

### Checklist of current tax penalties

Several new penalties have been introduced through legislative changes over recent years. Members have provided feedback that they would find it useful to have a summary of these changes which they can use as a checklist to ensure they have considered the implications in relation to both their clients and their own practice. The checklist has been prepared on this basis and to assist members in meeting the professional standards required from them.

Members are required to comply with the Standards set out in [Professional Conduct in Relation to Taxation](#) (PCRT) and [Professional Rules and Practice Guidelines](#) (PRPG):

- PRPG sets out the fundamental principles and the rules which a member must comply with which includes the requirement to maintain professional competence and exercise due care and the Continuing Professional Development (CPD) requirements. This document is a summary only and members should consider the further CPD required where they deal with specialist areas where these penalties may apply.
- PCRT focuses on the tripartite relationship between the tax adviser, the client and HMRC and much of the material contained in it will be of assistance here, in particular the sections on the Fundamental Principles, the Standards for Tax Planning and the help sheets on Tax Advice and Irregularities.

Members in the regulated sector should also be aware of their obligation under anti money laundering legislation to make a suspicious activity report (unless the privilege reporting exemption applies) where the member knows or suspects (or has reasonable grounds for doing so) that another person is engaged in defined criminal activity, which would include, for example, deliberately underpaying tax. Members should refer to the [Anti Money Laundering Guidance for the Accountancy Sector \(AMLGAS\)](#).

As tax penalty legislation is updated it is important that tax advisers are aware of those changes and seek to minimise exposure to those penalties for their own practice and for their clients. The summary below sets out some of the recent legislative changes in Finance Acts and the Criminal Finances Act 2017 which relate to taxpayers and tax advisers and the associated penalties. It also includes routine compliance penalties eg in relation to failure to make returns (Sch 55 FA 2009), inaccurate returns (Sch 24 FA 2007), failure to notify chargeability (Sch 41 FA 2008), late payments of tax, and changes to the late payment and late submission penalty regimes being introduced as part of the Government's Making Tax Digital programme. The list is ordered by year of enactment with the most recent Finance Act containing penalty changes at the top. It refers to HMRC guidance where issued but readers should note that it is not a comprehensive list of references to the HMRC manuals or to HMRC's guidance on gov.uk.

Please note that this list is not exhaustive and does not cover penalties that may only apply to certain tax, duty or levy regimes. It covers penalties in UK legislation only. The information is up to date as at 22 April 2024.

Last reviewed 22 April 2024

This checklist has been produced for the guidance of members and to assist them in meeting the professional standards required of them. It is not a substitute for detailed professional advice. No responsibility can be accepted for the consequences of any action taken or refrained from as a result of the information in this checklist.

	Issue	Penalties levied on agents and advisers			Penalties levied on client (taxpayer)	HMRC Guidance where issued (Note 1)	CIOT/ATT Guidance (or Introductory comments) where issued	Penalty	Effective Date
		Ltd Co	Sole Trader	Partnership/ LLP					
1.	<p>ITSA penalties</p> <p>Penalties for failure to make returns and penalties for failure to pay tax</p> <p>S34 Finance Act 2024</p> <p>Section 116, 117 &amp; 118 &amp; Schedules 24 &amp; 25 Finance Act 2021</p>	No	No	No	Yes	<p>Penalties for Income Tax Self Assessment volunteers – see <a href="#">here</a>.</p>	<p>The late payment and late filing regime (outlined in relation to VAT at item 6 below) will also apply to Income Tax Self Assessment, as follows:</p> <ul style="list-style-type: none"> <li>early adopters of Making Tax Digital for ITSA from April 2024 (annual submissions only)</li> <li>from April 2026 for all taxpayers mandated to use MTD for ITSA from that date</li> </ul>	<p>For early adopters - when a taxpayer misses an annual submission deadline, they will incur a penalty point. They become liable to a fixed penalty of £200 only after they have reached the points threshold of 2.</p> <p>Late payment penalties apply if tax is paid more than 15 days late. A first and second late payment penalty may apply. You can ask HMRC for a Time to Pay arrangement which can mean lower or no late payment penalties.</p>	6 April 2024 (early adopters)
2.	<p>Reporting rules for digital platforms</p> <p>Section 349 Finance (No 2) Act 2023</p>	No	No	No	Yes	HMRC guidance is in their International Exchange of Information	Certain UK digital platforms are required to report information to HMRC about the income of sellers of goods and services on their platform. HMRC will then	Penalties for late reports – a penalty not exceeding £5,000 and, if the failure continues after the initial penalty has been assessed,	1 January 2024

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Platform Operators (Due Diligence and Reporting Requirements) Regulations 2023					Manual – see <a href="#">here</a> .	exchange the information with the other participating tax authorities for the jurisdictions where the sellers are tax resident.	<p>penalties not exceeding £600 per day.</p> <p>Penalties for failure to provide information to reportable sellers - a penalty not exceeding £5,000 and, if the failure continues after the initial penalty has been assessed, penalties not exceeding £600 per day.</p> <p>Penalties for failure to provide information to HMRC - a penalty not exceeding £5,000 and, if the failure continues after the initial penalty has been assessed, penalties not exceeding £600 per day.</p> <p>Penalties for failure to comply with record-keeping requirements – a penalty not exceeding £5,000 for each reportable period in respect of which the failure occurs.</p> <p>Penalties for failure to notify – a penalty not exceeding £1,000.</p>	

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								Penalties for failure to apply due diligence procedures – a penalty not exceeding £100 for each seller in respect of which the platform operator fails to apply the due diligence.	
3.	Penalties for facilitating avoidance schemes involving non-resident promoters  Section 91 & Schedule 13 Finance Act 2022	Yes	Yes	Yes	No	HMRC Guidance dated 11 April 2022 – see <a href="#">here</a> .		The legislation introduces a new penalty applicable to UK-based entities who facilitate tax avoidance schemes involving non-resident promoters. The penalty can be for an amount up to 100% of the total fees, or the amounts which are the economic equivalent of fees, received by all entities involved in the promotion of that avoidance scheme.	24 February 2022
4.	Large businesses; notification of uncertain tax treatment  Section 96 & Schedule 17 Finance Act 2021	No	No	No	Yes	HMRC Guidance published 1 April 2022 – see <a href="#">here</a> .	Certain large companies and partnerships must notify HMRC when they take an uncertain tax position in a relevant return which is due to be filed on or after 1 April 2022 for corporation tax, VAT or income tax (both self-	The legislation introduces a penalty on a company or partnership which fails to make a notification by the relevant deadline (or makes an incomplete notification).	Applies to returns due to be filed on or after 1 April 2022

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							assessment and amounts collected via PAYE).	First failure – a fixed penalty of £5,000 Second failure – a fixed penalty of £25,000 Third or further failure – a fixed penalty of £50,000	
5.	Electronic Sales Suppression  Section 92 & Schedule 14 Finance Act 2022	Yes	Yes	Yes	Yes	HMRC guidance published 16 November 2022 – <a href="#">Factsheet CC/FS68</a> .		A penalty may be charged if a person is ‘in possession’ of an ESS tool or made, supplied or promoted an ESS tool. The penalties for being in possession of an ESS tool are worked out differently to the penalties for making, supplying or promoting an ESS tool.  <b>Penalty for being in possession of an ESS tool</b> – up to £1,000 for the initial fixed penalty plus daily penalties of up to £75 per day.  <b>Penalty for making, supplying, or promoting an ESS tool</b> – up to a maximum of £50,000.	24 February 2022

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6.	<p>VAT penalties</p> <p>Penalties for failure to make returns etc</p> <p>Section 116 &amp; Schedules 24 &amp; 25 Finance Act 2021</p> <p>Penalties for failure to pay tax</p> <p>Section 117 &amp; Schedule 26 Finance Act 2021</p> <p>Penalties for failure to make returns etc or pay tax: consequential provision</p> <p>Section 118 &amp; Schedule 27 Finance Act 2021</p>	No	No	No	Yes	<p>VAT penalties and interest - <a href="#">guidance collection page</a></p>	<p>New penalties for VAT returns that are submitted late and VAT which is paid late came into effect for VAT accounting periods starting on or after 1 January 2023.</p>	<p><a href="#">Late submission penalties</a> work on a points-based system meaning that a penalty point is received for each VAT return that is submitted late until a threshold is reached. When the threshold is reached, a £200 penalty is imposed. The penalty point threshold is determined by the accounting period.</p> <p><a href="#">Penalty points can be removed</a> once the maximum points have been reached.</p> <p><a href="#">Late payment penalties</a> apply if a VAT payment is more than 15 days late. A first and second late payment penalty may apply. You can ask HMRC for a Time to Pay arrangement which can mean lower or no late payment penalties.</p>	VAT accounting periods starting on or after 1 January 2023
7.	<p>Coronavirus Support Payments, including the Job Retention Scheme</p>	No	No	No	Yes	<p>HMRC's compliance <a href="#">factsheet CC/FS47</a></p>	<p>The legislation gives HMRC powers to recover payments to which recipients were not entitled to, and to charge a</p>	<p>A failure to notify a liability to income tax where the person knew at the time the income tax first became chargeable that they were</p>	22 July 2020

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<p>and the Self-Employment Income Support Scheme</p> <p>Section 106 and Schedule 16 Finance Act 2020</p>				<p>contains information about assessments and penalties in relation to grant overpayments.</p> <p>HMRC's <a href="#">factsheet CC/FS11a</a> provides information about when HMRC might charge penalties for a failure to notify an Income Tax charge relating to an overpayment of a coronavirus support payment.</p>	<p>penalty in cases of deliberate non-compliance.</p> <p>Guidance on members' obligations in relation to the reporting of grant claims under the self-employment income support scheme is <a href="#">here</a>.</p> <p>Guidance on the treatment, and corrective action necessary, in relation to errors and tax return reporting obligations regarding the coronavirus job retention scheme is <a href="#">here</a>.</p>	<p>not entitled to the coronavirus support payment is treated as deliberate and concealed.</p> <p>The failure to notify penalty regime is in Sch 41 FA 2008. A deliberate and concealed failure could be up to 100% of the potential lost revenue.</p>		

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8.	International Tax Enforcement (Disclosable arrangements)  Section 84 Finance Act 2019	Yes	Yes	Yes	Yes	<p>HMRC guidance is in their International Exchange of Information Manual from IEIM 600000 onwards – see <a href="#">here</a>. This guidance is due to be replaced with guidance for Mandatory Disclosure Rules which come into effect on 28 March 2023 and which will be similar to existing DAC6 guidance for hallmarks D1 and D2.</p> <p>Further guidance is available on <a href="http://gov.uk">gov.uk</a> as follows:</p>	<p><a href="#">The International Tax Enforcement (Disclosable Arrangements) Regulations 2023</a> came into force on 28 March 2023. They introduce UK Mandatory Reporting Rules (MDR) based on the <a href="#">OECD model rules</a>.</p> <p>MDR will require promoters and advisors to disclose details of certain types of arrangements to HMRC. An arrangement will be reportable if it involves the use of opaque offshore structures or if it circumvents reporting under the Common Reporting Standard (CRS). HMRC will share and exchange information on these arrangements with other tax authorities implementing the rules where the taxpayers involved in the arrangement are resident.</p>	<p>There are penalties for failure to make reports and other failures to comply with the Regulations (para 13 onwards).</p> <p>A person who fails to comply with certain of the provisions of the Regulations is liable</p> <p>a) To a penalty not exceeding</p> <p style="padding-left: 20px;">i) £5,000, or</p> <p style="padding-left: 20px;">ii) in certain cases, if that amount appears inappropriately low after taking account of all relevant considerations, £600 for each day during the initial period, and</p> <p>b) If failure continues after a penalty is imposed under para (a), to a further penalty(ies) not exceeding £600 for each day failure continues.</p>	28 March 2023



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					<p><a href="#">check if you need to tell us about an arrangement</a></p> <p><a href="#">register for the MDR service</a></p> <p><a href="#">report an arrangement through MDR</a></p> <p><a href="#">use the schema and supporting documents to report</a></p>	<p>MDR replaces the EU-based DAC6 rules which the UK implemented prior to its exit from the EU and revokes <a href="#">The International Tax Enforcement (Disclosable Arrangements) Regulations 2020</a> which had implemented <a href="#">EU Directive 2018/822</a> amending <a href="#">Directive 2011/16/EU</a> (otherwise known as DAC6) into UK law.</p> <p>The CIOT produced some guidance for its members who might have been classified as an ‘intermediary’ under the DAC6 regulations due to them being registered as a member or student with the CIOT and when, as a possible consequence of that, they might have been required to make a disclosure report to HMRC. This guidance has been withdrawn following the introduction of Mandatory Disclosure Rules based on the OECD model rules, since they do</p>	<p>HMRC may reduce the penalty because of “special circumstances”.</p> <p>No penalties will be due where a person has a reasonable excuse for the failure.</p>	

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							not replicate the 'intermediary' provisions in DAC6.  Please contact <a href="mailto:technical@ciot.org.uk">technical@ciot.org.uk</a> if you would like a copy of this withdrawn guidance.		
9.	Penalty for transactions connected with VAT fraud etc  Section 68 Finance (No 2) Act 2017	No	No	No	Yes		The penalty will be imposed when a business has entered into a transaction connected with evasion of VAT by another person, and knew, or should have known, that the transaction was connected with fraud	Penalty is 30% of the potential lost VAT.	16 November 2017
10.	Requirement to correct certain offshore tax non-compliance  Section 67 and Schedule 18 Finance (No 2) Act 2017	No	No	No	Yes	See HMRC's guidance on how to make a disclosure using the Worldwide Disclosure Facility (WDF) <a href="#">here</a> . HMRC's guidance was published on 16 November	New measures applying to a person with any undeclared tax liabilities relating to offshore matters as at 5 April 2017. There will be a statutory requirement to correct the issue between 6 April 2017 and 30 September 2018. The issue is treated as corrected if the taxpayer takes steps including a disclosure under the WDF before the deadline.	Failure to carry out the necessary corrections by 30 September 2018 will render the taxpayer liable to a new failure to correct (FTC) penalty which starts at 200% of the offshore potential lost revenue (PLR), and which may not be reduced (for disclosure etc) below 100% of the offshore PLR.	16 November 2017

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						<p>2017 and updated on 11 July 2018, 21 August 2018 and 7 September 2022. It can be found <a href="#">here</a>. Additional guidance was published on 7 September 2022. It can be found <a href="#">here</a>.</p>	<p>Note however that WDF offers no tax amnesty, penalty reduction or guarantee of non-prosecution.</p> <p>See also the following information about the Requirement to Correct on our websites:</p> <ul style="list-style-type: none"> <li>- <a href="#">Practical Notes for CIOT Members</a> (14 September 2018)</li> <li>- <a href="#">Inheritance Tax Disclosures and sending additional information to HMRC</a> (CIOT website 22 November 2018)</li> </ul>	<p>The FTC penalty does not take into account the seriousness of the cause of the original error/ omission, thus treating technical errors/ cases where reasonable care was taken when a return was submitted in the same way as those where a person deliberately omitted income or gains.</p> <p>There is a reasonable excuse defence.</p>	
11.	<p>Penalties for enablers of defeated tax avoidance</p> <p>Section 65 and Schedule 16 Finance (No 2) Act 2017</p>	Yes	Yes	Yes	No	<p>HMRC's guidance was published on 22 December 2017 and updated on 30 April 2018. It can be found <a href="#">here</a>.</p>	<p>The legislation applies to a person if they enable abusive tax arrangements that are entered into on or after 16 November 2017. The enabling activity must</p>	<p>The penalty for each enabler is equal to the amount of consideration either received or receivable by them for enabling those arrangements. The penalty is imposed on every 'enabler' in the avoidance supply chain.</p>	16 November 2017

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							<p>also have been undertaken after this date.</p> <p>Enablers are those who design, market or otherwise facilitate abusive tax arrangements. When such arrangements are defeated in court or at the tribunal, or are otherwise counteracted, each person who enabled those arrangements may be liable to a penalty</p> <p>For general guidance for CIOT/ATT members, see <a href="#">here</a>.</p>	No penalty can be charged unless HMRC has obtained an opinion of the GAAR Advisory Panel in relation to the tax arrangements or equivalent arrangements.	
12.	<p>Errors in taxpayer's documents (penalty for users of tax avoidance scheme)</p> <p>Section 64 Finance (No 2) Act 2017 (inserting paras 3A and 3B in Schedule 24 Finance Act 2007)</p>	No	No	No	Yes	<p>Guidance is in the Compliance Handbook at <a href="#">CH81122</a>, <a href="#">CH81123</a> and <a href="#">CH81124</a></p>	<p>In cases where HMRC seek a careless inaccuracy penalty from a taxpayer who has submitted a document to HMRC and it contains an inaccuracy because it is submitted on the basis that a particular avoidance arrangements had an effect which in fact they did not have, this provision has the following effect:</p>	<p>A tax geared penalty based on the same principles as are already in place (Sch 24 FA 2007) and will therefore be between 0% and 30% of the extra tax due (unless the error is deliberate/deliberate and concealed in which case it can be up to 100% of tax due).</p> <p><a href="#">General penalty guidance</a> is available on HMRCs website</p>	Applies to returns relating to a tax period commencing on or after 6 April 2017

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							<p>Firstly, the inaccuracy will be presumed to be careless unless the taxpayer can prove that it was not careless (ie this provision is reversing the burden of proof).</p> <p>Secondly, when considering whether reasonable care has been taken no account can be taken of any evidence of reliance on advice referred to as 'disqualified advice'.</p>		
13.	<p>Corporate criminal offence of failure to prevent the criminal facilitation of tax evasion</p> <p>Criminal Finances Act 2017 Part 3</p>	Yes	No	Yes	No	<p><a href="#">Government Guidance</a> –1 September 2017 (updated 18 May 2018)</p>	<p>CIOT/ATT overview for members can be found <a href="#">here</a>.</p> <p>An article on the corporate criminal offence provided to us by HMRC during September 2020 can be found <a href="#">here</a>.</p>	<p>Penalties for this offence include:</p> <ul style="list-style-type: none"> <li>• Unlimited financial penalties</li> <li>• Ancillary orders such as confiscation orders or serious crime prevention orders.</li> </ul>	30 September 2017

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								Criminal convictions should be reported to the CIOT and ATT and potential disciplinary action may result.	
14.	<p>Offences relating to offshore income, assets and activities (Strict liability criminal offence for offshore tax evasion)</p> <p>Section 166 Finance Act 2016 (inserting ss106B – 106H into TMA 1970)</p>	No	No	No	Yes		<p>The offence applies if a taxpayer fails to notify HMRC of his or her chargeability to tax, fails to file a return or files an incorrect return in relation to offshore income, assets or activities (<a href="#">regulations</a> specify it applies only where a non-Common Reporting Standard jurisdiction is involved and the unpaid tax is more than £25,000 per tax year). It is not necessary for the prosecution to prove ‘mens rea’ (it is a strict liability offence) but the taxpayer can put forward a ‘reasonable excuse’ defence.</p>	<p>A person guilty of this offence is liable on summary conviction</p> <p>(a) in England and Wales, to a fine or to imprisonment for a term not exceeding 51 weeks or to both, and</p> <p>(b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.</p>	7 October 2017 (by regulation – see <a href="#">here</a> for further details)
15.	Asset based penalties for offshore inaccuracies and failures	No	No	No	Yes		<p>Taxpayers who have been charged a penalty for deliberate offshore inaccuracies and failures where the potential lost revenue (PLR) in relation to a tax year</p>	<p>The penalty is the lower of;</p> <p>a) 10% of the value of the asset, and</p> <p>b) offshore PLR x 10.</p> <p>It is subject to mitigation.</p>	1 April 2017 (by regulations – see <a href="#">here</a> for

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	Section 165 and Schedule 22 Finance Act 2016						exceeds £25,000, may also be charged a penalty based on the value of the asset.	further details)	
16.	Civil penalties in connection with offshore matters and offshore transfers  Section 163 & Schedule 21 Finance Act 2016	No	No	No	Yes	HMRC's Factsheet on Higher Penalties for Offshore Matters CC/FS17 can be found <a href="#">here</a> .	This applies to the most serious cases of evasion with offshore connections.	It is levied in addition to the higher offshore penalties contained in Sch 24 FA 2007 (penalties for errors), Sch 41 FA 2008 (penalties for failure to notify) and Sch 55 FA 2009 (penalties for failure to make returns) where the behaviour that lead to the penalty was deliberate or deliberate and concealed. In order to receive the maximum penalty reductions additional details must be disclosed (see para 10(5) Sch 21).	1 April 2017 (by regulations – see <a href="#">here</a> for further details)
17.	Penalties for Enablers of offshore tax evasion or non-compliance  Section 162 & Schedule 20 Finance Act 2016	Yes	Yes	Yes	No	HMRC's Guidance can be found in their compliance Handbook starting at <a href="#">CH124100</a>		The Greater of: <ul style="list-style-type: none"> <li>• 100% of the potential lost revenue; and</li> <li>• £3,000, or</li> </ul> Where the evasion has given rise to a penalty under Schedule 21	1 January 2017

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						<p>HMRC's Factsheet CC/FS17a can be found <a href="#">here</a>.</p> <p>HMRC's announcement can be found <a href="#">here</a>.</p>		<p>Finance Act 2015 (offshore asset moves), the greater of:</p> <ul style="list-style-type: none"> <li>• 50% of the potential lost revenue; and</li> <li>• £3,000</li> </ul>	
18.	<p>Serial Tax Avoidance</p> <p>Section 159 and Schedule 18 Finance Act 2016</p>	No	No	No	Yes	<p>HMRC's guidance can be found <a href="#">here</a>.</p>	<p>Applies where a tax avoidance scheme is defeated (either by decision of court or tribunal or by settlement with HMRC). A warning notice can be issued to those who entered into schemes before 15<sup>th</sup> September 2016 which are defeated after 6<sup>th</sup> April 2017.</p>	<p>A person is liable to pay a penalty if the person incurs a relevant defeat in relation to any arrangements which the person has used in a warning period. The penalty range is 20% to 60% of the 'counteracted advantage' depending on how many relevant prior warning notices the taxpayer has received. (Paragraph 30 of Schedule 18).</p>	<p>In force since 15 September 2016</p>
19.	<p>General Anti-Abuse Rule (GAAR) Penalty</p> <p>Section 158 Finance Act 2016</p>	No	No	No	Yes	<p>See the <a href="#">GAAR Guidance Part B paragraph 16.6</a> and <a href="#">Part E paragraphs 3.24 – 3.25</a>.</p>	<p>GAAR aims to tackle abusive tax arrangements.</p>	<p>The GAAR Guidance explains that: "For arrangements entered into on or after 15 September 2016.....the GAAR legislation includes specific provisions, enacted in Finance Act 2016, which impose penalties in</p>	<p>GAAR penalty applies to arrangements entered into on or</p>



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	The GAAR legislation is in Part 5 and schedules 43 to 43C Finance Act 2013 and Section 10 of the National Insurance Contributions Act 2014						<p>certain circumstances (see paragraphs E3.24 - E3.25). Under these provisions a penalty will apply where a taxpayer submits a 'tax document' to HMRC relating to a tax arrangement for which HMRC issues a notice of final decision stating that the tax advantage is to be counteracted and then subsequently counteracts the tax advantage by making just and reasonable adjustments". The amount of the penalty chargeable is a fixed rate of 60% of the 'counteracted advantage'.</p>	<p>after 15 September 2016</p> <p>The GAAR itself applies to arrangements entered into after 17 July 2013.</p>	
20.	<p>Penalties in relation to offshore asset moves.</p> <p>Section 121 and Schedule 21 Finance Act 2015</p>	No	No	No	Yes	<p>HMRC's Factsheet on Higher Penalties for Offshore Matters CC/FS17 can be found <a href="#">here</a>.</p>	<p>An additional offshore penalty can be imposed in cases involving either a failure to notify a tax liability, an inaccuracy in a tax return or where there has been a late filing of a tax return for at least 12 months and three conditions are satisfied: A – there has been a deliberate failure to comply;</p>	<p>The additional penalty is 50% of the original penalty.</p>	<p>Applies to relevant offshore asset moves occurring after 26 March 2015.</p>

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							<p>B – there has been a ‘relevant offshore asset move’ which has taken place after the ‘relevant time’; and</p> <p>C – one of the main purposes of the move is to prevent or delay the discovery of a potential loss of revenue by HMRC – and the original penalty relates to the same potential lost revenue.</p>		
21.	<p>Penalties in connection with offshore matters and offshore transfers</p> <p>Section 120 and Schedule 20 Finance Act 2015</p>	No	No	No	Yes	<p>HMRC’s Factsheet on Higher Penalties for Offshore Matters CC/FS17 can be found <a href="#">here</a>.</p>	<p>This provision amends and extends the existing penalty regime that applies to non-compliance where offshore matters are involved.</p> <ul style="list-style-type: none"> <li>- to include inheritance tax;</li> <li>- to apply to domestic offences where the proceeds are transferred offshore; and</li> <li>- to introduce a new Category O to the penalty categorisation system for jurisdictions that agree to adopt automatic exchange of information under the Common Reporting Standard.</li> </ul>	<p>The penalty regime is amended to provide for the penalties that will apply to an error in the new category 0. Offshore penalties are increased where the offence occurs in a Category 1 territory. The legislation now refers to four categories of errors, (See para 2 Sch 20)</p>	<p>1/6 April 2016 (by regulation – see <a href="#">here</a> for further details)</p>

	Issue	Penalties levied on agents and advisers			Penalties levied on client (taxpayer)	HMRC Guidance where issued (Note 1)	CIOT/ATT Guidance (or Introductory comments) where issued	Penalty	Effective Date
		Ltd Co	Sole Trader	Partnership/LLP					
22.	<p>Promoters of Tax Avoidance Schemes (POTAS)</p> <p>Part 5 and Schedules 34 to 36 Finance Act 2014, Schedule 19 Finance Act 2015 and s24 Finance Act 2017</p>	Yes	Yes	Yes	No	HMRC's latest guidance can be found <a href="#">here</a> .	The regime targets those who are promoting tax avoidance and uses a series of sanctions which starts with a conduct notice. Where conditions in a conduct notice are breached a monitoring notice is issued.	There are a number of potential penalties for failure to comply – see chapter 5 of HMRC's guidance and Schedule 35 FA 2014.	17 July 2014
23.	<p>Accelerated payment notices (APNs)</p> <p>Part 4 Ch 3 &amp; Sch 32 Finance Act 2014</p>	No	No	No	Yes	HMRC's guidance is <a href="#">here</a> .	<p>HMRC can issue an APN (or partner payment notice (PPN) in a case involving a partnership) to a person who has used an avoidance scheme where one or more conditions are satisfied. Those conditions are that they:</p> <ul style="list-style-type: none"> <li>• have been given a follower notice</li> <li>• have used a DOTAS notifiable arrangement</li> <li>• are subject to a GAAR counteraction notice</li> </ul>	<p>A late payment penalty is charged where an accelerated payment specified under the APN or PPN is paid late. Escalating penalties are chargeable based on the amount of tax unpaid, or still unpaid, as follows:</p> <ul style="list-style-type: none"> <li>• on the penalty day, 5% of the unpaid tax</li> <li>• five months after the penalty day, 5% of any remaining unpaid tax, and</li> <li>• 11 months after the penalty day, 5% of any remaining unpaid tax</li> </ul>	17 July 2014

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							<p>The penalty day is the day immediately following the end of the payment period.</p> <p>The late payment penalty rules in Sch 56 Finance Act 2009 apply in relation to penalty assessment, appeal rights, reasonable excuse, special circumstances and interaction with other penalties.</p>		
24.	<p>Follower Notices</p> <p>Part 4 Ch 2 &amp; Sch 31 Finance Act 2014</p> <p>S119 &amp; Sch 28 Finance Act 2021</p>	No	No	No	Yes	<p>HMRC's guidance is <a href="#">here</a>.</p>	<p>A Follower Notice (FN) is a legal request by HMRC to a taxpayer who has used a tax avoidance scheme to remove the tax advantage they have claimed, for example by amending their tax return. FNs can only be issued when the scheme has been defeated in another person's litigation (a relevant judicial ruling). A person receiving an FN will incur a penalty if they do not take the corrective action by the deadline set out in the notice.</p> <p>On receipt of a FN the recipient has 90 days in which to take corrective action. If corrective action is not taken in this time, HMRC may issue a penalty of 50% of the disputed tax advantage, which can be reduced to no less than 10% to reflect any co-operation given by the recipient in respect of the notice.</p> <p>Changes introduced in FA2021 reduce the standard rate of the penalty from 50% to 30% of the tax under dispute, but the higher rate</p>	<p>17 July 2014 &amp; 10 June 2021</p>	

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								is maintained for those taxpayers whose continued refusal to settle with HMRC is deemed to be unreasonable by the tax tribunal.	
25.	Dishonest tax agents  Schedule 38 Finance Act 2012	See note	See note	See note	No	HMRC Guidance – see <a href="#">here</a> .	A power to issue a dishonest conduct notice, access their working papers and impose a civil penalty on a dishonest tax agent.  The penalty is levied on the individual tax agent, not the organisation they work for (although the details of the organisation can also be published to help identify the individual).	A penalty of between £5,000 and £50,000 can be imposed on a tax agent who is found to have engaged in dishonest conduct. HMRC may also publish the name of the agent who has been penalised.  Penalty to comply with a file access notice – initial fixed penalty of £300 and daily penalties of up to £60 per day if the failure continues.	1 April 2013
26.	Data gathering powers  Schedule 23 Finance Act 2011	No	No	No	Yes	HMRC Compliance Handbook – <a href="#">CH28000</a> onwards	HMRC’s bulk data gathering powers enable them to collect specific pieces of information about a group of taxpayers from third parties. HMRC use this information in their risk analysis and compliance activities.	Failure to comply with a data notice – initial fixed penalty of £300 and a daily penalty not exceeding £60 per day for continuing failure after the fixed penalty has been assessed. The daily penalty may be increased (up to £1,000) if the notice is still not complied with within 30 days of	1 April 2012

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		Ltd Co	Sole Trader	Partnership/ LLP					
							the date it was notified to the data-holder.  Inaccurate information supplied in response to a data notice – a penalty not exceeding £3,000.		
27.	Late filing penalties  Schedule 55 Finance Act 2009	No	No	No	Yes	HMRC Guidance – ITSA returns see <a href="#">here</a> . PAYE RTI returns – see <a href="#">here</a> . CIS returns – see <a href="#">here</a> .	Under the harmonised penalty regime, penalties for failure to make a return on time apply across a range of taxes.  The harmonised regime does not apply to Inheritance Tax, Corporation Tax or Digital Services Tax.  The new VAT late filing penalty point regime introduced in January 2023 (see above) replaces the harmonised regime for VAT.  A new late filing penalty point regime will replace the harmonised regime for ITSA	Late filing of a ITSA return: <ul style="list-style-type: none"> <li>fixed penalty £100 – automatically issued if return filed late</li> <li>daily penalties £10 per day for up to 90 days – apply once the return is three months late</li> <li>tax-geared penalties <ul style="list-style-type: none"> <li>six months late – penalty of 5% of the liability to tax or £300 if higher</li> <li>12 months late – tax-geared penalty depends on the behaviour of the taxpayer and whether the return includes foreign income or gains. If the failure to file is not deliberate then the penalty is 5% of the liability</li> </ul> </li> </ul>	Varies depending on the tax return, for example:  ITSA returns – 6 April 2011  PAYE RTI returns – 6 March 2015 (large employers 6 October 2014)  Construction Industry

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		Ltd Co	Sole Trader	Partnership/ LLP					
							<p>taxpayers from a date to be appointed.</p> <p>to tax or £300 if higher. Where the failure is deliberate, the amount of the penalty can be as much as 200% of the liability to tax or £300 if higher</p> <p>Penalties for other types of return, such as PAYE RTI returns and CIS returns are not reproduced here. Please refer to HMRC’s guidance.</p>	Scheme – 6 October 2011	
28.	Late payment penalties  Schedule 56 Finance Act 2009	No	No	No	Yes	<p>HMRC Guidance – ITSA returns see <a href="#">here</a>. PAYE RTI returns – see <a href="#">here</a>.</p>	<p>Under the harmonised penalty regime, penalties for failure to pay on time apply across a range of taxes.</p> <p>The harmonised regime does not apply to Inheritance Tax, Stamp Duty Land Tax or Corporation Tax.</p> <p>The new VAT late payment penalty regime introduced in January 2023 (see above) replaces the harmonised regime for VAT.</p>	<p>The penalty will depend on the tax in question and the payment date. There are two main categories – those for annual or occasional liabilities, such as income tax and capital gains tax, and those for more regular payments, such as PAYE or CIS.</p>	<p>Varies depending on the tax in question, for example: Income tax, Class 4 NIC and capital gains tax – 6 April 2011</p> <p>PAYE – 6 April 2010</p>

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		Ltd Co	Sole Trader	Partnership/ LLP					
							A new late payment penalty regime will replace the harmonised regime for ITSA taxpayers from a date to be appointed.		
29.	Information Notices  Schedule 36 Finance Act 2008	No	No	No	Yes	<p>HMRC Guidance –</p> <p>Taxpayer notices – <a href="#">Factsheet CC/FS2</a></p> <p>Third party information notices <a href="#">Factsheet CC/FS23</a></p> <p>Financial Institution Notices – <a href="#">Factsheet CC/FS60</a></p>	<p>HMRC’s information powers enable the authority to issue notices to obtain information and documents from various persons for the purpose of checking a taxpayer’s tax position or collecting a tax debt.</p> <p>HMRC have the power to charge the following penalties:</p> <p>Failure to comply with an information notice – an initial penalty of £300, and daily penalty of £60 per day for a failure that continues after the issue of the initial penalty.</p> <p>A tax related penalty can also be imposed in addition to any daily penalties, but this must be imposed and the penalty level set by the Upper Tribunal.</p> <p>Daily penalties can be increased with the approval of the First Tier Tribunal up to £1,000 per day if a third party has failed to comply with an ‘identity unknown notice’.</p>	1 April 2009	



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		Ltd Co	Sole Trader	Partnership/ LLP					
							<p>Providing inaccurate information and/or documents – up to £3,000 for each inaccuracy.</p> <p>Disclosing the existence of an information notice (where the Tribunal has approved the issue of a third party notice without providing a copy to the taxpayer) - £1,000.</p> <p>In addition, there are civil and criminal penalties if a person conceals, destroys or disposes of a document.</p>		
30.	Failure to Notify penalties  Schedule 41 Finance Act 2008	No	No	No	Yes	HMRC Guidance – <a href="#">Factsheet CC/FS11</a>	<p>Under the harmonised penalty regime, penalties for failure to comply with statutory obligations requiring a person to notify HMRC of a liability to tax ('failure to notify') apply across a range of taxes.</p>	<p>The penalty is calculated initially as a percentage of the tax lost and is then subject to reduction for disclosure (quality of disclosure and whether it was prompted or unprompted), special circumstances, reasonable excuse and certain other penalties (where they are determined by reference to the same tax liability).</p>	<p>Varies depending on the tax in question, for example:</p> <p>Income tax and capital gains tax – 1 April 2010</p>

	Issue	Penalties levied on agents and advisers			Penalties levied on client (taxpayer)	HMRC Guidance where issued (Note 1)	CIOT/ATT Guidance (or Introductory comments) where issued	Penalty	Effective Date
		Ltd Co	Sole Trader	Partnership/LLP					
							<p>However, the penalty cannot be reduced below a minimum percentage.</p> <p>The amount of the penalty also depends on whether or not the failure is deliberate, and if so whether it is also concealed.</p> <p>Non-deliberate – 30% Deliberate but not concealed – 70% Deliberate and concealed – 100%</p> <p>(percentages are the maximum penalty as a % of lost revenue and are before any applicable reductions)</p> <p>The penalty levels are increased where the failure to notify involves an 'offshore matter' or an 'offshore transfer'.</p>	Corporation Tax – 1 April 2010	
31.	Penalties for errors	No	No	No	Yes	HMRC Guidance – <a href="#">Factsheet CC/FS7a</a> and	This part of the harmonised penalty regime applies to careless and deliberate inaccuracies in a	Penalties are behaviour related.	Income tax , Class 1 & 4 NICs, capital

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Schedule 24 Finance Act 2007					<a href="#">Factsheet CC/FS7b</a>	<p>document given to HMRC and to failure to notify HMRC of an under-assessment of tax.</p> <p>There is no penalty where the person has taken reasonable care.</p>	<p>Careless – the inaccuracy is due to the person’s failure to take reasonable care</p> <p>Deliberate but not concealed</p> <p>Deliberate and concealed</p> <p>The degree of culpability also affects the level of the penalty. The amount of the penalty is expressed as a % of the potential lost revenue.</p> <p>Deliberate and concealed – maximum 100% (minimum % after taking disclosure into account – prompted 50% and unprompted 30%)</p> <p>Deliberate but not concealed - maximum 70% (minimum % after taking disclosure into account – prompted 35% and unprompted 20%)</p>	<p>gains tax, corporation tax, VAT and CIS – 1 April 2008</p> <p>Dates for other taxes vary.</p>

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							<p>Careless - maximum 30% (minimum % after taking disclosure into account – prompted 15% and unprompted 0%)</p> <p>The minimum percentages are higher if the inaccuracy relates to assets and income in an offshore territory and the territory is classified by HM Treasury as being insufficiently willing to share information with HMRC (Category 2 or Category 3).</p>		
32.	<p>VAT Disclosure Regime (VADR)</p> <p>Schedule 11A to VAT Act 1994</p>	No	No	No	Yes	<p><a href="#">VAT Notice 700/8: disclosure of VAT avoidance schemes</a></p>	<p>The regime targets arrangements or transactions that are intended to give the trader or any other person a VAT advantage when compared to adopting a different course of action.</p>	<p>The penalties for failing to make a full notification to HMRC at the correct time are:</p> <ul style="list-style-type: none"> <li>• 15% of the VAT saved for listed schemes, and</li> <li>• £5,000 for hallmarked schemes</li> </ul>	Originally from 1 August 2004.
33.	<p>Disclosure of Tax Avoidance Schemes (DOTAS)</p>	Yes	Yes	Yes	Yes	<p>HMRC's latest guidance can be found <a href="#">here</a>.</p>	<p>DOTAS is a reporting system which enables HMRC to scrutinise tax avoidance schemes and determine how they work and who is using them. A scheme</p>	<p>The main penalties arise in relation to:</p> <p>Scheme providers:</p>	Originally from 1 August 2004.

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	<p>Finance Act 2004 and subsequent Acts up to and including Finance (No 2) Act 2017 (clause 66 and schedule 17) which brings VAT and other indirect taxes within DOTAS.</p> <p>Legislation is extensive – refer to HMRC guidance for references to legislation</p>						<p>reported under DOTAS is issued with a Scheme Reference Number (SRN). Lately, DOTAS has become the trigger for issuing accelerated payment notices, and non-compliance with DOTAS is a threshold condition for the issue of a conduct notice under the POTAS regime.</p> <p>See <a href="#">PCRT helpsheet B</a> for guidance on the application of the PCRT Fundamental Principles and Standards for Tax Planning.</p>	<ul style="list-style-type: none"> <li>• Failure to disclose a scheme</li> <li>• Failure to provide a scheme reference number to users of the scheme.</li> </ul> <p>Employers</p> <ul style="list-style-type: none"> <li>• Penalty per employee involved in a scheme.</li> </ul> <p>Users</p> <ul style="list-style-type: none"> <li>• Failure to report a scheme reference number to HMRC</li> </ul> <p>Other penalties also arise - for further details refer to paragraphs 22.5, 22.6 and 22.7 of HMRC guidance.</p>	
34.	<p>Failure to deliver a company tax return</p> <p>Paras 17 – 19 Schedule 18 Finance Act 1998</p>	No	No	No	Yes	HMRC Guidance – see <a href="#">here</a> .	These penalties have not been superseded by the harmonised penalty regime (see above).	Failure to deliver a company tax return – fixed penalty of £100, if the return is delivered within 3 months of the filing date, and £200 in any other case. These amounts are increased to £500 and £1,000 for a third successive failure.	

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		Ltd Co	Sole Trader	Partnership/ LLP					
								Failure to deliver a company tax return – tax-related penalty if the company fails to file the return either within 18 months of the relevant AP or, if the filing date is later than that, by the filing date. The penalty is 10% of the unpaid tax for the AP if the return is filed within 2 years of the end of the AP; thereafter increasing to 20%.	
35.	Inheritance Tax penalties Sections 245, 245A, 247 & 248 Inheritance Tax Act 1984	See note	See note	See note	Yes	HMRC Inheritance Tax Manual – see <a href="#">here</a> .		Failure to deliver accounts (s 245) – an initial penalty of £100. A further £100 penalty may apply if the account has not been delivered after 6 months. Further daily penalties not exceeding £60 per day may also apply. If the failure to deliver an account continues after one year from the latest date by which it should have been delivered, and there would have been liability to tax shown in the account, a penalty not exceeding £3000 may be imposed.	

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	Ltd Co	Sole Trader	Partnership/LLP					
							<p>Failure to provide information (s 245A) – an initial penalty of £300 and a further penalty not exceeding £60 per day for every day after the day on which the failure was declared and before the day the return is made (if return required under s218). an initial penalty of £100 and a further penalty not exceeding £60 per day for every day after the day on which the failure was declared and before the day the return is made (if return required under s218A).</p> <p>Fraud or negligence (s 247 &amp; s 248)) – an agent may be liable to a penalty not exceeding £3,000 if they fraudulently give HMRC any incorrect information or document in connection with a chargeable transfer. Or if the incorrect information or document comes to light after it has been delivered, it is treated as delivered negligently unless it is remedied without unreasonable delay.</p>	

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36.	<p>Taxes Management Act 1970 penalty provisions still in effect</p> <p>Section 59A(6)</p> <p>Sections 98A, 99A, 99B &amp; 109C</p> <p>Sections 95, 95A, 96, 97 and 97A</p> <p>Taxes Management Act 1970</p>	No	No	No	Yes		<p>Most penalties in the TMA 1970 have been superseded and repealed by later provisions, but a few remain in effect.</p> <p>Payments on account of income tax (s59A(6)) – penalty (of up to 100%) for fraudulently or negligently making an incorrect statement in connection with a claim to reduce income tax payments on account.</p> <p>Special penalties in the case of certain returns (s98A)</p> <p>Certificates of non-liability to income tax (s99A)</p> <p>Declarations under Chapter 2 Part 15 ITA 2007 (s99B)</p> <p>Penalty for company’s failure to comply with s109B (s109C) ss95, 95A, 96, 97 and 97A (incorrect returns) are still charged in cases of deliberate behaviour as the 20 year assessment time limit goes back into pre-error penalty (Sch 24 FA 2007) years.</p>		



Last reviewed 22 April 2024

Note 1: This guidance only picks up specific guidance notes, and some references to HMRC manuals. It is not a comprehensive list of references to the HMRC manuals.