

## Important changes to penalties for late or non-filing of contractor's monthly return from October 2011

From October 2011, the penalties for late or non-filing of a contractor's monthly return within the Construction Industry Scheme are changing.

The first return falling within the new penalty regime will be the return for the month ending 5 November 2011.

The following penalties will apply to that return and all subsequent months' returns that are not filed or filed late:

- A fixed penalty of £100 immediately a return is late.
- A second, fixed penalty of £200, two months after the filing date if the return is still outstanding.
- If the return is still outstanding six months after the issue of the first penalty, a tax-geared penalty is charged which is the greater of £300 or 5% of the amount of deductions shown on the return.
- If the return is still outstanding twelve months after the issue of the first penalty, a further tax-geared penalty is charged which is the greater of £300 or 5% of the amount of deductions shown on the return. Higher levels of penalty apply where, as a result of the failure to file the return on time, information has been deliberately withheld.

Interest will be chargeable on any penalty paid late.

The legislation for the change is at schedule 55 Finance Act 2009.

Paragraph 13 of Schedule 55 to Finance Act 2009 introduces a penalty capping provision. The fixed penalties within the capping period will not exceed a maximum of £3,000. The capping period starts on the day of commencement (the date the contractor advises HMRC that they will first pay, or have first paid, a subcontractor) until the date they first file a CIS monthly return. Tax-geared penalties of 5% of the amount of deductions shown on the returns will also apply in the capping period where the return is submitted over 6 and 12 months late. There will be no fixed minimum charge of £300 when the capping period applies.