

# New penalties for errors in tax returns and documents

You could be charged a penalty if you don't take reasonable care with your tax affairs. This guide will help you understand the legislation and what you can do to avoid a penalty.

## **Why do we need penalties?**

We know that most people take care to complete their tax returns and documents correctly. However there are some people who don't do this, so we have penalties to encourage them to comply with their legal obligations.

## **When are penalties charged?**

Financial penalties can be charged if you make an error in your return or other documents and that error means that you understate your tax, misrepresent your liability or don't tell us when you've been under-assessed.

## **When do the new penalties begin?**

The new penalties will apply from April 2008, but only for returns or documents due to be sent to us on or after 1 April 2009.

## **Which taxes do the penalties apply to?**

The new penalties initially apply to Income Tax, Corporation Tax, Capital Gains Tax, VAT, Construction Industry Scheme, PAYE and National Insurance contributions.

They will be extended later to most of the Department's other taxes, levies and duties.

## **What is new about penalties?**

We have always charged financial penalties for incorrect returns or documents. However the way that penalties will be calculated in the future will be linked to the behaviour that gives rise to the error.

## **What does behaviour mean?**

If you send us a document that contains a mistake we will charge a penalty if:

- the error is because you failed to take reasonable care, or
- the error is deliberate, that is you knowingly and intentionally send us an incorrect document but do not take active steps to hide the error, or
- the error is deliberate and concealed, that is you knowingly and intentionally send us an incorrect document and have taken active steps to hide the error.

We will not charge a penalty if you took reasonable care to get things right but still made an error.

You must tell us promptly about any error you discover after you have sent the return or document to us.

## What is reasonable care?

'Reasonable care' varies according to the person, their particular circumstances and their abilities. Every person is expected to make and keep sufficient records for them to provide a complete and accurate return.

Someone with straightforward tax affairs may only need to keep a simple system of records, which are followed and regularly updated. A person with more complex tax affairs may need more sophisticated systems that are maintained equally carefully.

We believe it is reasonable to expect a person who encounters a transaction or other event with which they are not familiar, to take care to check the correct tax treatment, or to seek suitable advice. We expect people to take their tax seriously.

## What are penalty suspensions?

If we charge you a penalty because you failed to take reasonable care with your tax affairs, you may be able to have the penalty suspended for up to 2 years provided:

- you meet certain conditions, and
- you do not become liable to any other error penalties during the suspension period.

If at the end of the suspension period you have met all the suspension conditions, we will cancel the penalty. Penalties charged because of deliberate errors, whether or not they were concealed, cannot be suspended.

## How can you avoid a penalty?

You can avoid a penalty by:

- taking reasonable care to provide us with correct returns and documents,
- keeping records that are good enough to enable you to provide us with complete and accurate tax returns and documents,
- asking us or your tax adviser for advice if you are not sure about any aspect of your tax affairs, and if you are still unsure, by
- flagging the entry and explaining the problem when you send the return or document to us.

## How is the penalty charge calculated?

The penalty is a percentage of the extra tax due. The rate depends on the behaviour that gave rise to the error. The less serious the behaviour, the smaller the penalty will be.



## How can the penalty be reduced?

There can be a reduction in the level of penalty charged for disclosure of errors, and further reductions for the quality of any disclosure.

You can reduce the penalty from the maximum by:

- telling us about any errors,
- helping us work out what extra tax is due, and
- giving us access to check your figures.

## How will I know if I have to pay a penalty?

We will send you a penalty notice, but only after we have discussed your tax affairs with you and reached a decision on the correct position. You have the right to appeal against any part of our decision.

## Where can I get more help?

You can find more information on penalties for errors at [www.hmrc.gov.uk/about/new-penalties/index.htm](http://www.hmrc.gov.uk/about/new-penalties/index.htm)