

Penalty for a late Partnership Tax Return

The enclosed form SA328 *Late Partnership Tax Return: Penalty Notice* gives details of the penalty now imposed because we did not receive your Tax Return by the due date. Please read the penalty notice. If there is anything you do not understand, please ask us.

If you are the nominated representative partner, and have not already done so, send us the Tax Return now to avoid further penalties on yourself and other partners.

We are sending a copy of the penalty notice to your tax adviser, if you have one.

Please use this leaflet if you want to appeal against the penalty. It explains the grounds on which the representative partner may be able to appeal and includes an appeal form.

Appeals against this penalty

Only the representative partner can appeal against this penalty. This is the partner (or their successor) nominated to complete the Partnership Tax Return and send it back.

If you are not the representative partner, you may wish to ensure that they do send in an appeal on behalf of the other partners.

If you are the representative partner, you can appeal if you think you have a reasonable excuse for not sending the Tax Return back in time.

The law does not say what is a reasonable excuse, and we consider each case on its own merits. This leaflet explains, in general terms, how we do this. We take a strict view but, if you do not agree, you can appeal to an independent tribunal.

How to appeal

If you, the representative partner, intend to appeal, you must do this within 30 days of the date of the penalty notice.

Use the appeal form in this leaflet or send us a letter setting out your reason(s) for appealing against the penalty. Send your appeal to the office shown on the front of the penalty notice.

Give us full details, including the dates of events. We normally expect you to have sent the Tax Return back within 14 days after a reasonable excuse period has ended. So if the Tax Return is still outstanding, send it now.

If your reasonable excuse is continuing, we cannot fully consider your appeal until we have received the Tax Return.

How appeals are dealt with

If we **agree** you have a reasonable excuse, we will write and tell you so. We will cancel the penalties and send amended *Self Assessment Statements* to all partners.

If we **do not agree** you have a reasonable excuse, we will explain why and ask if you accept this. If you still think you have a good reason, we will offer you a review of our decision by a person not involved in making that decision and tell you about your right to appeal to an independent tribunal.

You can find further information in factsheet HMRC1. The factsheet can be found on our website at www.hmrc.gov.uk/factsheet/hmrc1.pdf or by phoning the Self Assessment Orderline on **0845 900 0404**.

What is a reasonable excuse for not meeting the deadline?

The representative partner is responsible for gathering all the information needed to complete the Partnership Tax Return. We allow plenty of time for this, and give more than enough notice of the date when the Tax Return is due.

Therefore only the representative partner can have a reasonable excuse for not sending the Tax Return back on time. The circumstances of the other partners are not normally relevant.

If you are the representative partner, in our view you have a reasonable excuse where an **exceptional event beyond your control** has prevented you from sending us the Tax Return by the deadline.

We are unlikely to agree you were prevented from sending the Tax Return if during the exceptional event you were able to manage the rest of your private and business affairs.

See overleaf for examples of what we would and would not accept as a reasonable excuse.

Further help

If you need further help:

- you can get in touch with the HM Revenue & Customs office shown on the penalty notice, or
- you can visit our website at www.hmrc.gov.uk

For general advice, please call our Helpline on **0845 9000 444**.

These notes are for your guidance only and reflect the position at the time of writing. They do not affect your right of appeal.

Examples of what we may agree as a reasonable excuse

You did not receive the Tax Return

We usually know when a Tax Return, or Notice to file, has not been received, because it is sent back as undelivered. We then reissue the Tax Return to the correct address. Where we are satisfied that you did not receive the Tax Return, or Notice to file, we would of course agree this is a good reason for not filing on time.

Your Tax Return was lost or delayed in the post

If you posted your Tax Return to us in good time, but an unforeseen event disrupted the normal postal service.

For example:

- fire or flood at the Post Office
- prolonged industrial action within the Post Office.

Loss of tax records

Loss of tax records through fire, flood or theft, in circumstances in which the information could not be replaced in time to meet the deadline. We may need to see evidence of this.

Serious illness

The illness must be so serious that it prevented you from controlling your business and private affairs immediately before the due date, and up to the time you sent us the Tax Return.

We would agree coma, major heart attack, stroke or any other serious mental or life-threatening illness as a reasonable excuse.

Where illness involves a lengthy stay in hospital or convalescence we would normally expect you to have made arrangements for dealing with your Tax Return. We accept there may be cases where this was not possible.

Serious illness of close relative or domestic partner

We would only agree this if:

- the situation took up a great deal of your time and attention during the period from the due date to the date you sent us the Tax Return, and
- you had already taken the necessary steps to have your Tax Return ready on time.

Bereavement

Naturally we would agree the death of a close relative or domestic partner shortly before the due date as a reasonable excuse, as long as you had already taken the necessary steps to have your Tax Return ready on time.

Examples of what we would not agree as a reasonable excuse

Tax Return too difficult to complete

We would not agree this as a reasonable excuse. If you have difficulties you should seek help from us or a tax adviser at an early date.

Pressure of work

We give plenty of notice of the due date to enable you to arrange matters to deal with the Tax Return on time.

Failure by agent or tax adviser

We would not normally agree this. It is your responsibility to have your Tax Return ready on time.

Lack of information

We would not normally agree this. If you cannot obtain certain details you should enter an estimate on your Tax Return, with an explanation of why the figure has been estimated. See the Partnership *Tax Return Guide*.

We did not remind you

We normally issue a reminder shortly before the first penalty becomes due. But even if you did not receive the reminder we would not regard this as a reasonable excuse. The deadline is clearly shown on the Tax Return or Notice to file.

