

## **Special Relief**

I must admit that I had never heard of the term “equitable liability” until after I left HMRC. Equitable liability is no more and has been replaced by the department’s Special Relief. HMRC’s guidance on Special Relief is contained in the Self Assessment Claims Manual at SACM12220 – 12270 and I summarise them below.

Special Relief applies from 1 April 2011 and applies to amounts charged in HMRC determinations for ITSA or CTSA where no other statutory remedy is available.

HMRC will make a determination of tax due from an individual or company when the latter receive a notice to make a return but fail to do so by the filing date. There is no right of appeal against the determination, which can only be displaced by submission of a return made within the time limit.

If these time limits are passed a person may claim Special Relief if HMRC has made a determination in the absence of a return and:

- The person is out of time to make a return to displace the determination, and
- They are unable to claim overpayment relief.

There is no time limit for claiming Special Relief.

There are three conditions to meet for Special Relief to be due. The conditions are:

- A. In the opinion of the Commissioners it would be unconscionable for HMRC to seek to recover the amount which has been charged by a determination, or refuse to repay it if it has already been paid.**

**Unconscionable means “completely unreasonable” or “unreasonably excessive” as compared with the behaviour that is expected from any reasonable person in a similar situation.**

**Circumstances in which this might apply are where a person:**

- **Is suffering from illness**
- **Has not received communications from HMRC due to reasons beyond their control**
- **Is insolvent.**

- B. The person’s tax affairs are otherwise up to date or arrangements have been made to the satisfaction of the Commissioners to bring them up to date as far as possible.**

**So the person must either:**

- **Confirm that their tax affairs are up to date, or**
- **Explain what arrangements they have agreed with HMRC to bring them up to date.**

**Circumstances that will be taken into account include:**

- **Any outstanding returns**
- **Any information that HMRC has requested from the person that they have failed to supply**
- **All unpaid amounts of tax, duties or NIC and**
- **All unpaid interest and penalties**

**C. The person has not previously claimed Special Relief or sought equitable liability**

**The thinking is that Special Relief should apply in exceptional circumstances so that it should not generally apply to the same taxpayer more than once.**

Claims for Special Relief are handled by Enforcement Insolvency Service, Worthing, upon submission from the local district.

**Tax Evasion: Prosecutions**

Now for something completely different.

You may be interested to read that HMRC has released details of the number of cases prosecuted for income tax, corporation tax, VAT and excise evasion since 2006/07:

<b>2006/07</b>	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>	<b>1.4.11- 31.8.11</b>	<b>Annualised 2011/12</b>
389	416	340	237	385	123	295

With the increased emphasis HMRC says it is placing on tax investigation work, it would be reasonable to expect this number to rise in future.