



Suspending penalties for careless inaccuracies in returns or documents

This factsheet tells you what happens when we consider whether to suspend penalties for careless inaccuracies in returns or documents.

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

When we can suspend a penalty

We can only suspend penalties for careless inaccuracies in returns or documents if we're able to set at least one suspension condition that'll help you avoid penalties for similar inaccuracies in the future. Each condition must be 'SMART'. SMART means:

- specific - it must be directly related to the cause of the inaccuracy
- measurable - you'll need to be able to show us whether you have met the condition
- achievable - you'll need to show us that you are able to meet the condition
- realistic - we can realistically expect that you'll meet the condition
- time bound - you must meet the condition by the end of the suspension period

These SMART conditions are in addition to the condition that you must file all your returns on time during the suspension period.

If we suspend a penalty, you will not have to pay it if you can satisfy us that you've met all the conditions at the end of the suspension period, and not incurred another penalty within the suspension period.

When we cannot or will not suspend a penalty

We cannot suspend penalties for deliberate or deliberate and concealed inaccuracies.

We will not suspend penalties for careless inaccuracies if we are not able to set any SMART conditions, or if we believe that it's unlikely you'll comply with any of the suspension conditions.

If you are liable to a penalty for a careless inaccuracy that arose because you attempted to use a tax avoidance scheme, it is unlikely that we'll be able to suspend the penalty.

If we decide not to suspend a penalty, you can appeal against our decision. For more information about this, please read the section 'What to do if you disagree' on page 2.

What you need to do before we suspend a penalty

Before we suspend a penalty, you'll need to agree conditions with us. It is important that:

- you understand the conditions
- you can meet the conditions
- the conditions are proportionate to the size of the inaccuracy
- the conditions take your circumstances into account
- it will be clear to both you and us when you've met the conditions

As well as agreeing specific SMART conditions to help you avoid similar inaccuracies in the future, you'll also have to agree to file all your returns on time during the suspension period.

Please think carefully about whether you can meet the conditions before you agree to them. If you are not sure about anything, please tell us. If you have an adviser, you can also ask them for help. After you've agreed conditions with us, we'll send you a notice of suspension. This will show the conditions and the suspension period.

How we determine the length of the suspension period

The length of the suspension period will depend on how long it'll take you to meet the specific suspension conditions. The maximum suspension period allowed by law is 2 years but normally it would be less than this.

What you need to do during the suspension period

During the suspension period, you must meet the conditions that you've agreed to. You must also make sure that you do not send any other inaccurate returns during the period, as this may make you liable to another inaccuracy penalty. **If you incur another inaccuracy penalty during the suspension period, you'll have to pay the previously suspended penalty.**

What happens at the end of the suspension period

At the end of the suspension period, we'll ask you whether you have met the conditions. We may need to check your records and ask for other evidence, to make sure that you've met them. If we agree that you've met the conditions, we'll cancel the penalty. If we decide that you've not met the conditions, you'll have to pay the penalty. You cannot appeal against this decision. However, you can apply for judicial review of our decision. But this can be expensive, so you should seek legal advice first.

What to do if you disagree

If there is something that you do not 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 will usually have 3 options. Within 30 days you can:

- send new information to the officer you have been dealing with and ask them to take it into account
- have your case reviewed by an HM Revenue and Customs (HMRC) officer who has not been involved in the matter
- arrange for your appeal to be heard by an independent tribunal, who'll decide the matter

Whichever option 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.

You can find more information about appeals and reviews and ADR in:

- HMRC1, 'HM Revenue & Customs decisions – what to do if you disagree'
- CC/FS21, 'Alternative Dispute Resolution'

Go to www.gov.uk and search for 'HMRC1' and 'CC/FS21'.