



Publishing details of deliberate defaulters

This factsheet contains information about when we may publish the details of people who deliberately get their tax affairs wrong.

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 for 'factsheets'.

If you need help

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

What we mean by 'deliberate defaulters'

Although most people try to pay the right amount of tax, some people deliberately get their tax affairs wrong. We call these people 'deliberate defaulters'.

Why we publish details of deliberate defaulters

In certain circumstances we can publish details about a person, a company or other kind of organisation that is a deliberate defaulter.

We realise that publication is a very serious matter and we want to make sure we only publish details when it is right to do so. However, we also take it very seriously when people deliberately get their tax affairs wrong.

We believe that the possibility of having their details published will deter people from becoming deliberate defaulters. We also believe that it will encourage deliberate defaulters to come forward and put their tax affairs in order. By coming forward, deliberate defaulters may be able to avoid having their details published. There is more information about this later in this factsheet.

The legislation that allows us to publish details of deliberate defaulters is section 94 Finance Act 2009.

What happens when we carry out an investigation

An investigation includes any type of check by an officer of HM Revenue and Customs (HMRC) into a person's tax affairs. In this factsheet, we use the term 'compliance check' to describe an investigation.

We carry out compliance checks to make sure that our customers pay the right amount of tax at the right time and receive the right allowances and tax reliefs.

During a check, as well as establishing the correct tax liability and the amount of any 'late payment' interest, we may also charge a penalty.

We will charge a deliberate defaulter a penalty for:

- a deliberate or deliberate and concealed
 - inaccuracy in a return or other document
 - failure to notify (failing to tell us about certain circumstances that affect the liability to tax)
 - VAT or Excise wrongdoing
- deliberately supplying false information to, or withholding information from, a person with the intention of that person's return being inaccurate

You can find more information about penalties and penalty reductions in our penalty factsheets. You can also find information about compliance checks in the relevant general information factsheet. Go to www.gov.uk and search for 'factsheets'.

How to avoid having your details published

Before we have started a check

If you do not have any reason to believe that we've already discovered or are about to discover your non-compliance and you tell us that you're a deliberate defaulter (this is called 'making an unprompted disclosure'), we cannot publish your details if either of the following applies:

- we decide that we do not need to start a check because we accept what you've told us
- we decide to start a check and find that you had already told us everything we needed to know and that it was correct

If you do not give us enough information to work out penalties when you tell us that you are a deliberate defaulter, we may need to start a check. If we start a check, we will not be able to publish your details for both of the following reasons:

- you give us everything we need as soon as you can
- we find that you have not deliberately done anything else wrong

However, if we find that you have not told us about other things that you have deliberately done wrong, we may be able to publish details about you and those other things. More information about what we can publish is on page 3 of this factsheet.

After we have started a check

If you're a deliberate defaulter you may still be able to avoid having your details published if you:

- tell us everything you know about what you deliberately did wrong as soon as we tell you that we have started a compliance check
- assist us throughout our check by giving us access to your records and helping us work out the right amount of tax liability

If we agree that you told us promptly about everything you deliberately did wrong and you did everything you could to help us, we may give you the maximum penalty reduction.

If we give you the maximum penalty reduction, we cannot publish your details.

However, if your default involves offshore matters or offshore transfers, then you may not be able to avoid publication unless you made an unprompted disclosure.

How we decide whether to publish your details

Before we can publish your details we first have to consider 5 'publication questions'. If the answer to all 5 publication questions is 'yes', we may publish your details. The 5 questions are listed below.

1 Is this a relevant penalty?

A relevant penalty is a penalty for any of the following:

- a deliberate inaccuracy in a return or other document
- a deliberate failure to notify, or
- a deliberate VAT or Excise wrongdoing

2 Does this relevant penalty relate to a period covered by the rules for publishing details of deliberate defaulters?

The rules for publishing details of deliberate defaulters are that the:

- return or document containing the inaccuracy must relate to a period starting on or after 1 April 2010
- failure to notify, or the VAT or Excise wrongdoing must have occurred on or after 1 April 2010

3 Was this relevant penalty charged as a consequence of an HMRC investigation?

An investigation includes any type of check by an officer of HMRC into a person's tax affairs.

4 Is this relevant penalty a 'qualifying relevant penalty'?

A qualifying relevant penalty is a relevant penalty on which you have not been given the maximum penalty reduction. For penalties involving offshore matters and offshore transfers, it is any penalty where there was no unprompted disclosure. If there's more than one penalty arising from a compliance check, we will look at each relevant penalty separately to see whether the full penalty reduction has been given.

5 Does the total qualifying potential lost revenue for all qualifying relevant penalties exceed £25,000?

The potential lost revenue (PLR) is the amount that arises as a result of any of the following:

- an inaccuracy in a return or document
- a failure to notify
- a VAT or Excise wrongdoing

We work out the amount of total qualifying PLR by adding together the PLR for each qualifying relevant penalty.

If the answer to all 5 publication questions is 'yes', we may publish your details.

What happens once we've decided that we may publish your details

At the end of the check, the officer will work out the amount of any additional tax and any late payment interest. They'll also tell you the amount of any penalties that are due, including penalties for what you deliberately did wrong.

If you do not agree with the tax or penalty, you may be able to appeal against these decisions within 30 days of the date of the decisions. You can find more information about appeals in factsheet HMRC1, 'HM Revenue and Customs decisions – what to do if you disagree'. Go to www.gov.uk and search for 'HMRC1'.

Any penalties will become final when either you agree them, you decide to take no further action or a tribunal makes a decision about them.

As soon as the penalties become final, the officer will refer your case to the specialist team that is responsible for publishing details of deliberate defaulters. The team will not have been involved in your compliance check. The team will decide whether we can publish your details.

A member of the team will then write to tell you which details we intend to publish. They'll also ask you whether you think there are any reasons why we should not publish those details. Normally you'll have 30 days to reply. A Senior Civil Servant will consider everything you say very carefully before making the final decision about whether to publish your details. They'll tell you their decision as soon as possible.

To be fair and consistent, we aim to publish the details of every person, company or other kind of organisation where the answer to all of the 5 publication questions is 'yes'. We'll only decide not to publish in exceptional circumstances.

What information we can publish

We can publish:

- your name
- your address (business or private)
- the amount of the penalties we have charged you
- the additional tax that those penalties are based on
- the nature of your business if you have one
- the periods over which you've evaded tax
- any other details we think are necessary to clearly identify you

We'll only publish the minimum amount of information necessary to identify you and the amount of tax evaded.

Where we will publish your details and for how long

We'll publish your details online at www.gov.uk/government/publications/publishing-details-of-deliberate-tax-defaulters-pddd

You can see the current list there. Your details will remain online for up to 12 months from the date we first publish them.