HMRC - CTM94100 - CTSA: Companies Act Extension

FA98/SCH18/PARA19 (TMA70/S94 (3))

When a company that is registered under the Companies Act:

has a return period that coincides with a period for which it is required to deliver accounts to the Registrar of Companies,

and

the date by which the accounts must be delivered to the Registrar is later than the filing date for the company tax return,

no flat-rate penalty is chargeable under FA98/SCH18/PARA17 if the company delivers its return by this later date.

Under Section 242 Companies Act 1985:

a private company must usually submit a copy of its accounts and reports to the Registrar within ten months of the end of the period of account,

a public company must usually submit a copy of its accounts and reports to the Registrar within seven months of the end of the period of account.

However, a company that carries on business or has interests outside the UK receives an automatic extension of three months to the period allowed for delivering accounts (when it claims such an extension).

Section 702 Companies Act 1985 automatically allows 13 months for filing to any overseas company.

The Secretary of State also has power to extend the period for delivering accounts.

Companies incorporated in Northern Ireland are subject to parallel legislation in the Companies (Northern Ireland) Order 1986. For CTSA accounting periods (those ending on orafter 1 July 1999) FA98/SCH18/PARA19 applies to these companies.

When this provision applies the company is not liable to a flat-rate penalty provided it delivers its company tax return by the permitted later date - see example 1 at CTM94120.

If it fails to deliver its return by the later date it becomes liable to a penalty under FA98/SCH18/PARA17 (TMA70/S94 (1))on the basis that it failed to deliver its return by the filing date - see example 2 at CTM94120.

FA98/SCH18/PARA19 (TMA70/S94 (3)) strictly requires the tax return period and the period of account to be the same. In practice, you should apply the provision to:

any accounting period that forms part of a longer period of account,

and

the date for filing the accounts with the Registrar is later than the date for filing the tax return with the Revenue.

Note: This provision does not affect any liability the company may have to tax-related penalties. Paragraph 19 provides an excuse for late delivery of returns but does not itself constitute a statutory filing date. However, when the Secretary of State grants an extension to a date after the date when the company incurs a tax-related penalty, the reason for the extension is likely to amount to a reasonable excuse.

If, exceptionally, there seems to be no reasonable excuse, refer the case to Cross-Cutting Policy (Stockport Technical Unit) before charging a tax-related penalty in these circumstances.

ESC/B46 (see CTM94030) does not apply to produce a further extension. It allows some further time beyond the statutory filing date during which the Revenue will not impose late filing penalties to which a company might have become legally liable for not filing by the statutory filing date.

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