



Guide on Schedule 6 returns

1. Introduction

This guide applies from 1 January 2022 and is for licensees who are required to submit returns under Paragraph 2, Schedule 6, Taxes Ordinance 1997 to the Commissioner of Taxation.

2. General

This guide has been written in general terms; it does not have any legal force or bind the Falkland Islands Government Taxation Office (FIGTO) in any way. It should be read in conjunction with the Taxes Ordinance 1997, associated legislation and regulations.

3. What is required to be reported on a Schedule 6 return

The return provides FIGTO with information about payments to persons which may give rise to a liability to tax in the FI. The returns must specify particulars of transactions in connection with activities authorised by a licence as a result of which a person (whether FI resident or not, a company, unincorporated business or individual) is or might be liable to tax. This includes transactions with companies on which Schedule 6 Withholding Tax (WHT) has been applied. Details of any Schedule 6 WHT applied must also be reported on the return. There is a guide available on Schedule 6 WHT.

The return should also specify particulars of emoluments or other payments paid or payable in respect of duties or services performed in an area in which those activities may be carried on under the licence and the persons to whom they were paid or are payable.

4. What frequency are the returns?

The returns are quarterly for the periods 1 January to 31 March, 1 April to 30 June, 1 July to 30 September and 1 October to 31 December.

5. What are the return due dates?

Previously these returns were required by notice but with effect from 1 January 2022 are an automatic filing requirement.

The due date for both the submission of quarterly returns and payment of WHT is within 30 days of the relevant quarter end. *For example*, 30 April 2022 is the payment and submission deadline for the quarter ending 31 March 2022. Completed returns can be submitted electronically to oil@taxation.gov.fk or by post to FIGTO.

6. No transactions to report

If there are no transactions or particulars to report for the quarter, a nil return is still required to notify and confirm to FIGTO that this is the case.

7. Penalties for late filing of quarterly returns

There are penalties for late filing (including incomplete and/or inaccurate) of quarterly returns under Schedule 6. The penalty for the first failure is £1,000 with an additional £1,000 in respect of each successive 15 day period that elapses before the information is provided. If further returns are submitted late, the penalty amount increases to £2,000 for each time it applies to the second late return. The penalty amount increases further to £3,000 for each time the penalty applies to a 3rd and any additional late returns. These failures do not need to occur to consecutive returns for the penalty amount to increase.

For example, the return for the quarter ending 31 March 2022 is submitted 20 days late and this is the first time the licensee has filed late, they will incur total penalties of £2,000. The same licensee then submits the return for the quarter ending 31 December 2022 late by 40 days. As this is the second late return by the same licensee, the penalty amount increases and they will incur total penalties of £6,000.

The Commissioner may wholly or partially remit the penalty on application by the licensee on which it has been charged, if satisfied there was a reasonable excuse for the failure.

Any licensee who, without reasonable excuse fails to comply with the WHT or quarterly return requirements commits an offence and is liable on conviction to a fine not exceeding the maximum of level 7 on the standard scale (currently £17,500).

8. Retention of records

A licensee who makes a payment and/or applies WHT for a transaction in connection with activities authorised by the licensee's licence must make a record of the transaction and particulars of the person to whom it was made with. That record should be kept until the expiry of at least 6 years ending after the end of the calendar year in which the payment or deduction was made.

9. Notes on completing the return

Please read the below notes before completing the return.

Location of where the duties/services were performed - state 'FI' for activities performed in the Falklands Islands or in a designated area. If activities were performed in both FI and another country please enter both locations, 'FI/UK' for example. Payments for activities performed wholly outside FI and designated area should not be included.

Person - includes any individual, company, partnership, unincorporated association or similar body. Include payments to all persons, whether FI resident or not.

Transactions in connection with activities authorised under a licence as a result of which the person (FI resident or not) is or might be liable to FI tax - are considered to include all transactions falling within "ring-fence trade" (refer to sections 140 and 150, Taxes Ordinance 1997). Generally transactions in relation to a licence held in connection with FI oil exploration or exploitation are regarded as covering all the diverse activities that make up oil exploration and exploitation activities or rights. Examples of activities generally considered to fall within the scope of WHT include:

Support services

Activities relating to the carrying out of the licence

Activities related to decommissioning

Activities necessary to ensure the efficient carrying out of the activities, for example technical staff.

An activity is unlikely to be viewed as being "in connection with" if it is entirely distinct and separate from and does not support the task of oil and gas exploration or exploitation.

Main contractor files the return - where the main contractor, for reasons of confidentiality, prefers to supply information regarding its subcontractors, direct to FIGTO this will be acceptable provided the contractor's formal agreement to this course of action is enclosed with the return. The licensee is still ultimately responsible for the return, for example, any late filing penalties will be charged to the licensee.

Include payments to self-employed consultants.

Exclude direct payments to employees of the contractor and subcontractor. Also exclude persons to whom payments of less than £1000 have been made in the quarter.

Currency - show the currency against the amounts. Where WHT has been applied to a currency other than sterling, the licensee must translate the invoice on its due date into sterling by using the Bank of England daily spot rate. In such cases all amounts should be shown in £ and include the exchange rate used.

There are 2 parts to the Schedule 6 return (Form I and Form II) and it is important to be aware of the different return requirements. These depend on whether payments relating to transactions involving contractors and subcontractors are made directly by the licensee or are made by someone other than the licensee.

Form I: Deals with payments made directly by your company to its contractors and subcontractors and requires details of payments made to them in the quarter.

Form II: Asks for information about those subcontractors to whom payments were made by someone other than your company as operator (*e.g. by one of your contractors involved in authorised activities*) and requires details of payments made to them in the quarter.

It may be that you will not have a full record of all subcontractors who were engaged in activities in connection with the licence because, for example, not all of the installations etc. of the licence are in your ownership or of the joint licensees. In that case you will need to take steps to obtain information from the contractors (whether FI resident or not) who are paid direct by you.

10. Further information and contact points

The Taxes Ordinance 1997, associated legislation and regulations are available at www.legislation.gov.fk

Returns, forms and guides are available at www.fig.gov.fk/taxation/

Any enquiries concerning FI taxation should be emailed to:

oil@taxation.gov.fk for Schedule 6 and any other oil matters

general@taxation.gov.fk for general tax matters
