HM Revenue & Customs

Increased penalties for offshore tax evasion

HM Revenue and Customs (HMRC) have tougher penalties for those who hide assets and income abroad. The maximum penalty for offshore tax evasion is 200% of the tax due – twice the previous rate.

They apply from 6 April 2011 to Income Tax and Capital Gains Tax. The first Self Assessment returns affected are for the 2011-12 tax year, with paper returns due by 31 October 2012, and electronic returns by 31 January 2013.

The penalty does not apply if you provide HMRC with an accurate account of your income tax and capital gains tax liabilities. That includes any income or gains from an offshore account or asset unless you have no additional tax liability from them.

How it works

The offshore penalty strengthens existing penalties for:

- **failure to notify** - where you fail to tell HMRC that you have a source of income or a capital gain that may be taxable.
- **inaccuracy on a return** - where your Self Assessment return is incorrect
- **failure to file a return on time** - where you send your Self Assessment return late

The offshore rates of these penalties are linked to how readily the foreign territory shares information with the UK. The harder it is for HMRC to get information the higher the penalties can be.

There are three penalty levels:

- territories in category 1: the penalty rate is the same as for existing penalties, up to 100% of the tax due
- territories in category 2: the penalty is 1.5 times the existing penalties, up to 150% of tax due
- territories in category 3: the penalty is double the existing penalties, up to 200% of tax due

HMRC has published a list of countries in **categories 1 and 3**. All other territories are in category 2.

We may reduce penalties depending on how much you help us to establish what tax is due. The biggest reductions are if you tell us about a tax issue when you have no reason to believe we have discovered it, or are about to.

Please **contact us** now if you need to get your tax in order before the increased penalties take effect. You can declare offshore income and gains through the Self Assessment system - see our **SA information**.

What is a reasonable excuse?

If you have a reasonable excuse for not complying, then the penalties for failure to notify and failure to file a return on time will not apply. The reasonable excuse must

- be an unusual event that is either unforeseeable or beyond your control
- apply throughout the period when you failed to comply

and you must notify us or file the return as soon as possible after the reasonable excuse ends.

What is reasonable care?

HMRC will not charge an inaccuracy penalty if you took 'reasonable care' to get your return or claim correct but still made a mistake. What counts as 'reasonable care' varies depending on the person's circumstances. Some ways you can show you took reasonable care include:

- keeping accurate records to make sure your tax returns are correct - see our **guidance**
- checking what the correct position is when you don't understand something

What if I disagree with the penalty?

You can ask us to review a penalty or you can appeal against it to an independent tribunal. Our factsheet **HMRC1** explains how you can do this.

When does a capital gain arise offshore?

A capital gain can arise if you sell an asset for a profit. This is most likely if you sell property, but it could apply to land, a boat, a painting, shares, or other assets held outside the UK. Capital Gains tax does not apply to some items and there are allowances that can reduce the amount. Please check our information on **Capital Gains**.

Am I liable to tax on income abroad?

If you normally live in the UK then you are liable to UK tax on your income whether it arises in the UK or abroad. If your permanent place of residence is not the UK then you need to find out if you are resident in the UK for tax purposes. You can find out more under **'Tax on income and gains outside the UK'**.

What about the foreign tax already deducted?

If you have a bank account abroad or foreign dividends tax may be deducted in that country. If there is a Double Taxation Agreement (DTA) between the UK and the country we will often offset the foreign tax against tax due in the UK. This may mean you don't have to pay additional UK tax. Please check the information on **tax treaties and DTAs**.

I receive rental income from abroad but don't make a profit

If you receive rental income from an overseas property you are liable to UK tax on the income. You must complete a Self Assessment return to declare this income. You can deduct certain expenses and allowances. If you have paid foreign tax you can also claim tax relief for the tax paid - see the information on the **Directgov** website.

I don't know if I'm due to pay additional UK tax

If you are unsure whether you should pay UK tax on income or gains from abroad please contact HMRC with the details. It is important you do this immediately as a full disclosure, before HMRC contact you, can greatly reduce any penalty. Find your tax office through the **tax office locator**.

Where can I get more information and help?

There is information on **offshore penalties** on the HMRC website. If you prefer to speak to us about your tax, please phone the helpline number on the tax return or letter we have sent you.

Liechtenstein disclosure Facility – runs from 1 September 2009 until 31 March 2015

How to take care and avoid the inaccuracy and failure to notify penalties

Failure to file a return on time and late payments