



Penalties for inaccuracies in returns and documents

This factsheet contains information about penalties we may charge if you've sent us an inaccurate return or other document.

This factsheet is one of a series. For the full list of the factsheets in our compliance checks series, go to www.gov.uk and search 'factsheets'.

When we may charge you a penalty for an inaccuracy

We may charge you a penalty if you send us a return or other document that contains an inaccuracy, and the inaccuracy:

- results in tax being unpaid, understated or over-claimed and
- was careless, deliberate or deliberate and concealed (we refer to these as 'behaviours' which are explained later in this factsheet)

If you ask someone else, such as an employee or adviser, to do something on your behalf, you must do as much as you can to make sure that an inaccuracy doesn't occur. If you don't do this, we may charge you a penalty.

When we won't charge you a penalty for an inaccuracy

We won't charge you a penalty for an inaccuracy if you took reasonable care to get things right but your return or document was still wrong. Some of the ways you can show that you took reasonable care include:

- keeping accurate records
- checking with a tax adviser or with us if you aren't sure about anything

Disclosing an inaccuracy before we find it

If you tell us about an inaccuracy before you've any reason to believe that we are about to find it, we call this an 'unprompted disclosure'. If you tell us about an inaccuracy at any other time, we call it a 'prompted disclosure'. Once we've started a check, a disclosure can only be unprompted if, exceptionally:

- it is about an unrelated inaccuracy, and
- you had no reason to believe that we could have found it during our check

The minimum penalty for an unprompted disclosure is lower than the minimum penalty for a prompted one.

If you send us a return or document that you believe is correct and you later find that it contains a careless inaccuracy, we may be able to reduce the penalty to nil if you make an unprompted disclosure.

What you can do to reduce any penalty we may charge

We can reduce the amount of any penalty we charge you depending on our view of how much assistance you gave us. We refer to this assistance as the '**quality of disclosure**' or as 'telling, helping and giving'.

Examples of telling, helping and giving include:

- telling us about, or agreeing that there is something wrong and how and why it happened
- telling us everything you can about the extent of what is wrong as soon as you know about it
- telling and helping us by answering our questions in full
- helping us to understand your accounts or records

- helping us by replying to our letters quickly
- helping us by agreeing to attend any meetings, or visits at a mutually convenient time
- helping us by checking your own records to identify the extent of the inaccuracy
- helping us by using your private records to identify sales or income not included in your tax return
- giving us access to documents we've asked for without unnecessary delay
- giving us access to documents we may not know about, as well as those that we ask to see

We'll reduce the penalty by the maximum amount possible if you:

- tell us everything you can about any inaccuracy as soon as you know about it or you believe we're about to find it
- do everything you can to help us correct it

If you delay telling us, you may still be entitled to a reduction but it will be smaller. If we don't need any extra assistance from you we'll give you the full reduction that the law allows for telling, helping and giving.

Letting us know about any special circumstances

If there are any special circumstances that you believe the officer dealing with the check should take into consideration when calculating the penalty, you should let them know straightaway.

How we work out the amount of a penalty

There are 8 stages in working out the amount of any penalty. Each stage is explained in more detail below.

1 Working out the amount of the potential lost revenue (PLR)

The penalty is a percentage of what we call the 'potential lost revenue'. PLR is the amount that arises as a result of correcting an inaccuracy in a return or document, an incorrect repayment or an incorrect claim. The officer dealing with the check will explain how this is worked out. There are different rules about calculating the PLR where there are group relief, losses, repayments, or accounting timing issues resulting in delayed tax. If you need to know more, please ask the officer dealing with the check.

2 Determining our view of the 'behaviour'

When there is an inaccuracy, we'll work with you to find out what caused it. We refer to this as the 'behaviour'. The type of behaviour will affect whether we charge a penalty and the amount of the penalty. There are 4 different types of behaviour.

Reasonable care

Everyone has a responsibility to take reasonable care over their tax affairs. What 'reasonable care' is will depend on each customer's abilities and circumstances.

If there was anything about your health or personal circumstances that made it difficult for you to take reasonable care, please tell the officer that is carrying out the check. Telling them will mean that they can take this into account when considering whether you took reasonable care.

If you took reasonable care to get things right but your return or document still contained an inaccuracy, we won't charge you a penalty.

Some of the ways you can take reasonable care include:

- keeping enough records to make accurate tax returns
- keeping those records safe
- asking us or a tax adviser if you are not sure about anything and following any advice given

Careless

This is where you failed to take reasonable care to get things right.

Deliberate

This is where you knew that a return or document was inaccurate when you sent it to us. Examples of deliberate inaccuracies include deliberately:

- overstating your business expenses
- understating your income
- paying wages without accounting for Pay As You Earn and National Insurance contributions

Deliberate and concealed inaccuracies

This is where you knew that a return or document was inaccurate and you took active steps to hide the inaccuracy from us, either before or after you sent it to us. An example of taking active steps to conceal an inaccuracy is where you create a false invoice to cover a non-existent stock purchase.

3 Deciding whether the disclosure was unprompted or prompted

This determines the minimum penalty percentage that we can charge. This is explained in more detail in the section of this factsheet titled 'Disclosing an inaccuracy before we find it'.

4 Deciding the range that the penalty falls within

The penalty percentage falls into one of 6 ranges. The range it falls into depends on the type of behaviour and whether it was a 'prompted' or 'unprompted' disclosure. The following table shows the 6 penalty ranges.

Type of behaviour	Unprompted disclosure	Prompted disclosure
Reasonable care	No penalty	No penalty
Careless	0% to 30%	15% to 30%
Deliberate	20% to 70%	35% to 70%
Deliberate and concealed	30% to 100%	50% to 100%

5 Working out the reductions for the quality of disclosure (also referred to as 'telling, helping and giving')

The quality of disclosure (telling, helping and giving), determines where the penalty will fall within the penalty range. The reduction we give depends on how much assistance you give us. For:

- telling we give up to 30%
- helping we give up to 40%
- giving access to records we give up to 30%

6 Working out the penalty percentage rate

The penalty percentage rate is determined by the penalty range and the reduction for the quality of disclosure.

Example

We found a careless inaccuracy that the customer hadn't told us about before we started our check. When we told them about the inaccuracy, they agreed with us. This was a prompted disclosure.

The penalty range for a careless inaccuracy with a prompted disclosure is 15% to 30% of the potential lost revenue (PLR).

The reduction for quality of disclosure (telling, helping and giving) was 70%.

Steps

To work out the penalty percentage rate, we first work out the difference between the minimum and maximum penalty percentages.

We then take off the percentage reduction from the maximum penalty percentage we can charge.

This gives us the penalty percentage rate.

Calculation example

$$30\% \text{ minus } 15\% = 15$$

$$15 \times 70\% = 10.5\%$$

$$30\% \text{ minus } 10.5\% = 19.5\%$$

7 Working out the amount of the penalty

To work out the amount of the penalty, we multiply the potential lost revenue (PLR) by the penalty percentage rate. For example, if the PLR in the example above was £3,000, and there were no other reductions, the penalty would be £585 (£3,000 x 19.5% = £585).

8 Considering other reductions

After working out the amount of the penalty, we then take into account any other reductions that are necessary. For example, where we've already charged another penalty on the same tax or duty. This then gives the amount of penalty that we'll charge.

How we can suspend a penalty

We can suspend a penalty for a careless inaccuracy if we:

- can set conditions to help you avoid penalties in the future
- believe you can meet these conditions

We can suspend a penalty for up to a maximum of 2 years. Normally the suspension period will be as short as possible to allow you to meet the conditions. If we suspend your penalty, you won't have to pay it if you meet the conditions, unless we charge you another inaccuracy penalty during the suspension period.

You can find more information about this in factsheet CC/FS10, 'Suspending penalties for careless inaccuracies in returns or documents'. Go to www.gov.uk and search 'CC/FS10'. We can't suspend penalties for any other type of behaviour.

How we tell you about a penalty

We'll write to you to tell you how much the penalty is and how we've worked it out. If there is anything about the penalty that you don't agree with, or if you think there is any information we haven't already taken into account, you should tell us straightaway.

After taking account of anything you've told us, we'll then either:

- send you a penalty assessment notice
- invite you to enter into a contract with us to pay the penalty, together with the tax and interest

In certain circumstances you may also have to pay interest on the penalty if you don't pay it on time.

When a company officer may have to pay some or all of a company's penalty for a deliberate inaccuracy

A company officer may have to pay some or all of the company's penalty if the penalty is due to their actions, and one or more of the following applies:

- they have gained, or attempted to gain, personally from a deliberate inaccuracy
- the company is, or we believe it is, about to become insolvent - even if the officer didn't gain personally from the deliberate inaccuracy

If the company pays the penalty, we won't ask the individual officers to pay.

A company officer is a director, shadow director, company secretary or manager of a company, or a member of a limited liability partnership.

What happens if you've deliberately done something wrong

If you:

- give us information that you know to be untrue, whether verbally or in a document, or
- dishonestly misrepresent your liability to tax or claim payments to which you aren't entitled

we may carry out a criminal investigation with a view to prosecution.

Managing Serious Defaulters

If you've deliberately got your tax affairs wrong, we may need to monitor your tax affairs more closely. We've an enhanced monitoring programme called Managing Serious Defaulters. You can find more

information about this in factsheet CC/FS14, 'Managing Serious Defaulters'. Go to www.gov.uk and search 'CC/FS14'.

Publishing details of deliberate defaulters

In certain circumstances, we may publish your details if you've deliberately got your tax affairs wrong. We **cannot** publish your details if you qualify for the maximum penalty reduction. You can find more information in factsheet CC/FS13, 'Publishing details of deliberate defaulters'. Go to www.gov.uk and search 'CC/FS13'.

What to do if you disagree

If there is something that you don't agree with, you should tell us.

If we make a decision that you can appeal against we'll write to you to explain the decision and tell you what to do if you disagree. You'll usually have 3 options. Within 30 days you can:

- send new information to the officer you've been dealing with and ask them to take it into account
- have your case reviewed by an HMRC officer who hasn't been involved in the matter
- arrange for your appeal to be heard by an independent tribunal, who will decide the matter

Whichever you choose, you may also be able to ask for an HMRC specialist officer to act as a neutral facilitator to help resolve the dispute. This process is known as 'Alternative Dispute Resolution' (ADR).

ADR is only available for disputes relating to some of the taxes and other areas that we administer. The officer dealing with your check will tell you if ADR is available for the matter that you are disputing.

Go to www.gov.uk and search 'HMRC1' and 'CC/FS21' to find more information about:

- appeals and reviews in factsheet HMRC1, 'HM Revenue & Customs decisions – what to do if you disagree'.
- ADR in factsheet CC/FS21, 'Alternative Dispute Resolution'

Your rights when we're considering penalties

The European Convention on Human Rights gives you certain important rights. If we're considering penalties, we'll tell you. We'll also tell you that these rights apply and ask you to confirm that you understand them. These rights are that:

- if we ask you any questions to help us decide whether to charge you a penalty, you've the right not to answer them. The amount of help that you give us when we are considering penalties is entirely a matter for you to decide
- when deciding whether to answer our questions, you may want to get advice from a professional adviser – particularly if you don't already have one
- if you disagree with us about the tax or any penalties we believe are due, you can appeal. If you appeal about both tax and penalties, you've the right to ask for both appeals to be considered together
- you've the right to apply for funded legal assistance for dealing with any appeal against certain penalties
- you're entitled to have the matter of penalties dealt with without unreasonable delay

You can find full details about these rights in factsheet CC/FS9 'The Human Rights Act and penalties'. Go to www.gov.uk and search 'CC/FS9'.

Which taxes and tax periods these penalty rules apply to:

These penalty rules apply to the following taxes for returns or documents that were due to be sent to us on or after 1 April 2009, and relate to a tax period beginning on or after 1 April 2008.

Capital Gains Tax	Income Tax (including Self Assessment)
Construction Industry Schemes	National Insurance Classes 1 and 4
Corporation Tax	Pay As You Earn (PAYE)
	VAT

These penalty rules apply to the following taxes for returns or documents that were due to be sent to us on or after 1 April 2010, and relate to a tax period beginning on or after 1 April 2009.

Aggregates Levy	Inheritance Tax
Air Passenger Duty	Insurance Premium Tax
Alcohol Duty	Landfill Tax
Amusement Machine Licence Duty (up to 31 January 2013)	Lottery Duty
Bank Payroll Tax	Machine Games Duty (from 1 February 2013)
Bingo Duty	Petroleum Revenue Tax
Climate Change Levy	Pool Betting Duty
Excise duties (Holding and Movements)	Remote Gaming Duty
Gaming Duty	Stamp Duty Land Tax
Hydrocarbon Oils Duty	Stamp Duty Reserve Tax
	Tobacco Duty

These penalty rules apply to the following taxes for returns or documents that relate to the following periods.

National Insurance Class 1A for P11D(b) (returns for the tax year ended 5 April 2011 and later years)
Machine Games Duty (for tax periods beginning on or after 1 February 2013)
Annual Tax on Enveloped Dwellings (for tax periods beginning on or after 1 April 2013)
Apprenticeship Levy (for tax years starting on or after 6 April 2017)