

JTC NEWSLINE

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Making Tax Digital VAT Penalties

Here's one for your next pub quiz: Business 1 transfers information from its sales spreadsheet to its accountant's MTD software by copying it onto a memory stick and handing it to the accountant to take back to the office and upload. Business 2 has its own tax department and copies and pastes the information from the sales department's spreadsheet to the tax department's spreadsheet for processing. Which of them has incurred a penalty of between £5 and £15 per day for failure to "use digital links to transfer or exchange data"? (*Answer below)

Now that MTD for VAT has started to bed in, we can expect to see HMRC starting to impose penalties for failures to comply with the detail of the legislation; maybe this is a good time to make sure you have checked your process.

*Answer: Business 2. Copy and paste does not count as a "digital link" but copying material onto a memory stick and then working from that is fine. I don't make up the rules, but you can see what they are on HMRC's [How to avoid penalties for Making Tax Digital for VAT](#). ■

Can't do right for doing wrong

There was a rather sad tax case recently where a company which had been penalised for late filing of its Real Time Information returns in the past tried to avoid being penalised in future by making its returns early.

It sent in RTI returns for November 2020, December 2020 and January 2021 in September 2020, well before the due dates. It used HMRC's basic PAYE tools software and thought - because the software marked each submission as a "success" – that everything was ok.

The rule is, though, that RTI returns have to be filed on or before the filing date [during a tax month](#). So because none of the three returns had been made during the relevant tax months they didn't count and the company was charged penalties as if it had never made returns at all.

There was something of a happy ending, though, when the First-tier Tax Tribunal accepted that – although HMRC had it right about the law – nevertheless the fact that its software had accepted the early returns meant the company had a "reasonable excuse".

The moral of the story is that just because a computer says something has been received/ filed/submitted that doesn't necessarily mean that everything is ok. The tribunal suggested HMRC should update its guidance: sometimes "computer says no" would actually be a helpful response! ■

Consultation corner

I realise that the likelihood of any normal person looking at a government consultation is vanishingly small, but if you can bear it I would urge you to have a look at [improving the data HMRC collects from its customers](#).

Essentially HMRC seems to think it could deliver better tax policy if it had more information about taxpayers. It wants to know

- the business sector of the self-employed
- the occupations of employees and the self-employed
- the location of an employment or a business
- the hours employees work
- dividends paid to shareholders in owner managed businesses
- the start and end dates of self-employment

Firstly, there is the obvious practical point that it would cost time and effort, and therefore money, to provide HMRC with the information it is seeking, and that there would be no obvious benefit to you, the taxpayer, from providing it. Secondly, although we are all now used to the idea that we actively or passively

provide lots of information to online giants like Facebook, Twitter, Google and Amazon, we are all at liberty to decide that trading convenience for data isn't working for us. We have the option to stop being their customers: we don't have that option with HMRC.

Finally, can you imagine the inconvenience if all this data can't be "matched"? Never mind trying to remember your fifty-seventh different password, how did you describe your business sector last year before you branched out into the new work that's taken off from nowhere, and why does HMRC's computer keep telling you it knows you're a tiler when you've branched out into bathroom installation?

This is an early-stage consultation: if there are multiple responses from businesses saying the idea is a no-hoper there is a chance it might disappear.

You could reply by sending a simple email to responsivenessdataconsultation@hmrc.gov.uk and you are welcome to cut and paste any of the arguments I have made above in addition to your own. ■

Child benefit when your income is over £50,000

People are still being caught out by the rules around the [High Income Child Benefit Tax Charge](#).

There are two questions to ask yourself:

- Is your income over £50,000? It isn't necessarily a straightforward "look at your wage slip" question. You need to add up
 - other employment income like bonuses
 - the value of taxable benefits provided by your employer, such as a company car, medical insurance etc you might find on your P11D
 - income from pensions before tax, for example from a state pension
 - other income before tax, for example taxable profits from self-employment, taxable savings and dividends
 - income from property

- Do you have or live with a child for whom someone receives Child Benefit: in other words

- you or your partner get Child Benefit
- someone else gets Child Benefit for a child living with you and they contribute at least an equal amount towards the child's upkeep (Whether or not the child living with you is your own child.)

If you think you might be within scope you can use the HMRC calculator [here](#) to check. It is one of those tax charges that sounds very simple – people earning over 50k lose child benefit – but which can actually be quite complicated, because tax works on an individual basis but this is on a family basis. ■

Contaminated brownfield sites

Part of my job is to keep up to date with tax literature so that you don't have to, and this month I came across an interesting article reminding us all of a relief I had quite forgotten: **Land Remediation Tax Relief**.

Essentially if you are a developer or property trader, or an investor or owner-occupier, and you commission work on land which is in a contaminated or derelict state, you might be able to claim either 50% or 150% of the cost of removing pollutants from the site. It's a tricky one to claim, as the land in question needs to have been derelict (defined as "not in economic use") since April 1998 and you need

to be able to prove a negative – that the land has not been in economic use – over the period between April 1998 and when work starts.

However on the off chance that you have a site that is contaminated with radon, asbestos, Japanese knotweed, hydrocarbons or arsenic, hasn't been used as a car park or for car boot sales in this millennium, and that you are going to put it back into a fit state to build houses on it, well, make sure you talk to your accountant about getting specialist advice on [Land Remediation Tax Relief](#) before you start. ■

**If you have any feedback or queries relating to any of the items in
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