HMRC - COM71030 - Repayment During Enquiry

This subject is presented as follows.

General

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Whether or not you can repay during an enquiry and if so, when and under which statutory provisions, depends on two related issues.

Whether the time limit for amending the return is open or expired.

Whether the company pay by instalment payments (QIPs).

See the Company Taxation Manual at CTM92650 and CTM92090 for more information about repayments before liability is finally established in QIPs and non-QIPs cases.

Time limit for amending company tax return - open

If a company is within time to amend its return during an enquiry then, whether or not the company is an instalment payer, legislation says that the amendment does not take effect until the enquiry is completed.

The amendment does not restrict the scope of the enquiry, but may be taken into account, together with any matters arising in the enquiry. See COM71020 for more information.

Legislation also says that its application does not affect a claim under Section 59DA TMA 1970 for repayment in advance of liability being established. So a company may claim repayment before you have concluded an enquiry into its company tax return.

Provided you are satisfied that any such claim meets the requirements of the legislation, you should make the repayment. Use function REOD (Reallocate Out Of COTAX) to reallocate the money to OAS, then provide the relevant information to the CT Unit Cumbernauld to enable them to make the necessary repayment. See COM125060 for full details of the procedure.

You should note that companies that pay by instalments cannot claim under S59DA. Their claims are dealt with under the quarterly instalment regulations and you cannot repay any money that was paid as a quarterly instalment during an enquiry. Instead, make the repayment when you give effect to the amendment as part of your conclusions at the end of the enquiry.

For more information about companies that pay by instalments, see COM95000 onwards.

Time limit for amending company tax return - expired

During an enquiry, if a company is out of time to amend its return, then Sch 1A TMA 1970 applies to any claim for repayment, whether or not the company is a quarterly payer. The claim should not be included in any subsequent closure notice because it is not an amendment to the return.

Provided you are satisfied that any such claim meets the requirements of Sch 1A, you can give effect to the claim as soon as practicable by discharge or repayment.

If you enquire into the claim, it does not take effect until the Sch 1A enquiry is concluded by issuing a Para 7(4) Sch 1A closure notice. However, legislation allows you to give effect to the claim on a provisional basis at any time before then, to such extent as you think fit.

If you open a Sch 1A enquiry into the claim, you must handle it separately from the enquiry into the return. COTAX does not provide support for Sch 1A enquiries into claims and elections not made in a return. You must open, conduct and close those enquiries outside COTAX.

Whether or not you open an enquiry into the claim:

you cannot record the Sch 1A claim on COTAX while the ‘enquiry in progress’ signal is set for the enquiry into the return

you can make a provisional repayment by using function REOD to reallocate the money to OAS and then giving the CT Unit Cumbernauld the relevant information for them to make the necessary repayment. See COM125060 for full details of the procedure

you must record the taxpayer or revenue amendment to finalise the enquiry into the return before you can update COTAX with the details of the Sch 1A claim or the result of the enquiry into the claim.

When you have finalised the enquiry into the return on COTAX:

use function RAMA (Record/Amend Assessment) ‘process a claim’ option to record the Sch 1A claim on COTAX

if you have enquired into the Sch 1A claim, suppress the assessing output as the wording of the claims output issued by COTAX is not appropriate to settling a Sch 1A enquiry.

See COM52030 and COM71040 for more information about claims and elections under Sch 1A.

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Summary

See:

COM71011 for a list of functions to use in particular situations

COM71012 for legislation applying to this subject.

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