



[company name]  
[address]

**Phone** 03000 180382  
Monday to Thursday, 9am to 5pm  
Friday, 9am to 4.30pm

**Email** offshorecompaniesnrlatednf@  
hmrc.gov.uk

**Web** www.gov.uk

**Date** [date]  
**Our Ref** [Caseflow reference]

## Disclosure for Annual Tax on Enveloped Dwellings/Non-Resident Landlord liabilities

### UK property of [company name]

Our records show that [company name] owns UK property. This means you may need to disclose:

- liability to Annual Tax on Enveloped Dwellings
- rental income

### What you need to do

We need to check that you have told us about all the tax the company has to pay in the UK. If you need to make a disclosure, please fill in the enclosed notice of intention and certificate.

If you think you do not need to make a disclosure, you need to tell us why. To do this please fill in the enclosed certificate.

Please send the completed notice of intention and/or certificate to either:

- offshorecompaniesnrlatednf@hmrc.gov.uk
- the address at the top of the letter

You must do this by [date + 40 days], using reference [Caseflow reference].

If you email us, please make sure you have read and understood the risks mentioned in the enclosed factsheet DSC1, 'Corresponding with HMRC by email guidance'.

If you are using an agent, please check that they have the company's written approval and share that with us.

### Annual Tax on Enveloped Dwellings (ATED)

ATED is a tax payable mainly by companies that own UK residential property valued at more than £500,000. As the company is the owner of a UK residential property, we believe it should have submitted an ATED return. However, we have not been able to find an ATED record for the company.

If the company should have filed ATED returns, you must make a disclosure.

For 2022-23 onwards, the company will need to submit ATED returns. For guidance, go to **GOV.UK** and search 'ATED'.

## **If the company has received rental income as a non-resident landlord**

We cannot find a record of the company registering for Income Tax.

If the company has received rental income for any period before 6 April 2020 that has not been disclosed, you must make a disclosure.

From 6 April 2020 the company must account for any liability under the Corporation Tax rules and register accordingly. For more guidance about being a non-resident corporate landlord, go to **GOV.UK** and search 'Paying Corporation Tax if you're a non-resident company landlord'.

## **If the company has had tax deducted at source**

If the company believes that tax has already been deducted at source under the Non-Resident Landlord scheme, please fill in and send us the enclosed certificate. Please give us the details of the letting agent or tenant who withheld the tax and paid it to us on the company's behalf. Please include any corresponding reference numbers.

## **What you may also need to consider**

You'll also need to consider whether:

- the company owes any tax that may have been due in the past
- penalties – we have included factsheets to help you

If there are any UK-resident individuals who have any interest in the income or capital of the company, whether directly or indirectly, please ask them to make sure their tax affairs are up to date with the Transfer of Assets Abroad anti-avoidance legislation. For guidance, go to **GOV.UK** and search 'Income and benefits from transfers of assets abroad'.

This is a complex area of tax and we recommend getting professional tax advice.

## **If you do not give us the right information or we do not hear from you**

We are giving you the opportunity to tell us about the company's tax position. If we later find that you have not told us everything, we'll view this very seriously.

If we do not hear from you within 40 days of the date of this letter, we may make an assessment of what we believe the company owes. If appropriate, we may open an investigation and consider charging penalties.

We charge interest on late tax payments under Section 101 of the Finance Act 2009. Paying any tax you owe will reduce the amount of interest you will have to pay.

## **If you've committed tax fraud and want to tell us**

Please let us know by filling in form CDF1. For more information, go to **GOV.UK** and search for 'Contractual Disclosure Facility'.

If you chose to use the Contractual Disclosure Facility, you must let us know that you received this letter during the disclosure process. You can do this by completing and returning the certificate enclosed.

## **How to authorise an agent**

If you want us to deal with someone else on your behalf, you need to give us the company's authority.

To authorise an agent, for example, an accountant or a tax adviser, you need to fill in the form that most suits the company's needs.

## **Form COMP1A**

Use this form to temporarily authorise us to deal with an agent about the disclosure, or a compliance check that we have made as a result of the disclosure only.

To get a copy of form COMP1A, go to **GOV.UK** and search for 'Comp1A' and click on 'Authorise HMRC to temporarily deal with your tax advisor'. Your agent can help you with completing the form. You will need to return this form to the address shown at the top of this letter. Please note that we will not be using the Digital Disclosure Service for this Disclosure.

## Form ATED1

Use this form to allow HMRC to deal with your agent for ATED and ATED related CGT. To get a copy of form ATED1, go to **GOV.UK** and search for 'ATED1'.

### More information and support

Any disclosure you make in response to this letter will be processed manually and not by the Worldwide Disclosure Facility (WDF). You will need to give the same information as you would with the WDF and the steps to follow are the same. For more information about the steps, go to **GOV.UK** and search 'WDF'.

If there is anything about your health or personal circumstances that may make it difficult for you to deal with this matter, please let us know so we can talk about ways to help you. For more information, go to **GOV.UK** and search 'get help from HMRC if you need extra support'.

Yours faithfully

### Campaigns and Projects Team

Join the millions of taxpayers already using their Personal Tax Account to access a range of services. It takes just a few minutes to get started, go to [www.gov.uk/personal-tax-account](http://www.gov.uk/personal-tax-account) Or you can use the HMRC app.

To find out what you can expect from us and what we expect from you go to [www.gov.uk/hmrc/your-charter](http://www.gov.uk/hmrc/your-charter) and have a look at 'Your Charter'.





**Caseflow ref:** [Caseflow reference]

Complete this form, using capital letters where appropriate, to tell us about the disclosure you'll be making to HMRC.

When you've completed the form, you can email it to us using the email address at the top of the letter. If you wish, you can post the form to us at ISBC, HM Revenue and Customs, BX9 1QZ.

**About the disclosure**

**What is the purpose of this disclosure?**

[Text input field for purpose of disclosure]

**Is this disclosure related to onshore or offshore liabilities?**

Onshore       Offshore

**Does this disclosure relate to any of the following?** Put an 'X' in one box.

An individual       A company

A trust       Another entity

If you've chosen 'another entity', tell us which entity

[Text input field for entity name]

**About you**

**First name**

[Text input field for first name]

**Last name**

[Text input field for last name]

**Communication address**

[Text input field for communication address]  
[Text input field for communication address]  
[Text input field for communication address]  
[Text input field for communication address]  
[Text input field for communication address]  
Postcode [Text input field for postcode]

**Telephone number**

[Text input field for telephone number]

## About you

Are you happy for HMRC to contact you by email?

No  Yes

If you've answered yes to the question above, tell us your email address

If you're happy for HMRC to contact you by email, you'll need to confirm in writing, by email or post, that:

- you understand and accept the risks of using email
- you are happy for us to send you financial information by email
- we can send you attachments

Are you representing an organisation?

No  Yes

If you've answered yes to the question above, tell us which organisation you're representing

  

Capacity in which you are completing this form for example, director, agent

If you're the authorised agent or representative, you'll need to confirm to us in writing that your client understands and accepts the risks of using email.

You must also send us signed authority that you can act on their behalf. You can do this by email or post.

Please read factsheet DSC1, 'Corresponding with HMRC by email' enclosed with this form for more information.

## About the company

Company name

  

Registered address

  
  
  
  
  

Company registration number

Telephone number

Email address



Caseflow ref: [Caseflow reference]

**The company's tax position**

Choose which statement is accurate for the company's circumstances and tick the relevant box.

1  The company needs to bring its tax affairs up to date. The company will declare all its outstanding UK tax using the disclosure facility detailed in the letter. You must also tell us how the error happened and confirm that the error will not be repeated.

How did the error happen?

Five horizontal lines for text input.

2  The company believes it has correctly declared all its income, gains, and liability to Annual Tax Enveloped Dwellings (ATED) on its tax return(s) as shown below:

Reference number(s)

Two horizontal lines for text input.

Tax years(s)

Two horizontal lines for text input.

For Non-Resident/ATED related Capital Gains Tax return(s), the date(s) of submission

Two horizontal lines for text input.

3  The company has not declared income, gains and liability to ATED as they are not liable to UK tax for the following reasons.

Five horizontal lines for text input.

Please be aware that we will use the information we have to check if the statement you have made is correct.

Please return your completed certificate by [date + 40 days].

## Declaration

I can confirm that the information given on this form is correct and complete to the best of my knowledge and belief. I understand that dishonesty making a false statement to evade paying tax is a criminal offence and I may be subject to investigation and prosecution.

### Name

### Your role

### Address

### Signature

### Date

  

## Checklist

- Email protocol read and authorisation included in response
- Agent authority form completed
- If making a disclosure, Notice of Intention completed
- Completed certificate
- If required, any supporting documents





# Corresponding with HMRC by email

Use the following information to decide whether you want to deal with us by email. We take the security of personal information very seriously. Email is not secure, so it's very important that you understand the risks before you email us. We will not deal with you by email unless you tell us you accept the risks of doing so.

## About the risks

The main risks associated with using email that concern HMRC are:

- confidentiality and privacy – there's a risk that emails sent over the internet may be intercepted
- confirming your identity – it's crucial that we only communicate with established contacts at their correct email addresses
- there's no guarantee that an email received over an insecure network, like the internet, has not been altered during transit
- attachments could contain a virus or malicious code

## How we can reduce the risks

We'll desensitise information, for example by only quoting part of any unique reference numbers. We can also use encryption. We're happy to discuss how you may do the same but still give the information we need.

## If you do not want to use email

You may prefer that we do not respond by email, for example because other people have access to your email account. If so, we're happy to respond by another method. We'll agree this with you either by telephone or in writing via post.

## If you do want to use email

If you would like to use email as one of the ways HMRC will contact you, we'll need you to confirm in writing by post or email:

- that you understand and accept the risks of using email
- that you're content for financial information to be sent by email
- that attachments can be used

If you are the authorised agent or representative we'll need you to confirm in writing by post or email that your client understands and accepts the risks.

Please also:

- send us the names and email addresses of all people you would like us to use email with - you, your staff, your representative, your agent, for example
- confirm you have ensured that your junk mail filters are not set to reject and/or automatically delete HMRC emails

## How we use your agreement

Your confirmation will be held on file and will apply to future email correspondence. We'll review the agreement at regular intervals to make sure there are no changes.

## Opting out

You may opt out of using email at any time by letting us know.

## More information

You can find more information on HMRC's privacy policy. Go to [www.gov.uk](http://www.gov.uk) and search for 'HMRC Privacy Notice'.





## The Human Rights Act and penalties

Article 6 of the European Convention on Human Rights, which was incorporated into British law through the Human Rights Act 1998 gives you certain rights when we're considering whether to charge certain types of penalties.

We'll ask you to read this factsheet if we believe these rights may apply to you and we need your help to work out whether to charge you a penalty.

This factsheet is one of a series. For the full list of factsheets in the series, go to [www.gov.uk](http://www.gov.uk) and search for 'Compliance checks 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 us, please tell the officer that's contacted you. We'll help you in whatever way we can. For more details, go to [www.gov.uk/get-help-hmrc-extra-support](http://www.gov.uk/get-help-hmrc-extra-support)

You can also ask someone else to deal with us on your behalf, for example, a professional adviser, friend or relative. We may however still need to talk or write to you directly about some things. If we need to write to you, we'll send a copy to the person you've asked us to deal with. If we need to talk to you, they can be with you when we do, if you prefer.

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### What your rights under Article 6 mean for you when we're considering penalties

We always welcome your co-operation with our compliance check and in establishing the right liabilities. This includes whether any penalties may be due. The extent to which you co-operate with us and provide us with information is entirely your choice.

When we're considering penalties you've the right under Article 6 not to answer our questions. This is sometimes called the right not to self-incriminate or the right to silence. This right does not cover information or documents that already exist. This means that you must give us the information or documents that already exist, if we've a legal right to ask for them.

When making a decision about how much you're going to co-operate with us, you've the right to get help from a professional adviser. If you do not already have an adviser, you may want to consider consulting one.

You've the right to have the matter of penalties dealt with without unreasonable delay. We'll normally tell you whether any penalties are due once we've agreed the tax position with you. If we cannot agree the tax position, we'll send you an amendment or assessment of any additional tax we believe is due. If we consider that a penalty is also due, we'll send you an assessment of the penalty. The assessment will be based on the additional tax.

If we charge you a penalty, you've the right to ask for a review or to appeal. You also have the right to ask for your review or appeal against both the tax and the penalty decisions to be considered together. Our factsheet HMRC1, 'HM Revenue and Customs decisions – what to do if you disagree', explains what to do if you want to ask for a review, or to appeal. You can find more information about tribunals on the tribunal's website. Go to [www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about](http://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about)

You've the right to apply for publicly funded legal assistance or legal aid. In some circumstances, funding may be available to help you bring certain appeals before the tribunal. If you're going to appeal against a penalty assessment, you may want to check whether your case qualifies and what help may be available. We've no involvement in decisions about if your case will qualify. You can find details of where to get information below.

If there's anything you do not understand about these rights or what they mean for you, please tell the officer who is dealing with the compliance check straightaway.

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## **Funded legal assistance**

You can find out more details about funded legal assistance or legal aid in:

- England and Wales by going to the Civil Legal Advice website at [www.gov.uk/civil-legal-advice](http://www.gov.uk/civil-legal-advice) or by phoning 0345 345 4345
- Scotland by going to the Scottish Legal Aid Board website at [www.slab.org.uk](http://www.slab.org.uk) or by phoning 0131 226 7061
- Northern Ireland by contacting a solicitor who's a member of the Law Society of Northern Ireland, go to [www.lawsoc-ni.org](http://www.lawsoc-ni.org)

You can also get more details from Citizens Advice or you can apply for funded legal assistance or legal aid through a solicitor anywhere in the UK.

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## **Our privacy notice**

Our privacy notice sets out the standards that you can expect from us when we ask for information or hold information about you. Go to [www.gov.uk](http://www.gov.uk) and search for 'HMRC Privacy Notice'.



## Penalties for failure to notify

This factsheet contains information about the penalties we may charge where there has been a failure to notify.

This factsheet is one of a series. For the full list of the factsheets of this series, go to [www.gov.uk](http://www.gov.uk) and search for 'Compliance checks 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 us, please tell the officer that's contacted you. We'll help you in whatever way we can. For more details, go to [www.gov.uk/get-help-hmrc-extra-support](http://www.gov.uk/get-help-hmrc-extra-support)

You can also ask someone else to deal with us on your behalf, for example, a professional adviser, friend or relative. We may however still need to talk or write to you directly about some things. If we need to write to you, we'll send a copy to the person you've asked us to deal with. If we need to talk to you, they can be with you when we do, if you prefer.

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### What is a failure to notify

There are certain circumstances that affect your liability to tax that you must tell us about. You must do so within certain time limits. If you do not do this, we call this a 'failure to notify'.

The circumstances that you must tell us about include when you:

- first become liable to pay tax
- either carry out, or intend to carry out a taxable activity that must be registered with us

Examples of when you first become liable to pay tax include when:

- your business exceeds the VAT registration threshold – you must tell us within 30 days of this happening
- the VAT supplies you make change – you must tell us within 30 days of this happening
- your company is chargeable to tax for an accounting period – if you've not been sent a notice to file a tax return, you must tell us within 12 months of the end of the accounting period
- your profits from self-employment first make you chargeable to tax – you must tell us within 6 months of the end of the relevant tax year
- you've no earned income but your investment income first reaches a level that makes you chargeable to tax – you must tell us within 6 months of the end of the relevant tax year
- you knowingly disposed of, or caused or permitted the disposal of material at an unauthorised waste site before 1 April 2018 where the material remained at the site on or after 1 April 2018 – you must have told us about the disposal before 1 May 2018

Examples of when you either carry out, or intend to carry out, a taxable activity that must be registered with us include when you intend to:

- promote bingo – you must register at least 14 days before the play starts
- brew beer – you must register with us at least 14 days before you intend to start brewing
- make available for play any amusement machines on which Machine Games Duty is payable – you must register with us at least 14 days before the machines are made available for play
- operate flights from the United Kingdom which are liable to Air Passenger Duty – you must register with us within 7 days of operating the first flight

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## Penalty for a failure to notify

We may charge you a penalty if you fail to notify us, or do not notify us on time. If you ask someone else, such as an employee or adviser, to do something on your behalf, you must do as much as you can to make sure that a failure to notify does not occur. If you do not do this, we may charge you a penalty.

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## When we will not charge you a penalty for a failure to notify

We will not charge you a penalty for a failure to notify if all of the following apply:

- you have a reasonable excuse for the failure
- the failure was not deliberate
- you told us without unreasonable delay after your reasonable excuse ended

What we mean by 'deliberate' is explained later in this factsheet.

A reasonable excuse is something that stopped you from meeting a tax obligation on time which you took reasonable care to meet. It might be due to circumstances outside your control or a combination of events. Once the reasonable excuse has ended, you must put things right without any unnecessary delay.

Whether you have a reasonable excuse depends upon the particular circumstances of the failure to meet the obligation and your particular situation and abilities. This may mean that what is a reasonable excuse for one person may not be a reasonable excuse for someone else. If you think you have a reasonable excuse, please tell us. If we accept that you have a reasonable excuse, we will not charge you a penalty.

If there was anything about your health or personal circumstances that made it difficult for you to notify us of your liability to tax, please tell the officer that is carrying out the check. Telling them will mean that they can take this into account when considering whether you had a reasonable excuse.

For failure to notify disposals at unauthorised waste sites – we will not charge you a penalty unless your behaviour was deliberate.

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## Disclosing a failure to notify before we find it

If you tell us about a failure to notify before you had any reason to believe that we were about to find it, we call this an 'unprompted disclosure'. If you tell us about a failure at any other time, we call it a 'prompted disclosure'. Once we've started a check, a disclosure can only be unprompted if, exceptionally:

- it's about a failure unrelated to what we're checking
- you had no reason to believe that we could have found it during our check

The minimum penalty for an unprompted disclosure is lower than the minimum penalty for a prompted one.

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## What you can do to reduce any penalties we may charge you

We can reduce the amount of any penalty we charge you depending on our view of how much assistance you gave us when you make a disclosure. We refer to this assistance as the 'quality of disclosure' or as 'telling, helping and giving'.

Examples of telling, helping and giving include:

- telling us about, or agreeing that there's a failure and how and why it happened
- telling us everything you can about the extent of the failure as soon as you know about it
- telling and helping us by answering our questions in full
- helping us to understand your accounts or records
- helping us by replying to our letters quickly
- helping us by agreeing to attend any meetings, or visits, at a mutually convenient time
- helping us by checking your own records to identify the extent of the failure
- giving us access to documents we've asked for without unnecessary delay
- giving us access to documents we may not know about, as well as those that we ask to see

We'll reduce the penalty by the maximum amount possible if you:

- tell us everything you can about any wrongdoing as soon as you can
- do everything you can to help us correct it

If you delay in making a disclosure, you may still be entitled to a reduction, but it will be smaller. If we do not need any extra assistance from you, we'll give you some reduction for telling, helping and giving.

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## Letting us know about any special circumstances

If there are any special circumstances that you believe the officer dealing with the check should take into consideration when working out the penalty, you should let them know straightaway.

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## How we work out the amount of a penalty

There are 8 stages in working out the amount of any penalty. Each stage is explained in more detail on page 3 of this factsheet.

### 1 Working out the amount of the potential lost revenue (PLR)

The penalty is a percentage of what we call the 'potential lost revenue'. Potential lost revenue (PLR) is the amount that arises as a result of the failure to notify. The officer dealing with the check will explain how we work this out.

### 2 Determining our view of the 'behaviour'

When there's a failure to notify, we'll work with you to find out what caused it. We refer to this as the 'behaviour'. The type of behaviour will affect whether we charge you a penalty and the amount of the penalty. The 3 different types of behaviour are described below.

#### Non-deliberate

This is where you failed to tell us about a circumstance that affected your liability to tax within the relevant time limit, but the failure was not deliberate or deliberate and concealed.

#### Deliberate but not concealed

This is where you knew that you should have told us about a circumstance that affected your liability to tax within the relevant time limit, but you chose not to tell us.

#### Deliberate and concealed

This is where you knew that you should have told us about a circumstance that affected your liability to tax within the relevant time limit, but you chose not to tell us. As well as choosing not to tell us, you also took active steps to hide the failure to notify from us.

### 3 Deciding whether the disclosure was unprompted or prompted

This determines the minimum penalty percentage that we can charge you. The section titled 'Disclosing a failure to notify before we find it', on page 2 of this factsheet, explains this in more detail.

### 4 The penalty ranges

The penalty percentage will fall within a range. This range will depend on our view of the type of behaviour and whether the disclosure was unprompted or prompted. The following table shows the penalty ranges.

Type of behaviour	Unprompted or prompted disclosure	Penalty range
Non-deliberate	Unprompted - within 12 months of tax being due	0% to 30%
	Unprompted - 12 months or more after tax was due	10% to 30%
	Prompted - within 12 months of tax being due	10% to 30%
*Non-deliberate does not apply to failures to notify waste disposals at unauthorised waste sites	Prompted - 12 months or more after tax was due	20% to 30%

Deliberate	Unprompted	20% to 70%
	Prompted	35% to 70%
Deliberate and concealed	Unprompted	30% to 100%
	Prompted	50% to 100%

If you have a reasonable excuse for a non-deliberate failure to notify, we will not charge you a penalty.

## 5 Working out the reductions for the quality of disclosure (telling, helping and giving)

The quality of disclosure (telling, helping and giving) determines where the penalty will fall within the penalty range. The reduction we give depends on how much assistance you give us. For:

- telling we give up to 30%
- helping we give up to 40%
- giving access to records we give up to 30%

When we work out the quality of disclosure, we'll also consider how long it's taken you to disclose the failure to notify. If it's taken you a long time (such as 3 years or more) to make a disclosure, we'll usually restrict the maximum reduction we give for the quality of disclosure to 10 percentage points above the minimum of the penalty range. This means you will not benefit from the lowest penalty percentage that's normally available.

## 6 Working out the penalty percentage rate

The penalty percentage rate is determined by the penalty range and the reduction for the quality of disclosure.

### Example

During a compliance check, we found a non-deliberate failure to notify that the customer had not told us about before we started our check. When we told them about the failure, they agreed with us that there had been a failure. This was therefore a prompted disclosure. The failure occurred more than 12 months after the tax became due.

The penalty range for a non-deliberate failure to notify with a prompted disclosure more than 12 months after the tax was due is 20% to 30% of the 'potential lost revenue' (PLR).

The reduction for quality of disclosure (telling, helping and giving) was 70%.

### Steps

To work out the penalty percentage rate, we first work out the difference between the minimum and maximum penalty percentages.

We then multiply that figure by the reduction for quality of disclosure to arrive at the percentage reduction.

We then take off the percentage reduction from the maximum penalty percentage we can charge.

This gives us the penalty percentage rate.

### Calculation example

30% minus 20% = 10

10 x 70% = 7%

30% minus 7% = 23%

23%

## 7 Working out the amount of the penalty

To work out the amount of the penalty, we multiply the PLR by the penalty percentage rate. For example, if the PLR in the example above was £3,000, and there were no other reductions, the penalty would be £690 (£3,000 x 23% = £690).

## 8 Considering other reductions

After working out the amount of the penalty, we then consider any other reductions that are necessary. For example, where we've already charged another penalty on the same tax or duty. This then gives the amount of penalty that we'll charge.

## How we tell you about a penalty

We'll write to tell you how much the penalty is and how we've worked it out. If there's anything about the penalty that you do not agree with, or if you think there is any information we've not already considered, you should tell us straightaway. After taking account of anything you've told us, we'll then either:



- send you a penalty assessment notice
- invite you to enter into a contract with us to pay the penalty, together with the tax and interest

In certain circumstances you may also have to pay interest on the penalty if you do not pay it on time.

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## **Paying some or all of a company's penalty for deliberate failure to notify**

A company officer may have to pay some or all of the company's penalty if the penalty is due to their actions, and one or more of the following applies:

- they have gained, or attempted to gain, personally from a deliberate inaccuracy
- the company is, or we believe it's about to become insolvent - even if the officer did not gain personally from the deliberate inaccuracy

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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## **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'.

### **Publishing details of deliberate defaulters**

We may publish your details if you deliberately got your tax affairs wrong, but we'll not do this if we've given you the maximum penalty reduction. For more information, read factsheet CC/FS13, 'Publishing details of deliberate defaulters'. Go to [www.gov.uk](http://www.gov.uk) and search for 'CC/FS13'.

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## **If you disagree**

Please tell us if there's anything you disagree with.

If we make a decision that you can appeal against, we'll write to you about the decision and tell you what to do if you disagree. You'll usually have 3 options. Within 30 days, you can:

- send new information to the officer dealing with the check 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 an independent tribunal to hear your appeal and 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. We call this Alternative Dispute Resolution (ADR).

ADR is only available for disputes that relate to particular tax areas. The officer dealing with the check will tell you if ADR is available for your dispute. For more information about appeals and ADR, read factsheets:

- HMRC1, 'HM Revenue and Customs decisions – what to do if you disagree'
- CC/FS21, 'Alternative dispute resolution'

Go to [www.gov.uk](http://www.gov.uk) and search for 'HMRC1' or 'CC/FS21'.

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## Your rights when we're considering penalties

The European Convention on Human Rights gives you certain important rights. If we're considering penalties, we'll tell you. We'll 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're 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've the right to ask for both appeals to be considered together
- you've the right to apply for funded legal assistance for dealing with any appeal against certain penalties
- you're 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'.

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## Which tax periods and taxes these penalty rules apply to

The penalty rules in this factsheet apply to failures to notify that arise on or after 1 April 2010, for all the taxes and duties listed below, except where stated.

Aggregates Levy	Hydrocarbon Oils Duty
Air Passenger Duty	Income Tax (including Self Assessment)
Alcohol Duty	Insurance Premium Tax
Amusement Machine Licence Duty	Landfill Tax
Bingo Duty	Lottery Duty
Capital Gains Tax	Machine Games Duty (from 1 February 2013)
Climate Change Levy	National Insurance Class 2 and Class 4
Corporation Tax	Pool Betting Duty
Digital Services Tax (from 1 April 2020)	Remote Gaming Duty
Diverted Profit Tax	Soft Drinks Industry Levy
Excise Duties (Holding and Movements)	Tobacco Duty
Gaming Duty	VAT
General Betting Duty	

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## Our privacy notice

Our privacy notice sets out the standards that you can expect from us when we ask for information or hold information about you. Go to [www.gov.uk](http://www.gov.uk) and search for 'HMRC Privacy Notice'.



## Penalties for offshore non-compliance

This factsheet contains information about penalties we may charge for tax non-compliance which involves 'offshore matters' or 'offshore transfers'. These terms are referred to as 'offshore non-compliance'.

These penalties may apply when there is offshore non-compliance in relation to Income Tax, Capital Gains Tax or Inheritance Tax which involves either:

- an inaccuracy
- a failure to notify
- deliberately withholding information

If you are disclosing offshore non-compliance and liabilities to HM Revenue and Customs (HMRC), then you must work out the penalties which apply to you using the information below.

This factsheet is one of a series. For the full list of factsheets in our compliance checks series, go to [www.gov.uk](http://www.gov.uk) and search for 'Compliance checks 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 us, please tell the officer that has contacted you. We'll help you in whatever way we can. For more information, go to [www.gov.uk/get-help-hmrc-extra-support](http://www.gov.uk/get-help-hmrc-extra-support)

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### Offshore matters

An offshore matter is where the potential loss of tax is charged on or relates to:

- income arising from a source in a territory outside the United Kingdom (UK)
- assets situated or held in a territory outside the UK
- activities carried on wholly or mainly in a territory outside the UK
- anything having effect as if it were income, assets or such activities

What we mean by a territory is explained later in this factsheet.

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### Offshore transfers

An offshore transfer takes place when there is a deliberate:

- inaccuracy
- failure to notify
- withholding of information

that does not involve an offshore matter, and:

- taxable income, or any part of the income, is received in a territory outside the UK
- taxable income, or any part of the income, is transferred to a territory outside of the UK before the statutory filing date
- disposal proceeds, or any part of the proceeds, giving rise to a charge to Capital Gains Tax are received in a territory outside the UK
- disposal proceeds, or any part of the proceeds, giving rise to a charge to Capital Gains Tax are transferred to a territory outside of the UK before the statutory filing date
- assets that give rise to a charge to Inheritance Tax are transferred outside of the UK after the event giving rise to the tax charge but before the statutory filing date

What we mean by a territory is explained later in this factsheet.

Where offshore transfers relate to Income Tax and Capital Gains Tax, Failure to Correct (FTC) penalties arise for any tax year within the scope of the Requirement to Correct (RTC). That includes transfers ending before the tax year 2016 to 2017.

Where offshore transfers relate to Inheritance Tax, FTC penalties arise for any transfer of value within the scope of the RTC. That includes transfers which took place before 1 April 2016.

For disclosures which do not attract FTC penalties, offshore transfers apply only for the tax year 2016 to 2017 and later tax years. For Inheritance Tax, offshore transfers apply when transfers of value take place on or after 1 April 2016.

The penalties for offshore transfers are the same as the penalties for offshore matters. The penalty rates are also explained later in this factsheet.

### **The Requirement to Correct (RTC) and Failure to Correct (FTC) penalties**

From 1 October 2018, there are 2 main factors in determining penalties for offshore matters and offshore transfers for Income Tax or Capital Gains Tax liabilities. These are:

- whether you were non-compliant during the tax year 2015 to 2016 and any earlier tax years
- whether any non-compliance was disclosed on or before 30 September 2018 under RTC legislation

For Inheritance Tax non-compliance discovered on or after 1 October 2018, the RTC legislation applies to tax HMRC could have lawfully assessed on 17 November 2017.

Under RTC, you had to make a disclosure by 30 September 2018. If you used the two-stage notify and disclose process under the RTC legislation, you had to make your disclosure by a different date set by HMRC. Whichever date applies to you is the deadline for the purposes of penalties. We explain this in more detail in our RTC guidance. Go to [www.gov.uk/guidance/requirement-to-correct-tax-due-on-offshore-assets](http://www.gov.uk/guidance/requirement-to-correct-tax-due-on-offshore-assets) and see the section 'Ways of making a correction under the RTC rule'.

You can find the legislation for RTC in Schedule 18 of the Finance (No 2) Act 2017.

Penalties for failing to make a disclosure under RTC legislation are called FTC penalties. These penalties apply when you have failed to make a disclosure under RTC before the relevant deadline.

FTC penalties are a minimum penalty of 100% of the tax you owe because of any offshore non-compliance. The maximum or 'standard' penalty rate is 200% but this can be reduced by the quality of the disclosure you make. We explain how to work out the penalty in more detail later in this factsheet.

FTC penalties do not vary according to:

- the original behaviour associated with the non-compliance – for example, it does not matter if the behaviour was 'careless' or 'deliberate'
- the location of the income gains or assets – territorial categories do not apply

However, non-compliance which results in an FTC penalty may also result in asset moves penalties and asset-based penalties being charged. We explain these in more detail later in this factsheet.

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## **How to work out the amount of the FTC penalty**

FTC penalties can vary according to whether the RTC disclosure is voluntary (made without contact from HMRC) or non-voluntary (after contact from HMRC) and according to the quality of the disclosure. The penalty is based on the potential lost revenue (PLR).

The standard 200% penalty can be reduced by the quality of the disclosure to a minimum of 100% when the disclosure is voluntary or to a minimum of 150% where the disclosure is not voluntary. This is shown in the table.

<b>Disclosure</b>	<b>Standard</b>	<b>Minimum</b>
Voluntary (no contact from HMRC)	200% of PLR	100% of PLR
Non-voluntary (after contact from HMRC)	200% of PLR	150% of PLR

## **Offshore non-compliance not subject to FTC penalties**

Offshore non-compliance will not attract FTC penalties if, by 30 September 2018, either:

- you had disclosed it to HMRC in line with the RTC
- HMRC already held the relevant information

If you made a disclosure, this must have been a full and accurate disclosure of the relevant information and have been made by the deadline.

In addition, offshore non-compliance for the tax year 2016 to 2017 and later tax years will not attract FTC penalties. In these cases, penalties will be charged as under the existing penalty system and the behaviour and territorial categories will continue to apply. For the tax year 2016 to 2017 and later tax years, the minimum penalty for 'deliberate' and 'deliberate and concealed' increases by 10%. This increase applies to both prompted and unprompted disclosures in all categories of territory.

You can find more information about onshore penalties for an inaccuracy, failure to notify or the deliberate withholding of information by failing to file returns on time about onshore penalties for an inaccuracy, failure to notify or the deliberate withholding of information by failing to file returns on time in the following factsheets:

- CC/FS7a, 'Penalties for inaccuracies in returns and documents'
- CC/FS11, 'Penalties for failure to notify'
- CC/FS18a, 'Penalties for failure to file annual and occasional returns and documents on time (including Self Assessment tax returns for Income Tax)'

We'll give you whichever of those factsheets is relevant to you and explain why. The factsheets explain how to work out penalties for onshore matters. You should read them together with this factsheet which explains the differences where offshore matters or offshore transfers are involved. This factsheet also explains when we may charge an offshore asset moves or an asset-based penalty.

We explained what we mean by offshore matters and offshore transfers earlier in this factsheet.

We explain about asset moves penalties and asset-based penalties later in this factsheet.

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## **When we may charge a higher penalty for an offshore matter or offshore transfer**

We may charge a penalty of more than 100% where:

- there is an inaccuracy, failure to notify or the deliberate withholding of information
- it involves offshore matters in certain categories of 'territory', or an offshore transfer
- the tax at stake is either Income Tax, Capital Gains Tax, or, for transfers on or after 1 April 2016, Inheritance Tax

As well as a higher penalty for an offshore matter or offshore transfer, we may also charge you:

- an offshore asset moves penalty
- an asset-based penalty

We give more information about these penalties later in this factsheet.

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## **How to work out the amount of the penalty (this does not apply to FTC penalties)**

The amount of a penalty (the penalty percentage range) for offshore matters is determined by the place where the income or gains arose. For Inheritance Tax, it's the place where the asset was located or transferred to. For offshore transfers, the penalties are based on the highest category of territory involved in the transfer regardless of where the income or gain arose.

### **Territories and categories (this does not apply to FTC penalties)**

We call this place the territory. Territories are divided into 3 categories, based on how willing the territory is to share information with the UK. You can find a list of the territories and the categories on our website. Go to [www.gov.uk](http://www.gov.uk) and search for 'Territory categorisation for offshore penalties'.

### Category 1

The maximum penalty is 100% of the tax.

### Category 2

The maximum penalty is 150% of the tax.

### Category 3

The maximum penalty is 200% of the tax.

We explain the penalty rates for each category later in this factsheet.

### Penalty rates for inaccuracies (this does not apply to FTC penalties)

You should read the explanation below together with factsheet 'Compliance checks: penalties for inaccuracies in returns or documents – CC/FS7a'. This explains how to work out an inaccuracy penalty. The penalty percentages in factsheet CC/FS7a do not apply to offshore matters or offshore transfers.

We explain the offshore penalty rates below.

The minimum penalty which can be charged depends on the tax year. The table below sets out the current lowest and highest percentages. It also gives the lowest percentages which apply to:

- tax years ending before 6 April 2016 (Income Tax or Capital Gains Tax)
- transfers of value made before 1 April 2016 (Inheritance Tax)

Exactly what percentage penalty will be charged depends on the quality of the disclosure. The minimum penalty will be charged where there is the highest quality of disclosure and the fullest additional information is given. You can find more information below in the section 'Additional information requirements'.

Category of territory and type of disclosure	Careless	Deliberate	Deliberate and concealed
<b>1 Unprompted</b>	0% to 30%	30% (20% before 1 April 2016 or 6 April 2016) to 70%	40% (30% before 1 April 2016 or 6 April 2016) to 100%
<b>1 Prompted</b>	15% to 30%	45% (35% before 1 April 2016 or 6 April 2016) to 70%	60% (50% before 1 April 2016 or 6 April 2016) to 100%
<b>2 Unprompted</b>	0% to 45%	40% (30% before 1 April 2016 or 6 April 2016) to 105%	55% (45% before 1 April 2016 or 6 April 2016) to 150%
<b>2 Prompted</b>	22.5% to 45%	62.5% (52.5% before 1 April 2016 or 6 April 2016) to 105%	85% (75% before 1 April 2016 or 6 April 2016) to 150%
<b>3 Unprompted</b>	0% to 60%	50% (40% before 1 April 2016 or 6 April 2016) to 140%	70% (60% before 1 April 2016 or 6 April 2016) to 200%
<b>3 Prompted</b>	30% to 60%	80% (70% before 1 April 2016 or 6 April 2016) to 140%	110% (100% before 1 April 2016 or 6 April 2016) to 200%

## Penalty rates for a failure to notify (this does not apply to FTC penalties)

You should read the explanation below together with factsheet CC/FS11, 'Penalties for failure to notify'. It explains how to work out a failure to notify penalty. The penalty percentages in factsheet CC/FS11 do not apply to offshore matters. We explain the offshore rates below.

The minimum penalty which can be charged depends on the tax year. The table below sets out the current lowest and highest percentages. It also gives the lowest percentages applying to tax years ending before 6 April 2016 (Income Tax or Capital Gains Tax). These higher penalty rates apply only to Income Tax and Capital Gains Tax.

Category of territory	Non-deliberate	Deliberate	Deliberate and concealed
<b>1 Unprompted</b> Failure disclosed more than 12 months after the tax becomes unpaid	10% to 30%	30% (20% before 6 April 2016) to 70%	40% (30% before 6 April 2016) to 100%
Failure disclosed within 12 months of the tax becoming unpaid	0% to 30%	30% (20% before 6 April 2016) to 70%	40% (30% before 6 April 2016) to 100%
<b>1 Prompted</b> Failure disclosed more than 12 months after the tax becomes unpaid	20% to 30%	45% (35% before 6 April 2016) to 70%	60% (50% before 6 April 2016) to 100%
Failure disclosed within 12 months of the tax becoming unpaid	10% to 30%	45% (35% before 6 April 2016) to 70%	60% (50% before 6 April 2016) to 100%
<b>2 Unprompted</b> Failure disclosed more than 12 months after the tax becomes unpaid	15% to 45%	40% (30% before 6 April 2016) to 105%	55% (45% before 6 April 2016) to 150%
Failure disclosed within 12 months of the tax becoming unpaid	0% to 45%	40% (30% before 6 April 2016) to 105%	55% (45% before 6 April 2016) to 150%
<b>2 Prompted</b> Failure disclosed more than 12 months after the tax becomes unpaid	30% to 45%	62.5% (52.5% before 6 April 2016) to 105%	85% (75% before 6 April 2016) to 150%
Failure disclosed within 12 months of the tax becoming unpaid	15% to 45%	62.5% (52.5% before 6 April 2016) to 105%	85% (75% before 6 April 2016) to 150%
<b>3 Unprompted</b> Failure disclosed more than 12 months after the tax becomes unpaid	20% to 60%	50% (40% before 6 April 2016) to 140%	70% (60% before 6 April 2016) to 200%
Failure disclosed within 12 months of the tax becoming unpaid	0% to 60%	50% (40% before 6 April 2016) to 140%	70% (60% before 6 April 2016) to 200%
<b>3 Prompted</b> Failure disclosed more than 12 months after the tax becomes unpaid	40% to 60%	80% (70% before 6 April 2016) to 140%	110% (100% before 6 April 2016) to 200%
Failure disclosed within 12 months of the tax becoming unpaid	20% to 60%	80% (70% before 6 April 2016) to 140%	110% (100% before 6 April 2016) to 200%

## Penalty rates for the deliberate withholding of information (this does not apply to FTC penalties)

You should read the explanation below together with factsheet 'Compliance checks: penalties if you do not file Income Tax, Capital Gains Tax and Annual Tax on Enveloped Dwellings returns on time – CC/FS18a'. This explains how to work out a late filing penalty, including a late filing penalty for the deliberate withholding of information. The penalty

percentages in factsheet CC/FS18a for deliberately withholding information do not apply to offshore matters. We explain the offshore rates below.

The minimum penalty which can be charged depends on the tax year. The table below sets out the current lowest and highest percentages. It also gives the lowest percentages which apply to:

- tax years ending before 6 April 2016 (Income Tax or Capital Gains Tax)
- transfers of value made before 1 April 2016 (Inheritance Tax)

These higher penalty rates apply only to Income Tax, Capital Gains Tax and Registered Pension Schemes.

Category of territory	Deliberate	Deliberate and concealed
<b>1 Unprompted</b>	30% (20% before 1 April 2016 or 6 April 2016) to 70%	40% (30% before 1 April 2016 or 6 April 2016) to 100%
<b>1 Prompted</b>	45% (35% before 1 April 2016 or 6 April 2016) to 70%	60% (50% before 1 April 2016 or 6 April 2016) to 100%
<b>2 Unprompted</b>	40% (30% before 1 April 2016 or 6 April 2016) to 105%	55% (45% before 1 April 2016 or 6 April 2016) to 150%
<b>2 Prompted</b>	62.5% (52.5% before 1 April 2016 or 6 April 2016) to 105%	85% (75% before 1 April 2016 or 6 April 2016) to 150%
<b>3 Unprompted</b>	50% (40% before 1 April 2016 or 6 April 2016) to 140%	70% (60% before 1 April 2016 or 6 April 2016) to 200%
<b>3 Prompted</b>	80% (70% before 1 April 2016 or 6 April 2016) to 140%	110% (100% before 1 April 2016 or 6 April 2016) to 200%

For Inheritance Tax, this relates to transfers on or after 1 April 2016. For penalty percentages in category 1 for Inheritance Tax prior to 1 April 2016, read factsheet CC/FS7a, 'Penalties for inaccuracies in returns or documents'. Go to [www.gov.uk](http://www.gov.uk) and search for 'CC/FS7a'.

## The taxes these penalty rules apply to and when they apply (this does not apply to FTC penalties)

The higher penalty rates for categories 2 and 3 apply only to Income Tax, Capital Gains Tax and Inheritance Tax.

For Inheritance Tax, this factsheet applies to inaccuracies in returns submitted for deaths and chargeable events on or after 1 April 2016.

For Income Tax and Capital Gains Tax, the penalty rules in this factsheet apply to:

- inaccuracies in returns or other documents which relate to the tax year 2011 to 2012 or later, and are given to us on or after 6 April 2011
- failures to notify that arise on or after 6 April 2012
- the deliberate withholding of information for the tax year 2011 to 2012 or later years

## Additional information requirements (this applies to all offshore penalties including FTC penalties)

As set out in the tables above there is a percentage range for each penalty which may be charged. The exact amount which is charged within that range depends on what we call the 'quality of the disclosure'.

For offshore non-compliance, this includes the amount and quality of the additional information you give us. The penalty rate will decrease as the amount and quality of the additional information increases. You should give us additional information about:

- anyone who encouraged, assisted or facilitated you to carry out offshore tax evasion or non-compliance – this person is called an 'enabler'
- assets you hold in any country outside the UK and any other people or entities you engaged to hold those assets on your behalf

If your penalty relates to events after the relevant date, you must take this information into account when working out the penalty and any reduction for the quality of disclosure. The relevant date for this purpose is:

- for Income Tax and Capital Gains Tax, tax years starting on or after 6 April 2016
- for Inheritance Tax, transfers of value made on or after 1 April 2016



Examples of additional information we need could include:

- name and address of the enabler
- a description of what the enabler did to encourage, assist or facilitate you
- a description of how you and the enabler first made contact and how you maintained contact
- a description of all documents you hold about their behaviour
- name and address of any other joint beneficial owner of the asset held abroad
- the extent of your share of the beneficial ownership of the asset held abroad
- a description of all documents of title or other documents showing your beneficial ownership
- details of where the asset is situated or held
- details of when and how you became a beneficial owner of the asset
- a description of all changes in the arrangements for the ownership of the asset since you became a beneficial owner
- the names and last known addresses of all people who have been asset holders of the asset during your beneficial ownership of it
- where the asset holder is not an individual, the name and business address (if known) of any director, senior manager, employee or agent of the asset holder who has advised or assisted you in relation to their beneficial ownership of the asset

If you did not involve an enabler or you have no assets located outside the UK held by another person, then by telling us this you have met the requirement to give us additional information.

You should take account of the amount and quality of the additional information you give us when working out any reduction for quality of disclosure. We explain this in more detail in the relevant penalty factsheet.

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## **Offshore asset moves penalties (these may apply where we have charged an FTC penalty)**

The offshore asset moves penalty is a separate penalty charged for moving assets between territories to avoid or delay the discovery of tax non-compliance. You may have to pay an offshore asset moves penalty if both of the following apply:

- you're being charged a penalty for failing to comply with certain Income Tax, Capital Gains Tax or Inheritance Tax obligations or you are being charged an FTC penalty – this is called the 'underlying penalty'
- there has been a relevant asset move

A relevant offshore asset move occurs if either:

- an asset, or a person who holds an asset, moves from a specified territory or the UK to another non-specified territory
- there is a change in the ownership arrangements of an asset which results in the owner, before the move, remaining the owner afterwards

The officer dealing with the check will tell you what territories are specified territories and if there has been a relevant offshore asset move.

Where there's a relevant asset move and a relevant underlying penalty, the following 5 conditions must also be met before charging an asset moves penalty:

- 1 the underlying penalty must involve a deliberate inaccuracy, a deliberate failure to notify, or the deliberate withholding of information
- 2 the tax at stake for the underlying penalty must be Income Tax, Capital Gains Tax, or from 1 April 2016, Inheritance Tax
- 3 there must be a relevant offshore asset move made after the relevant time connected to the underlying penalty (we explain the relevant time below)
- 4 the relevant offshore asset move must have occurred after 26 March 2015
- 5 the main purpose, or one of the main purposes, of the relevant offshore asset move was to prevent or delay the discovery by HMRC of the inaccuracy, failure or deliberate withholding of information that led to the underlying penalty

### **Relevant time for asset moves penalties**

An asset moves penalty can be charged when the conditions above have been met. For a penalty to be charged, the relevant offshore asset move must have occurred after 26 March 2015 and after the relevant time. The relevant time depends on the type of penalty and tax at stake.

For inaccuracy penalties where the tax at stake is Income Tax or Capital Gains Tax, the relevant time is the start of the tax year for which an inaccuracy penalty was charged. For Inheritance Tax, the relevant time is when the liability for the tax at stake first arises.

For penalties for a failure to notify and the deliberate withholding of information, the relevant time is the start of the tax year the return relates to, for example 6 April 2016.

### Amount of the penalty

The offshore asset move penalty is 50% of the amount of the underlying penalty and is charged in addition to the underlying penalty.

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## Asset-based penalties (these may apply where we have charged an FTC penalty)

You may have to pay an asset-based penalty if all of the following apply:

- you have been charged an underlying penalty for a deliberate inaccuracy, failure to notify or for deliberately withholding information, or an FTC penalty
- the inaccuracy or failure relates to an offshore matter or offshore transfer
- the income, gain or transfer of value that relates to the inaccuracy has a clear link to the underlying asset
- the potential amount of tax at stake relating to the offshore matter exceeds £25,000 in a single year and
- the underlying penalty relates to Capital Gains Tax, Inheritance Tax or 'asset-based Income Tax'

Asset-based Income Tax is Income Tax charged under one of the provisions listed at paragraph 13 of Schedule 22 Finance Act 2016. The officer dealing with the check will tell you if the Income Tax you owe is asset-based Income Tax.

### 1 Working out the amount of the asset-based penalty

The standard amount of the asset-based penalty is the lower of:

- 10% of the value of the asset
- 10 x the offshore tax at stake

If the underlying penalty involves both offshore and domestic matters, this is called a combined penalty. The officer you're dealing with will explain the special rules for combined penalties.

The offshore tax at stake is the total for the year of both the:

- potential lost revenue (PLR), see below, used to work out the underlying inaccuracy or failure to notify penalty
- liability to tax (see below) used to work out the underlying penalty for deliberately withholding information

PLR means the potential lost revenue used to work out a standard offshore inaccuracy or failure to notify penalty. The liability to tax means the amount of tax used to work out a standard offshore penalty for the deliberate withholding of information. We explain how to work out the PLR and liability to tax in the relevant penalty factsheets.

### 2 Deciding whether the disclosure was unprompted or prompted (voluntary or non-voluntary disclosure in the case of FTC)

Whether the disclosure of the inaccuracy or failure was unprompted or prompted determines the minimum penalty percentage that can be charged and depends on the nature of the underlying penalties.

A disclosure relating to an asset-based penalty can only be treated as unprompted if all underlying penalties were themselves treated as being unprompted disclosures. If any underlying penalty to which the asset-based penalty is linked was treated as being a prompted disclosure, then the whole of the asset-based penalty will be treated as being a prompted disclosure.

If you make an unprompted disclosure, the penalty may be reduced to a lower amount than if you make a prompted disclosure. We explain this in more detail in the relevant penalty factsheets.

The penalty will fall into one of the ranges below depending on whether the disclosure is prompted or unprompted.

Disclosure	Range Minimum	Range Maximum
Unprompted	50% of the standard penalty	100% of the standard penalty
Prompted	80% of the standard penalty	100% of the standard penalty

### **3 Working out the quality of disclosure reduction**

When working out penalties, you will need to take account of how long it has taken you to come forward. We'll compare the earliest date you could have told us about the asset to the actual date you did tell us.

If you have taken a significant period (normally 3 years) to tell us about the offshore asset, then you will not normally receive the full reduction for disclosure. The penalty range will be restricted by 10 percentage points above the minimum to reflect the time taken before working out the reductions for telling, helping and giving.

The amount of the asset-based penalty should be reduced where you:

- make a disclosure of the inaccuracy or failure relating to the underlying penalty
- give us a reasonable valuation of the asset
- give us information or access to records that we need to value the asset

The quality of disclosure (the timing, nature and extent of the information you give), determines where the penalty will fall within the penalty range. The reduction depends on how much help you give us.

### **4 Considering other reductions**

After working out the amount of the penalty, we can then take into account any special circumstances that you have told us about. These will be uncommon or exceptional circumstances that we have not already considered when working out the quality of disclosure.

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## **What happens if you give us information that you know to be untrue**

We may carry out a criminal investigation and you may be prosecuted if you:

- give us information that you know to be untrue, whether verbally or in a document
- dishonestly declare the wrong amount of duty or claim payments to which you are not entitled

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## **Legislative references**

References in this factsheet to penalties for inaccuracies, a failure to notify and the deliberate withholding of information mean:

- an inaccuracy in a return or document under paragraph 1 of Schedule 24 Finance Act 2007
- a failure to notify chargeability to tax under paragraph 1 of Schedule 41 Finance Act 2008
- the deliberate withholding of information by failing to file a return or document within 12 months of the filing date under paragraph 6 Schedule 55 Finance Act 2009

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## **Our privacy notice**

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# Penalties for failure to file annual and occasional returns and documents on time (including Self Assessment tax returns for Income Tax)

This factsheet applies to annual and occasional returns for Income Tax, Capital Gains Tax, The Registered Pension Scheme, Bank Payroll Tax, Annual Tax on Enveloped Dwellings and Stamp Duty Reserve Tax.

It tells you about the increased penalty percentage we may charge when your return is more than 12 months late.

This factsheet is one of a series. For the full list of factsheets in our compliance checks series, go to [www.gov.uk](http://www.gov.uk) and search for 'HMRC compliance checks 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 check, please tell the officer that's contacted you. We'll help you in whatever way we can. For more information, go to [www.gov.uk/get-help-hmrc-extra-support](http://www.gov.uk/get-help-hmrc-extra-support)

You can also ask someone else to deal with us on your behalf, for example, a professional adviser, friend or relative. We may however still need to talk or write to you directly about some things. If we need to write to you, we'll send a copy to the person you've asked us to deal with. If we need to talk to you, they can be with you when we do, if you prefer.

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## The penalties we may have already charged you

Because you did not file your tax return or another document on time, we may have already charged you the following penalties:

- an initial penalty of £100 on the day after the date your tax return or document was due
- daily penalties of £10 per day for 90 days after your return or document was 3 months late
- a 'further penalty' of £300 or 5% of our estimate of your liability to tax (whichever was the higher) after your tax return or document was 6 months late
- a second 'further penalty' of £300 or 5% of our estimate of your liability to tax, (whichever was the higher) after your tax return or document was 12 months late

When your return or document has not been filed, we can estimate your liability to tax. If we do this, the penalty charged at 6 months and 12 months will be 5% of the estimated liability or £300 if this is higher.

When you file your return or document, the 6 month and 12 month penalties will automatically be re-calculated if the liability to tax in the return is different from our estimate.

'Liability to tax' means the amount of tax and any National Insurance contributions (NICs) that should have been shown or notified on your return or other document.

If we have not already charged you these penalties and the return or document is already 12 months late, we may charge you all the penalties for failing to file your return on time together.

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## **When we'll increase the percentage rate of the second further penalty**

When we've already charged the second further penalty, we'll increase the percentage rate if, by failing to file your return or document within 12 months, you:

- withheld information
- knew that the information would help us to establish your correct liability to tax

During our check we'll establish whether you've withheld information and if so, the reason why. We call this reason the 'behaviour'. The different behaviours are explained below.

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## **When we will not charge you any penalties for failure to file on time**

We will not charge you any penalties for failing to file your return or document on time if you had a reasonable excuse, as long as you then filed your return or document without delay once the reasonable excuse had ended.

A reasonable excuse is something that stopped you from meeting a tax obligation on time which you took reasonable care to meet. It might be due to circumstances outside your control or a combination of events. Once the reasonable excuse has ended, you must put things right without any unnecessary delay.

Whether you have a reasonable excuse depends upon the circumstances of the failure to meet the obligation and your particular situation and abilities. This may mean that what is a reasonable excuse for one person may not be a reasonable excuse for someone else. If you think you have a reasonable excuse please tell us. If we accept that you have a reasonable excuse, we will not charge you penalties for failure to file on time. If we've already charged any, we'll cancel them.

If there was anything about your health or personal circumstances that made it difficult for you to file your return or document on time, please tell the officer that is carrying out the check. Telling them will mean that they can take this into account when considering whether you had a reasonable excuse.

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## **Why you should tell us about information that you've withheld before we find out about it**

If you know that you've withheld information, you should tell us straightaway. If you tell us about information that you've withheld before you had any reason to believe that we were about to find out about it, we call this an 'unprompted disclosure'. If you tell us about information that you've withheld at any other time, we call it a 'prompted disclosure'. The penalty percentage rate for unprompted disclosures will be smaller than for prompted disclosures.

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## **What you can do to reduce any increase to the percentage rate of the second further penalty**

We can reduce the amount of any increased second further penalty, depending on our view of how much assistance you gave us when you make a disclosure. We refer to this assistance as the 'quality of disclosure' or as 'telling, helping and giving'.

Examples of making a disclosure include:

- telling us about, or agreeing that you withheld information
- telling us everything you can about the information that was withheld as soon as you can
- helping us by using your own records to work out your correct tax liability
- helping us to understand your figures or records
- telling and helping us by answering our questions in full
- giving us access to your records by sending us your return and any other documents we need to accurately work out your correct liability to tax

We'll reduce the penalty by the maximum amount possible when we work out the higher second further penalty, if you:

- tell us everything you can about any wrongdoing as soon as you can
- do everything you can to help us correct it

If you delay in making a disclosure, you may still be entitled to a reduction, but it will be smaller. If we do not need any extra assistance from you, we'll give you some reduction for telling, helping and giving.

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## Letting us know about any special circumstances

If there are any special circumstances that you believe the officer dealing with the check should consider when working out the penalty, you should let them know straightaway.

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## How we work out the amount of any increased second further penalty percentage rate

There are 8 stages in working out the amount of the increased penalty percentage. Each stage is explained in more detail below.

### 1 Working out the liability to tax

The penalty is a percentage of the liability to tax that should have been shown on the return or document. The officer dealing with the check will explain how this is worked out.

### 2 Determining our view of the 'behaviour'

When a return is more than 12 months late, we need to find out the reason why. We refer to this reason as the 'behaviour'. The type of behaviour will determine whether we increase the percentage rate of the second further penalty.

There are 3 types of behaviour.

#### Non-deliberate

This is where you did not know that, by failing to file your tax return or document on time, information was being withheld from us that would help us to establish your correct liability to tax. In such cases, we will not increase the percentage rate of the second further penalty.

#### Deliberate

This is where you knew that, by failing to file your tax return or document on time, information was being withheld that would help us to establish your correct liability to tax.

#### Deliberate and concealed

This is where you knew that information was being withheld that would help us to establish your correct liability to tax and you took additional steps to conceal this. This is the most serious type of failure and attracts the highest penalties.

### 3 Deciding whether there was an unprompted or prompted disclosure

This determines the minimum penalty percentage that we can charge. This is explained in more detail in the section of this factsheet titled 'Why you should tell us about information that you've withheld before we find out about it'.

### 4 Deciding the range that the increased penalty percentage rate falls within

The increased penalty percentage rate depends on whether the behaviour was 'deliberate' or 'deliberate and concealed' and on whether the disclosure was 'prompted' or 'unprompted'. The following table shows the penalty ranges.

Type of behaviour	Unprompted disclosure	Prompted disclosure
Non-deliberate	No penalty increase	No penalty increase
Deliberate	20% to 70%	35% to 70%
Deliberate and concealed	30% to 100%	50% to 100%

### 5 Working out the reductions for the quality of disclosure (also referred to as 'telling, helping and giving')

The quality of disclosure determines where the penalty will fall within the penalty range. The reduction we give depends on how much assistance you give us. For:

- telling – we give up to 30%
- helping – we give up to 40%
- giving access to records – we give up to 30%

When we work out the quality of disclosure for deliberate and deliberate and concealed failures, we'll also consider how long it's taken you to tell us about the information you withheld. If it's taken

you a long time, (such as 3 years or more), we'll usually restrict the maximum reduction we give for the quality of disclosure to 10 percentage points above the minimum of the penalty range. This means you will not benefit from the lowest penalty percentage that's normally available.

## 6 Working out the increased penalty percentage rate

The increased penalty percentage rate is determined by the penalty range and the reduction for the quality of disclosure.

### Example

We established that a customer had deliberately withheld information about a taxable gain from the sale of an asset, by failing to file their return for that year. When challenged, they told us about the gain, sent us the return and admitted that they had deliberately withheld the information. This was a prompted disclosure.

The penalty range for deliberate behaviour with a prompted disclosure is 35% to 70% of the liability to tax.

The reduction for quality of disclosure (telling, helping and giving) was 100%.

### Steps

### Calculation example

To work out the penalty percentage rate, we first work out the difference between the minimum and maximum penalty percentages.

$$70\% \text{ minus } 35\% = 35$$

We then multiply that figure by the reduction for quality of disclosure to arrive at the percentage reduction.

$$35 \times 100\% = 35\%$$

We then take off the percentage reduction from the maximum penalty percentage we can charge.

$$70\% \text{ minus } 35\% = 35\%$$

This gives us the increased penalty percentage rate.

$$35\%$$

## 7 Working out the amount of the second further penalty

To work out the amount of the second further penalty, we multiply the liability to tax by the increased penalty percentage rate. See the example above.

The liability to tax is £10,000 and the increased penalty percentage rate is 35%. This means that the amount of the second further penalty is £3,500. We then take into account the penalty already charged, which is £500 (£10,000 x 5% = £500). The balance to be charged is £3,000.

## 8 Considering other reductions

After working out the amount of the penalty, we then take into account any other reductions that are necessary. For example, where we've already charged another penalty or surcharge on the same tax. This then gives the amount of penalty that we'll charge.

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## How we tell you if we increase the percentage rate of the second further penalty

We'll write to tell you how much the increased second further penalty is and how we've worked it out.

If there's anything about this penalty that you do not agree with, or if you think there's any information that we've not already taken into account, you should tell us straightaway. After taking account of anything you've told us, we'll:

- normally send you a further penalty assessment notice
- enter into a contract with you to pay the penalty together with any tax and interest you owe us

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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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## What to do if you disagree

If there's something that you do not agree with, please tell us.

If we make a decision that you can appeal against, we'll write to you about 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've 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 an independent tribunal to hear your appeal and 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. We call this Alternative Dispute Resolution (ADR).

ADR is only available for disputes that relate to specific tax areas. The officer dealing with the check will tell you if ADR is available for your dispute. For more information about appeals and ADR, read factsheets:

- HMRC1, 'HM Revenue and Customs decisions – what to do if you disagree'
- CC/FS21, 'Alternative dispute resolution'

Go to [www.gov.uk](http://www.gov.uk) and search for 'HMRC1' or 'CC/FS21'.

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## Your rights if we're considering penalties

The European Convention on Human Rights gives you certain important rights. If we're considering penalties, we'll tell you. We'll 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're 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're 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 for 'CC/FS9'.

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## Our privacy policy

Our privacy notice sets out the standards that you can expect from us when we ask for information or hold information about you. Go to [www.gov.uk](http://www.gov.uk) and search for 'HMRC Privacy Notice'.

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## **The tax periods these penalty rules apply to**

The penalty rules in this factsheet apply to:

- Income and Capital Gains Tax returns for the year 2010 to 2011 and later years
- Annual Tax on Enveloped Dwellings for the year 2013 to 2014 and later years
- Bank Payroll Tax returns due to be filed on or after 31 August 2010
- Registered Pension Tax returns due to be filed on or after 30 September 2010
- Stamp Duty Reserve Tax transactions on or after 1 January 2015