

## Surcharge for late returns: Return due dates when starting a business

### Part 47-06-02

This document should be read in conjunction with section 1084(4) of the Taxes Consolidation Act 1997

Please consult the [COVID-19 pages on the Revenue website](#) for further information in relation to the subject matter of this manual.

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## 1. Introduction

The specified return date for income tax is 31 October in the year after the year of assessment.<sup>1</sup> Section 1084(4) Taxes Consolidation Act 1997 (TCA) provides for a special rule for a new business, trade or profession, which means that, in certain cases, the income tax return for the first year of assessment is not due until the specified return date for the second year of assessment.

This manual sets out the specified return dates for new businesses which must be met to avoid the surcharge for late filing of an income tax return.

See [Tax and Duty Manual Part 47-06-08](#) in relation to the surcharge generally.

## 2. New businesses

Section 1084(4)(a) TCA provides an exception for new business's first year of trading. The surcharge for late filing only applies if the income tax return for the first year is filed later than the specified return date for the second year of assessment.

However, section 1084(4)(b) TCA provides that this extension does not apply where:

- a) the individual is carrying on an existing business or is re-commencing a business s/he previously carried on, or
- b) where that person's spouse or civil partner has an existing business in respect of which both spouses or civil partners are assessed to tax other than as single persons under section 1016 or section 1031B TCA, as appropriate.

The extension only applies to the filing of the income tax return – payment of preliminary tax is due at the same time as for other businesses.

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<sup>1</sup> Section 959A TCA

### 3. Examples

In all the examples below, individuals can avail of any extended specified return dates provided the income tax return is filed electronically through ROS.

#### **Example 1**

An individual commences business in tax year 2019. Neither this individual nor his spouse (who are jointly assessed to tax) were also carrying on another business in 2019 which had started in an earlier tax year.

The specified return date for surcharge purposes, for the year in which the business starts, becomes the specified return date which would normally apply for the following tax year. For the 2019 income tax return, this means the specified return date is 31 October 2021, rather than 31 October 2020. The 2020 income tax return will also be due on 31 October 2021. If the individual was a chargeable person in 2019, they will still have to pay preliminary tax for 2019 by 31 October 2019.

#### **Example 2**

An individual had previously carried on a business as a builder and ceased that trade in 2007. He resumes trading as a self-employed builder in 2019. Since this individual is recommencing a business he had carried on previously, the extension to the specified return date provided for in section 1084(4) TCA is not available. His 2019 income tax return is due by 31 October 2020.

#### **Example 3**

A married couple are taxed under joint assessment. Spouse 1 was a taxi driver until 2009 when he ceased that trade and commenced PAYE employment. Spouse 2 is a self-employed hairdresser and has been running her own business since 2002.

Spouse 1 commences trading as a plumber in 2019. Since the couple are taxed under joint assessment and file a joint income tax return, the normal surcharge provisions of section 1084 TCA will apply and the extension to the specified return date is not available. The 2019 income tax return will be due in 2020 as normal.

If they had been filing under single assessment, Spouse 1 could have availed of the extension to the specified return date under section 1084(4)(a) TCA. The extension in section 1084(4)(b) TCA would not apply because Spouse 1 would be carrying on a different trade or profession than previously.

**Example 4**

A married couple are taxed under joint assessment. They carried on a beauty business together commencing in 2002. In 2010 they ceased trading, and both entered PAYE employment.

In 2019 Spouse 1 commences trading as an accountant. In this scenario, since Spouse 1 is not carrying on a trade or profession set up in a previous year (she is carrying on a different trade/profession) she can avail of the extension to the specified return date provided for in section 1084(4)(a) TCA. Therefore, she does not have to file her 2019 income tax return until 31 October 2021.

**Example 5**

An individual was employed as a driving instructor and taxed under the PAYE system. In 2019 this individual commenced to trade in her own right as a driving school business. This individual can avail of the extension to the specified return date under section 1084(4)(a) TCA. Her income tax return for year of assessment 2019 is due on 31 October 2021.