
1 Employment intermediaries: determination of penalties

- (1) Section 100 of TMA 1970 (determination of penalties by officer of Board) is amended as follows.
- (2) In subsection (2)(c), after “those amendments” insert “, subject to subsection (2A)”.
- (3) After subsection (2) insert –
“(2A) Subsection (2)(c) does not exclude the application of subsection (1) where the penalty relates to a failure to furnish any information or produce any document or record in accordance with regulations under section 716B of ITEPA 2003 (employment intermediaries to keep, preserve and provide information etc).”
- (4) The amendments made by this section come into force on 6 April 2015.

EXPLANATORY NOTE

EMPLOYMENT INTERMEDIARIES: DETERMINATION OF PENALTIES

SUMMARY

1. This clause amends existing legislation for the procedure for recovery of penalties under Section 100 Taxes Management Act 1970 (TMA 1970). This allows HMRC to issue penalties without the issuing proceedings before the First-Tier Tribunal where the penalty relates to the late filing, non-submission of quarterly returns or incorrect or incomplete quarterly returns from employment intermediaries from 6 April 2015

DETAILS OF THE CLAUSE

2. Subsection 1 provides that Section 100 TMA 1970 (determination of penalties by officer of Board) is amended.

3. Subsection 2 inserts new “subject to subsection (2A)” after “those amendments” in section (2)(c).

4. Subsection 3 inserts after subsection (2) new subsection (2A).

5. New subsection (2A) provides that penalties issued under s98 TMA 1970 where the penalty relates to a failure to furnish any information or produce any document or record required to be submitted by a specified employment intermediary as set out in regulations under s716B of the Income Tax (Earnings and Pensions Act) 2003 (ITEPA 2003) (employment intermediaries to keep, preserve and provide information etc) do not fall within the list of exceptions to section 100 TMA 1970 in s100(2) TMA 1970. The result is that proceedings before the First Tier-Tribunal are not required to issue an initial penalty related to the above.

6. The amendments made by this section come into force on 6 April 2015.

BACKGROUND NOTE

7. Legislation was introduced in Finance Act 2014 to prevent the avoidance of employment taxes by a UK agency engaging UK workers via non-UK agencies and intermediaries facilitating false self-employment and the Employment Intermediaries Information Quarterly Return (the first return is due to be submitted by 5 August 2015). It supports the Government’s anti-avoidance policy by tackling those who have carelessly or deliberately failed to comply with regulations made under s716B of ITEPA 2003. These regulations will allow HMRC to take an appropriate targeted compliance response where required

8. If you have any questions about this change, or comments on the legislation, please contact Adrian Dixon 03000 586934 (email: adrian.dixon@hmrc.gsi.gov.uk).