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Take Care to Avoid a Penalty

You could be charged a penalty if you don't take reasonable care with your tax affairs.

HM Revenue & Customs (HMRC) acknowledge that most people do take care to declare and pay the right amount of tax. They use penalties to stop people who don't take care from gaining an unfair advantage.

After consultation, HMRC are replacing a wide variety of penalties for inaccurate tax returns with one system across almost all taxes.

When does it apply?

HMRC can charge a penalty if your return or other tax document is inaccurate and as a result you don't pay enough tax, or if you don't tell them a tax assessment they have sent to you is too low.

The new penalty system applies to documents with return periods from 1 April 2008 where the documents are due to be filed from 1 April 2009 for:

- Capital Gains Tax
- Construction Industry Scheme
- Corporation Tax
- Income Tax
- National Insurance contributions
- PAYE
- VAT

How does it work?

You will have to pay the additional tax and any interest that is due. If HMRC charge a penalty it will be a percentage of the additional tax. The penalty rate now depends on the type of inaccuracy. The more serious the reason for the inaccuracy the higher the penalty can be. HMRC will not charge a penalty if you took 'reasonable care' to get things right but still made a mistake.

 If you send HMRC an incorrect document they will charge a penalty if the inaccuracy:

- is because you failed to take reasonable care – you were careless
- is deliberate – you intentionally send them an incorrect document
- is deliberate and concealed – you intentionally send them an incorrect document and try to conceal the inaccuracy

What is reasonable care?

'Reasonable care' varies according to the person, their circumstances and their abilities. But HMRC expect everyone to make and keep sufficient records for them to provide a complete and accurate return, and to update them regularly.

Some of the ways you can show you took reasonable care, and avoid a penalty include:

- keeping accurate records to make sure your tax returns are correct
- checking what the correct position is when you don't understand something
- telling HMRC promptly about any error you discover in a tax return or document after you've sent it.

When will HMRC reduce a penalty?

HMRC can reduce a penalty if you tell them about an inaccuracy, especially if this is unprompted.

A disclosure is unprompted if when you tell them about the inaccuracy you have no reason to believe they have discovered, or are about to discover it. Everything else is a prompted disclosure. The table below shows the range of penalty percentages that can be applied to an inaccuracy.

	Reasonable Care	Careless Unprompted	Careless Prompted	Deliberate Unprompted	Deliberate Prompted	Deliberate& Concealed Unprompted	Deliberate& Concealed Prompted
100							
95							
90							
85							
80							
75							
70							
65							
60							
55							
50							
45							
40							
35							
30							
25							
20							
15							
10							
5							
0							

HMRC can reduce a penalty from the maximum if you:

- tell them about any inaccuracies
- help them work out what extra tax is due
- give them access to check your figures

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Can HMRC suspend penalties?

HMRC may suspend a penalty for a careless inaccuracy for up to two years. They will set conditions for you to improve your systems to stop the same mistakes happening again. If at the end of the suspension period you meet all the conditions, HMRC will cancel the penalty. They cannot suspend penalties charged because of deliberate inaccuracies.

How will I know if I have a penalty?

HMRC will discuss your tax with you to work out the correct amount. They will talk to you about any penalty that may be due before they send a penalty notice so you can understand what has happened and why they are doing this.

How can I appeal against a penalty?

You can choose to have the penalty reviewed within Revenue and Customs or can appeal against it to an independent tribunal. There is a factsheet **HMRC 1** available at **www.hmrc.gov.uk/factsheets/hmrc1.pdf**

Third party penalties

HMRC are now able to charge a penalty on a third party. They can only do this if a third party deliberately withholds information or deliberately supplies false information to a taxpayer who has to complete a return. HMRC have to demonstrate that the third party intended to cause the document to be inaccurate.