

Surcharge for late submission of income tax, corporation tax and capital gains tax returns

Part 47-06-08

This manual should be read in conjunction with section 1084 Taxes Consolidation Act 1997.

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1 Surcharge for late submission of income tax and corporation tax returns

NB – The application of a surcharge for late CT1 Corporation Tax returns for accounting periods ending 30 June 2019 onwards - that is, returns due from 23 March 2020 onwards – was suspended until 1 July 2021. The late filing surcharge will apply as normal to CT1s filed for accounting periods ending October 2020 onwards and iXBRL financial statements filed for accounting periods ending July 2020 onwards¹.

Section 1084 Taxes Consolidation Act 1997 (TCA) imposes a surcharge on any taxpayer, whether an individual or a company, for the late filing of a tax return; that is, the filing of the return of income after the specified return date for the chargeable period². If a return is not submitted by the specified return date, the tax liability arising for the year of assessment or accounting period, after credit for PAYE already paid but before credit for tax paid directly, will be increased by the amount of the surcharge even though the tax may have been paid in full and on time.

For income tax, the return is due on 31 October of the year following the year of assessment. This is extended to mid-November where the taxpayer files via ROS.

Where a company's accounting period ends on a day before the 21st day of a month, it must file a return of its income on a Corporation Tax Return (CT1) nine months after the end of the accounting period.

Example 1: for an accounting period ending on 5 December 2024, the return must be filed on or before 5 September 2025.

Where the company's accounting period ends on or after the 21st day of a month, its return of income must be filed by the 21st day of the ninth month after the end of the accounting period.

¹ A CT1 Corporation Tax return may have been completed without the restriction of reliefs only where it was filed late but before 1 July 2021, and the late filing was due to Covid-19 circumstances. See Tax and Duty Manual [Part 47-06-04](#) for further information.

² 'Specified return date for the chargeable period' is defined in section 959A TCA.

Example 2: for an accounting period ending on 31 December 2024, the return must be filed on or before 21 September 2025.

Where a CT1 and payment are filed through ROS, the filing date that would otherwise have been the 21st of the month is extended to the 23rd of the month.

Failure by a company to file a return on time will lead to restrictions under section 1085 TCA of reliefs which otherwise would be available to the company, as well as a surcharge under section 1084 TCA.

Tax and Duty Manual [Part 47-06-03](#) deals with the interaction between tax paid under the PAYE system and the surcharge on late returns by company directors.

2 Interest on surcharge

For the purposes of calculating interest on overdue tax, the amount of the late filing surcharge is treated as tax³ and is liable to interest in accordance with section 1080 TCA.

3 Surcharge and penalty for an incorrect return

Where a taxpayer deliberately or carelessly delivers an incorrect return on or before the specified return date, the taxpayer will be deemed to have failed to deliver the return on time, unless the error in the return is corrected before the specified return date⁴.

However, where a taxpayer deliberately or carelessly delivers an incorrect return on time in the first instance and a penalty is applied under section 1077E TCA or 1077F TCA, as applicable, for the incorrect return, a surcharge under section 1084 TCA will not also be imposed⁵. This applies with effect from 23 December 2014.

³ Section 1084(2)(a) TCA

⁴ Section 1084(1)(b)(i)(I) TCA

⁵ Section 1084(1)(b)(i)(II) TCA

4 New businesses

In the case of a new business, the surcharge only applies to delays in filing from the second filing date of the business⁶. This does not apply to new businesses where the promoter or owner has an existing business, or where that person's spouse or civil partner has an existing business in respect of which both spouses or civil partners are jointly assessed to tax⁷.

5 Surcharges for capital gains tax

The due date for filing a return of capital gains realised in a tax year is 31 October of the year following the year of assessment in which an asset or assets are disposed of. The income tax return, Form 11, contains a section on which chargeable gains can be returned by the taxpayer.

An individual who files a Form 11 and does not make any entry on the chargeable gains section is regarded as not filing a capital gains tax (CGT) return. If it transpires later that the individual has a CGT liability for that period not declared on the Form 11, that individual will be deemed to be a non-filer for CGT purposes. A late filing surcharge will apply.

An individual who files a form 11, on time, and makes entries in the chargeable gains sections, including entries showing nil liability, is regarded as having filed a CGT return. If it transpires later that the declared CGT liability was incorrect then, by virtue of section 1084(1)(b) TCA (as outlined in paragraph 3 above) that individual will be deemed not to have filed a return on time for CGT purposes and will be liable to the late filing surcharge.

If an individual is not a chargeable person for income tax purposes and is not required to file a Form 11, but is a chargeable person for CGT purposes, they are required to file a capital gains tax return, Form CG1. If Form CG1 is filed late, a surcharge will apply, at the same rates as for income tax and corporation tax (see below).

⁶ Section 1084(4)(a) TCA

⁷ Section 1084(4)(b) TCA

6 Calculation of the surcharge

The surcharge is a percentage of the total tax payable for the year of assessment or accounting period (in the case of income tax, after credit for PAYE already paid) for which the return is late. The percentage amount is set according to the length of the delay in filing. The amount of the surcharge is also subject to an overall cap.

The surcharge is calculated as follows:

- 5% of the tax liability for the year of assessment or accounting period to which the tax return relates, subject to a maximum of €12,695, where the tax return is delivered within two months of the filing date⁸.
- 10% of the tax liability for the year of assessment or accounting period to which the tax return relates, subject to a maximum of €63,485, where the tax return is not delivered within two months of the filing date⁹.

⁸ Section 1084(2)(a) TCA

⁹ Section 1084(2)(b) TCA