HMRC - IPT09250 - Civil Penalties And Reasonable Excuse

There are a number of Civil Penalties in IPT, which are set out in Schedule 7 of the Finance Act 1994. There are penalties for the following:

Civil penalties are not to be imposed automatically. You should accordingly bear the following in mind when considering imposing a civil penalty.

No trader should receive a penalty without first receiving written warning of the consequences of their actions (except in cases of belated notification or civil evasion).

The Commissioners have the discretion not to issue an assessment of penalty if that seems appropriate. (Whilst discretion should be considered, it is likely that penalty assessments will be issued in all but the most exceptional circumstances.)

Reasonable excuse will remove a trader’s liability to penalty. A trader has the right to ask for an internal review of any penalty and, if still dissatisfied, a right to appeal to a VAT and Duties Tribunal. You must always consider whether or not the trader has a reasonable excuse for his failure.

As a matter of policy a penalty for failure to render a return is not normally issued, only for failure to pay.

Penalty action will cease after four consecutive returns have been paid by the due date. However, if any payment for a subsequent accounting period is received late, the penalty action will start again with a warning letter.

We do not have a body of case law in IPT which establishes what can be accepted as a reasonable excuse therefore we tend to follow precedents established in VAT. However the IPT legislation specifically excludes insufficiency of funds and reliance on another person as a reasonable excuse.

There is more detailed information about IPT civil penalties, including guidance on reasonable excuse, at VCP11600 - VAT Civil Penalties. The Tax Administration Advice Team has policy responsibility for the operation of civil penalties.

Mitigation is only available for the civil evasion penalty, and then only in limited circumstances. It is not available for use in any of the other penalties. If at any time you think that you have discovered a case of evasion of IPT, you should immediately contact your local investigation staff. Do not take any action without their advice.

New penalty regimes covering all the taxes administered by HMRC were introduced. These replace some of the penalties outlined above. Two penalties were introduced with effect from 1 April 2010. The first was a failure to notify penalty, replacing the late registration penalty and the second was an errors on returns penalty which is new to IPT; in practice the first period to fall under the new regime will be the return covering the period ending on 30 April 2010 (04/10). For detailed guidance on the operation of the new penalty regimes you should refer to the new Compliance Manual.

Previous page

Next page