penalty that was due.

Any payment that remains unpaid 12 months after the penalty date also attracts a 12 month 5% further penalty.

By the end of the year Jonathon had paid off some of the outstanding amounts, but other amounts were still unpaid. The unpaid amounts and the penalty consequences are shown in the table below.

Note that the first failure for June, which does not count as a default or incur a default penalty, does attract a further penalty if it remains unpaid at 6 or 12 months after the penalty date.

Although the penalties will be assessed at different stages, for 2012/13 Jonathon has incurred total penalties of £5,530, calculated as follows.

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