



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 factsheets in our compliance checks series, go to www.gov.uk and search 'factsheets'.

If you need help

If you have any health or personal circumstances that may make it difficult for you to deal with this check, please tell the officer that's contacted you. We'll help you in whatever way we can.

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 does not occur. If you do not do this, we may charge you a penalty.

When we will not charge you a penalty for an inaccuracy

We will not 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're not 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're 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's 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's 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 do not 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's 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 will not 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're 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 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%

When we work out the quality of disclosure, we'll also consider how long it's taken you to tell us about the inaccuracy. If it's taken you a long time, (such as 3 years or more), to correct or disclose what is wrong, we'll usually restrict the maximum reduction we give for the quality of disclosure to 10 percentage points above the minimum of the penalty range. This means you will not benefit from the lowest penalty percentage that's normally available.

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 had not 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.

Calculation example

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

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

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

This gives us the penalty percentage rate.

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

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 ($£3,000 \times 19.5\% = £585$).

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 will not have to pay it if you meet the conditions, unless you become liable to another inaccuracy penalty during the suspension period.

During the suspension period you must make sure you do not send us any other returns that contain inaccuracies. If you do, this may make you liable to another inaccurate penalty during the suspension period. If you become liable to another inaccuracy penalty during the suspension period, you'll have to pay the previously suspended penalty.

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 cannot 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's anything about the penalty that you do not agree with, or if you think there's any information we have not 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 do not 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's, about to become insolvent - even if the officer did not gain personally from the deliberate inaccuracy

If the company pays the penalty, we will not 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.

If you've deliberately done something wrong

We may carry out a criminal investigation with a view to prosecution if you've deliberately done something wrong, such as:

- given us information that you know is not true, whether verbally or in a document
- dishonestly misrepresented how much tax you owe, or claimed payments you're not entitled to

Managing serious defaulters

If you deliberately got your tax affairs wrong, and we find this during the check, we may monitor your tax affairs more closely. We have an enhanced monitoring programme called 'managing serious defaulters'. For more information, read factsheet CC/FS14, 'Managing serious defaulters'. Go to www.gov.uk and search for 'CC/FS14'.

Publishing details of deliberate defaulters

We may publish your details if you deliberately got your tax affairs wrong, but we will not do this if we've given you the maximum penalty reduction. For more information, read factsheet CC/FS13, 'Publishing details of deliberate defaulters'. Go to www.gov.uk and search for 'CC/FS13'.

If you disagree

If there's something that you do not agree with, please tell us.

If we make a decision that you can appeal against, we'll write to you about 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 dealing with the check and ask them to take it into account
- have your case reviewed by an HMRC officer who has not been involved in the matter
- arrange for an independent tribunal to hear your appeal and 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. We call this Alternative Dispute Resolution (ADR).

ADR is only available for disputes that relate to particular tax areas. The officer dealing with the check will tell you if ADR is available for your dispute. For more information about appeals and ADR, read factsheets:

- HMRC1, 'HM Revenue and Customs decisions – what to do if you disagree'
- CC/FS21, 'Alternative dispute resolution'

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

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 do not 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	National Insurance Classes 1 and 4
Construction Industry Schemes	Pay As You Earn (PAYE)
Corporation Tax	VAT
Income Tax (including Self Assessment)	

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	Insurance Premium Tax
Air Passenger Duty	Landfill Tax
Alcohol Duty	Lottery Duty
Amusement Machine Licence Duty (up to 31 January 2013)	Petroleum Revenue Tax
Bank Payroll Tax	Pool Betting Duty
Bingo Duty	Remote Gaming Duty
Climate Change Levy	Soft Drinks Industry Levy (from 6 April 2018)
Excise duties (Holding and Movements)	Stamp Duty Land Tax
Gaming Duty	Stamp Duty Reserve Tax
Hydrocarbon Oils Duty	Tobacco Duty
Inheritance Tax	

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 beginning on or after 6 April 2017)

Soft Drinks Industry Levy (for periods beginning on or after 6 April 2018)

Digital Services Tax (for periods beginning on or after 1 April 2020)