



## **Please tell us about any sales you haven't declared**

We're writing to you because we have information that suggests you have additional tax to pay due to undeclared sales. This may be from misuse of your till system. We call this Electronic Sales Suppression (ESS).

You have a legal responsibility as a business trading in the UK to declare all your income. You need to tell us about any sales you haven't declared.

If you have a tax advisor or someone else who helps you with your tax affairs, you should show them this letter.

### **What you need to do**

You need to tell us about any undeclared sales. This is known as 'making a disclosure'. Please make your disclosure by **[+30 days from the date of this letter]**.

You can do this online:

1. Go to GOV.UK and search 'make a disclosure about misusing your till system'.
2. Use the form to make your disclosure and tell us about all the years you haven't declared all your sales for.
3. You must also use the form to confirm that you've checked your records and don't have any undeclared sales.

### **If you need more help**

If you're unsure whether this is the most appropriate way for you to disclose sales you haven't declared, there are other options available to you. For more information, please go to GOV.UK and search 'electronic sales suppression'.

You can call the number at the top of this letter if you have any general questions about making a disclosure. You can also call us if you have any health or personal circumstances that may make it difficult for you to deal with us. We'll help you in whatever way we can.

For more information about this, go to GOV.UK and search 'get help from HMRC if you need extra support'.

### **What happens next**

We'll compare your disclosure with the information we have. If we agree with you, we'll work out how much tax you owe and tell you how to pay. If we don't agree with you, we'll write to ask for more information. We may also open a civil or criminal investigation.

We'll also register you for VAT, Self-Assessment, and Corporation Tax if you meet the criteria.

### **If you don't make a disclosure by [+30 days from date of the letter]**

We'll take further action. This could mean:

- a full audit of your business
- a civil or criminal investigation
- sending you an assessment of the tax we believe you owe, including interest and penalties

### **If you think you might have difficulty paying any tax you owe**

Go to GOV.UK and search 'difficulties paying HMRC'. You can also call one of our payment helplines:

- VAT - 0300 200 3835
- Self-Assessment - 0300 200 3820
- Corporation Tax - 0300 200 3822

We want to work with you to find a way of paying that you can afford, for example, by agreeing a payment plan where you can pay in instalments.

### **The penalties we can charge you**

We can charge penalties for:

- inaccuracies in tax returns or other documents
- failure to notify
- being involved in electronic sales suppression

The penalty we charge is set out in law, but you can reduce the percentage we charge by making a full and complete disclosure. You can find more information in the factsheets for each penalty type.

#### **Inaccuracies**

If you've filed an inaccurate tax return, we can charge you a penalty. It can be up to 100% of the tax you didn't put on your return. For more information about inaccuracy penalties, go to GOV.UK and search our factsheet 'CC/FS7a'.

#### **Failure to notify**

If you should have been registered for a tax or duty and you didn't tell us, we can charge you a penalty. It can be up to 100% of the tax you should have declared before we found out about it. For more information about failure to notify penalties, go to GOV.UK and search our factsheet 'CC/FS11'.

#### **Being involved in ESS**

We can also charge you a separate penalty for possessing or having access to an ESS tool. This penalty can apply even if you have not used the tool. For more information about these penalties, go to GOV.UK and search our factsheet 'CC/FS68'.

#### **Your rights when we're considering penalties**

When we're considering these penalties, you have certain rights. These are set out in full in the enclosed factsheet CC/FS9. Please read this and tell us you understand it.

#### **Interest charges**

We charge daily interest on late tax payments. Paying any tax you owe sooner, will reduce the amount of interest you have to pay.

## **Further action – if you deliberately avoid paying your debts**

In certain circumstances, including cases of contrived insolvency (also known as ‘phoenixism’), we can take further action.

This could include the following:

1. You could be made bankrupt. For more information, go to GOV.UK and search ‘being made bankrupt’.
2. If you are a director or shadow director, you can be made jointly and severally liable for the company’s tax liability if you deliberately avoid or evade tax. For more information, go to GOV.UK and search ‘JAS/FS1’ and ‘JAS/FS2’.
3. You can be disqualified from being a company director for up to 15 years if you don’t meet your legal responsibilities. In serious cases, you can also be fined or sent to prison for up to 2 years and be personally liable for the company debts. For more information, go to GOV.UK and search ‘company director disqualification’.

Yours sincerely

### **ESS Compliance Team**

Campaigns & Projects

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](http://www.gov.uk) and search for ‘HMRC Charter’





## 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.slabb.org.uk](http://www.slabb.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'.