

Mr D Macarthur  
HM Revenue & Customs  
4th Floor, S W Wing,  
Bush House,  
Strand, London,  
WC2B 4RD

copy to Mark Holden  
31 5.12.07

3 December 2007

My Ref:SW/RPD

Direct Line: 020 7951 2588  
e-mail: swade@uk.ey.com@uk.ey.com

Dear Don

### The electronic filing of expatriate tax returns

I hope you find this letter a positive suggestion for improving the process of electronic filing. Nothing in this letter is intended to be a criticism of your current systems and I am sure you will be pleased to hear that we are successfully filing expatriate returns electronically this year.

The imposition of electronic filing, together with a radically different tax return, will however make the filing of expatriate returns for the year ending 5 April 2008 more challenging than in recent years. Amending the tax return format, in our experience, causes difficulties for taxpayers who are either not resident, not ordinarily resident or not UK Domiciled.

This together with the enforced filing of all expatriate tax returns will I think mean that it is inevitable that there will be a number of unforeseen teething problems and consequently I suggest it would be to our mutual benefit if the Revenue and the members of the Expatriate Forum could agree on a process for dealing with tax returns that are correct but are rejected by the Revenue's website and internal validation.

I have raised this matter before but with little success. This is partly because I have been misunderstood and partly because the individuals concerned have not appreciated that even on paper it has at times been difficult to make Expatriates' circumstances fit the forms. With paper we have the luxury that a member of the Revenue can make the return fit the computer. With electronic filing we do not have this safety net. The Return will be accepted or rejected within seconds.

Let me make it clear that I am not talking about your site going down. I have no doubt that if in the unlikely event that on the 29<sup>th</sup> of January your site collapsed and it was not running again to say February 2 you would apologise and grant an extension. I do think it would be useful to have a statement of practice about what you would do in such circumstances rather than wait to see if it occurred and then make the decisions.

I did, however, say that your system crashing was not my concern. It isn't because as I explained above I am sure you would grant an extension. No, my concern is that so far the Revenue do not seem to recognise that a taxpayer can be of a class who can electronically file but because of a bug may not be able to do so. Such a tax return would look perfectly acceptable

on paper but be rejected by your website. As an illustration consider an example from the electronic filing of tax returns for the year ended 5 April 2007. If you prepare a tax return for a non resident taxpayer who left the UK during the year ended 5 April 2006 his non resident page for the year ended 5 April 2007 would contain the following entries:

The screenshot shows a form titled "Residence status" with the instruction "I am (please tick appropriate box)". There are five rows, each with a radio button and a text label, followed by a small box containing a number and a checkmark. The rows are: 1. "not resident in the UK" with box "9.1" checked. 2. "not ordinarily resident in the UK" with box "9.2" checked. 3. "requesting split-year treatment" with box "9.3" checked. 4. "Tick box 9.4 if you were resident in the UK for 2005-06" with box "9.4" checked. 5. "Tick box 9.5 if you were ordinarily resident in the UK for 2005-06" with box "9.5" checked.

The above entries are correct. Unfortunately your website because of a known bug rejects this tax return. This is the relevant part of the message you receive

```
<Error>
  <RaisedBy>HMRC-ERIC</RaisedBy>
  <Number>882</Number>
  <Type>Business</Type>
  <Text>Entry in box 9.5 not consistent with box 9.2.</Text>
</Error>
```

There is no way of predicting you would get this rejection. If we discovered something like this in January 2009 you would not be able to fix it by January 31<sup>st</sup>. In fact you may well decide not to fix it for tax returns for the year ending 2008 but wait until the following year.

The above example from 2006/2007 occurred because of relatively minor changes to the forms. In view of this year's more complex changes I feel sure there will be new examples.

Given time workarounds can be developed. The work around for the above example is to not tick box 9.5 and add a note in box 9.7 stating that you should have ticked box 9.5 but you have not because of the constraints of e-filing. I am sure you can appreciate in January it is going to be difficult to re-prepare a tax return because of a newly discovered bug, ask the client to sign it and then resubmit it. This is, of course, assuming you know what is causing the problem. Sometimes the error messages from your website are not as clear as the above example.

For these reasons when a return is correct but cannot be submitted I suggest we should agree an alternative process. Such a process should answer the following questions regarding rejected but correct tax returns:

- What do we do? Do we send you a paper return even though it is past the "paper filing deadline"?
- If we send you a paper return will you send it back to us saying the return should be e-filed?
- Do we need to send you the rejection notice?
- If you issue a late penalty notice will we have to go to the Commissioners to argue it was filed on time but incorrectly rejected by the Revenue?

I look forward to receiving your comments in due course. If you have any questions please do not hesitate to call me on the above number.

Yours sincerely



Steve Wade  
Senior Tax Manager