



# VAT dishonest conduct penalties

This factsheet contains information about VAT dishonest conduct penalties.

This factsheet is one of a series. For the full list of the factsheets in our compliance checks series, go to [www.gov.uk](http://www.gov.uk) and search 'factsheets'.

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## 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.

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## VAT dishonest conduct penalties

Apply to:

- any VAT irregularity involving dishonest conduct for periods before the introduction of the 'new' penalties shown below
- the evasion of VAT by failure to submit a VAT return.– this applies to periods before and after the introduction of the 'new' penalties

### New penalties

New penalties are for:

- inaccuracies in VAT returns due from 1 April 2009
- failure to notify an under-assessment of VAT for returns due from 1 April 2009 – where there is dishonest conduct, VAT dishonest conduct penalties may also apply, but we will never charge both penalties together
- failure to register for VAT for returns due from 1 April 2010
- VAT wrongdoings for returns due from 1 April 2010

You can find more information about new penalties in the compliance checks series of factsheets. Details of how you can get a copy of these are shown above.

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## Why we have given you this factsheet

We have given you this factsheet because we have found out about a VAT irregularity to which VAT dishonest conduct penalties may apply. We now need to establish whether there was dishonest conduct.

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## What we mean by 'dishonesty'

Dishonesty is where a person does something or fails to do something that would be regarded as dishonest according to the ordinary standards of reasonable and honest people.

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## Customers with particular needs

If there was anything about your health or personal circumstances that contributed to your dishonest conduct please tell the officer that is carrying out the check. Telling them will mean that they can take this into account when considering penalties.

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## How we work out the amount of the dishonest conduct penalty

The penalty will be a percentage of one of the following:

- the difference between any VAT that you have under-declared or over-claimed (or tried to under-declare or over-claim) and the correct amount of VAT
- the VAT that you declared late because of your failure to submit your return

When working out the penalty we start with the maximum possible penalty, which can be 100% of the VAT. We then consider whether to reduce the penalty.

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## What you can do to reduce any dishonest conduct penalty

The amount we can reduce the penalty by will depend on:

- disclosure – whether you tell us everything we need to know about what is wrong
- co-operation – how well you co-operate with us throughout the compliance check

The more you help us to get your VAT affairs up to date the larger the reduction may be to the penalty.

### Disclosure

We can normally reduce the penalty by up to 40% for an early and full disclosure.

If you do not tell us that anything is wrong until near the end of the check, we will give you very little or no reduction for disclosure.

The size of the reduction will depend on the individual circumstances.

### Co-operation

We can reduce the penalty by up to 40% for good co-operation. Good co-operation includes:

- letting us have the information we need quickly
- agreeing to meet us if we believe this will help us with our check
- answering our questions as fully and correctly as possible

If you delay giving us the information we need or give us misleading answers and generally obstruct our check, we will give you little or no reduction for co-operation.

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## 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](http://www.gov.uk) and search for 'CC/FS14'.

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## When a company officer may have to pay some, or all of a company's dishonest conduct penalty

A company officer may have to pay some or all of the company's penalty, if the penalty is due to their conduct.

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.

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## Interest and surcharges for paying VAT late

If you pay any VAT after the original date it was due, we will charge you interest. You may also have to pay a late payment surcharge.

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## How we tell you about a penalty

We will tell you how much the penalty is and how we have worked it out. If there is anything about the penalty that you do not agree with, or if you think there is any information we have not already taken into account, you should tell us straightaway.

After taking account of anything you have told us, we will then send you a penalty assessment notice showing the amount due.

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## 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 will 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 HMRC officer who has not 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](http://www.gov.uk) and search 'HMRC1' and 'CC/FS21' to find more information about:

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

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## Your rights when we are considering penalties

The European Convention on Human Rights gives you certain important rights. If we are considering penalties, we will tell you. We will 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 have 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 have the right to ask for both appeals to be considered together
- you have the right to apply for funded legal assistance for dealing with any appeal against certain penalties
- you are 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](http://www.gov.uk) and search 'CC/FS9'.