

EXPLANATORY NOTE

**AMENDMENTS TO CLAUSE 107 AND SCHEDULE 56: SUSPENSION
OF PENALTIES DURING CURRENCY OF AGREEMENT FOR
DEFERRED PAYMENT**

AMENDMENTS 44-46, 51-53

SUMMARY

1. Clause 107 provides that taxpayers who enter into agreements with HMRC to defer payment of taxes are not liable to certain surcharges or penalties that would otherwise be due because of late payment. These amendments correct a technical deficiency in Clause 107 and Schedule 56 that would have prevented HM Revenue and Customs (HMRC) from disapplying any penalties and surcharges, including all those chargeable after the taxpayer approached HMRC, if the approach was made after the first such penalty or surcharge was chargeable.

DETAILS OF THE AMENDMENT

2. Amendment 44 amends clause 107(1)(b) to remove the requirement for a person (P) to approach HMRC before any penalty relating to a failure to pay tax becomes chargeable. This will enable HMRC to suspend penalties chargeable after a deferral agreement is made.
3. Amendment 51 amends paragraph 10(1)(b) of Schedule 56 to the same effect.
4. Amendment 45 amends clause 107(1)(c) to remove the reference to the deleted part of subsection 1(b).
5. Amendment 52 amends paragraph 10(1)(c) of Schedule 56 to the same effect.
6. Amendment 46 amends clause 107(2)(b) so that P is not liable to a penalty incurred between the date when the approach is made by P to HMRC and the end of the deferral agreement.
7. Amendment 53 amends paragraph 10(2)(b) of Schedule 56 to the same effect.

BACKGROUND NOTE

8. In many of the taxes administered by HMRC, failure to make a payment in full by the date it is due can result in the taxpayer becoming liable to a late payment penalty or surcharge. This is to encourage taxpayers to fulfil their obligations and to reassure those who pay on time that they are not disadvantaged by those who do not. The way in which such penalties and surcharges work varies for different taxes.
9. In the Pre-Budget Report of November 2008, a new Business Support Package was announced. As part of this package, it was announced that HMRC would not impose penalties or surcharges for late payments of tax in cases where the taxpayer approached them to discuss payment problems before the penalty or surcharge became due and an agreement to defer payment was reached.
10. HMRC have operated this system since November 2008 using their administrative powers. Clause 107 provides that taxpayers who enter into agreements with HMRC to defer payment of taxes are not liable to certain surcharges or penalties that would otherwise be due because of late payment. The clause includes a power to impose the surcharge or penalty if the taxpayer does not keep to the terms of the agreement. The change becomes effective for deferral agreements reached on or after 24 November 2008.
11. Paragraph 10 to Schedule 56 replicates the effects of this clause in the new regime for late-payment penalties.
12. The amendments correct a technical deficiency that would have prevented HMRC from disapplying any penalties and surcharges, including all those chargeable after the taxpayer approached them, if the approach was made after the first such penalty or surcharge was chargeable.

FINANCE BILL 2009
CLAUSE 107 and SCHEDULE 56

Mr Chancellor of the Exchequer	44
Page 55, line 1 Clause 107, leave out from beginning to ‘P’ in line 2.	
Mr Chancellor of the Exchequer	45
Page 55, line 4 Clause 107, leave out ‘whether before or after that date,’.	
Mr Chancellor of the Exchequer	46
Page 55, line 10 Clause 107, leave out ‘during’ and insert ‘between the date on which P makes the request and the end of’.	
Mr Chancellor of the Exchequer	51
Page 425, line 1 Schedule 56, leave out from beginning to ‘P’ in line 2.	
Mr Chancellor of the Exchequer	52
Page 425, line 4 Schedule 56, leave out ‘whether before or after that date,’.	
Mr Chancellor of the Exchequer	53
Page 425, line 6 Schedule 56, leave out ‘during’ and insert ‘between the date on which P makes the request and the end of’.	