

## Reasonable Excuse

In essence, a taxpayer should consider claiming reasonable excuse whenever he or she fails to do something by the statutory time limit. This can be failing to make a return on time, failing to notify liability to tax, being late in making a payment, failing to comply with an information notice, etc.

HMRC's website contains a wide range of guidance on what does and does not constitute a reasonable excuse. There is, for instance, specific guidance on late filed returns ([www.hmrc.gov.uk/sa/deadlines-penalties.htm](http://www.hmrc.gov.uk/sa/deadlines-penalties.htm)) and there is a Self Assessment reasonable excuse claim form to use solely in respect of late online tax returns ([www.hmrc.gov.uk/carter/sa-reasonableexcuse.pdf](http://www.hmrc.gov.uk/carter/sa-reasonableexcuse.pdf)). There is further advice in the Compliance Handbook at CH155600 – 155900.

There is no statutory definition of reasonable excuse, so each claim must be judged on its own merits bearing in mind the abilities of the person to whom the claim relates, or as the CH puts it:

“What is a reasonable excuse for one person's circumstances may not be a reasonable excuse for another person in different circumstances.”

The onus is always on the taxpayer to show that they have a reasonable excuse.

So what general guidance does HMRC give on what it regards as a reasonable excuse? At CH155600 it says:

“A reasonable excuse is normally an exceptional and unforeseeable event that is beyond the person's control. A combination of otherwise unexceptional and/or foreseeable events may of itself be an exceptional and unforeseeable event.

If the event is within the person's control then, however exceptional and unforeseeable it may be, we nevertheless expect the person to take steps to meet their obligations.”

HMRC suggests that the following are reasonable excuses:

- life-threatening illness, for example a heart attack that prevents the taxpayer dealing with their tax affairs
- the death of a close relative or partner shortly before a payment or tax return deadline
- unexpected or unforeseeable postal delays
- important documents lost, through theft, fire or flood, that cannot be replaced in time
- a failure in the HMRC computer system
- the taxpayer's or agent's computer breaks down just before or during the preparation of the taxpayer's online return
- the taxpayer registered for HMRC Online Services but did not get their Activation Code in time.

HMRC also suggests that the following are not reasonable excuses:

- pressure of work
- lack of information
- HMRC did not issue a reminder
- ignorance of basic law.

In addition, there are two other situations which HMRC does not recognise as reasonable excuses:

- shortage of funds and
- reliance on another person

Both situations are specifically excluded by statute at FA2009, Schedule 56, Paragraph 16.

However, HMRC accepts that there may be situations where even these excuses may apply. With regard to shortage of funds, the lack of funds must have been due to unforeseeable events outside a person's control and been a direct or indirect cause of the failure. Normal cash flow problems within the business cycle would not be accepted. With regard to reliance on another person, HMRC expects the taxpayer to ensure that the other person does what is expected of them. The taxpayer cannot wash their hands of their responsibilities by delegating them to someone else. But if the taxpayer monitors the third party and is still let down by them, they will have a reasonable excuse.

It is worth noting that taxpayers have made successful claims for reasonable excuse by blaming errors made by their agents and by citing mistakes made by HMRC.

Even if a taxpayer has a reasonable excuse for a failure, they must put right their failure without unreasonable delay once their reasonable excuse ceases. If they do not do this, then their reasonable excuse will not apply. Thus someone who fails to submit their Self Assessment online because of a failure in HMRC's computer systems will still be judged not to have a reasonable excuse if they fail to file within a reasonable time once the systems are up and running. Again, what is "unreasonable delay" is not defined and depends on the circumstances of the case.