



Higher penalties for offshore matters

This factsheet gives you detailed information about the higher penalties that we may charge concerning offshore matters or offshore transfers that involve individuals and unincorporated businesses.

These higher penalties may apply when there's either:

- an inaccuracy
- a failure to notify
- deliberate withholding of information

that involves Income Tax, Capital Gains Tax or Inheritance Tax.

From 1 October 2018, new penalties have been introduced for issues involving offshore matters or offshore transfers for all tax years up to and including 2015 to 2016. These penalties were introduced under legislation called the Requirement to Correct (RTC). For more information about the RTC, go to www.gov.uk/guidance/requirement-to-correct-tax-due-on-offshore-assets

You will be liable to a minimum penalty of 100% of the tax you owe in relation to any offshore issues for the tax years 2015 to 2016 and earlier. This is unless you have fulfilled one of the limited criteria for supplying information after 30 September 2018 (see section 'Ways of making a correction under the RTC rule' in the RTC guidance).

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

- Compliance checks: penalties for inaccuracies in returns or documents – CC/FS7a
- Compliance checks: penalties for failure to notify – CC/FS11
- Compliance checks: penalties if you do not file Income Tax, Capital Gains Tax and Annual Tax on Enveloped Dwellings returns on time - CC/FS18a

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

What we mean by offshore matters, offshore transfers, asset move penalties and asset based penalties are explained later in this factsheet.

References in this factsheet to penalties for inaccuracies, failure to notify and deliberate withholding 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
- 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

This factsheet is one of a series. For the full list of factsheets in the series, go to www.gov.uk and search 'compliance checks factsheets'.

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.

Offshore transfers

An offshore transfer takes place when there's a deliberate inaccuracy, deliberate failure to notify, or deliberate withholding 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 before the statutory filing date

Offshore transfers only apply for the tax year 2016 to 2017 and later years, or for Inheritance Tax, when transfers of value take place on or after 1 April 2016.

What we mean by a territory is explained in the next section of this factsheet.

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

Territories and categories

The amount of a penalty for offshore matters is determined by the place where the income or gains arose. We call this place the territory. For Inheritance Tax the territory is the place where the asset was located. The penalties for offshore transfers are based on the highest category of territory involved in the transfer regardless of where the income or gain arose.

Territories are divided into 3 categories, based on the willingness of the territory 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 and search for 'Territory categorisation for offshore penalties'.

The penalty rates for each category are explained later in this factsheet.

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's an inaccuracy, failure to notify or 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
- offshore asset based penalty

There's more information about these penalties later in this factsheet.

How we work out the amount of the penalty

The penalty percentage range for offshore matters and transfers 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.

We call this place the territory. Territories are divided into 3 categories.

Category 1

These are generally territories that have agreed to exchange information with us automatically. The maximum penalty is 100% of the tax.

Category 2

These are generally territories that will exchange information with us but only if we ask them to. The maximum penalty is 150% of the tax.

Category 3

These are generally territories that have not agreed to share information with us. The maximum penalty is 200% of the tax.

Penalty rates for inaccuracies

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

The minimum penalty we can charge depends on the tax year. For the tax year 2016 to 2017 and later years the minimum penalty for deliberate and deliberate and concealed increase by 10%. These higher penalty rates only apply to Income Tax, Capital Gains Tax, or from 1 April 2016, Inheritance Tax.

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

Penalty rates for failure to notify

You should read the explanation below together with factsheet 'Compliance checks: penalties for failure to notify – CC/FS11'. This explains how we work out a failure to notify penalty. The penalty percentages in factsheet CC/FS11 do not apply to offshore matters. The offshore rates are explained below.

The minimum penalty we can charge depends on the tax year. From the tax year 2016 to 2017 and later years the minimum penalty for deliberate and deliberate and concealed increase by 10%. These higher penalty rates only apply to Income Tax and Capital Gains Tax.

Category of territory	Non-deliberate	Deliberate	Deliberate and concealed
1 Unprompted Failure disclosed more than 12 months after the tax becomes unpaid	10% to 30%	20% (or 30% from 6 April 2016) to 70%	30% (or 40% from 6 April 2016) to 100%
Failure disclosed within 12 months of the tax becoming unpaid	0% to 30%	20% (or 30% from 6 April 2016) to 70%	30% (or 40% from 6 April 2016) to 100%
1 Prompted Failure disclosed more than 12 months after the tax becomes unpaid	20% to 30%	35% (or 45% from 6 April 2016) to 70%	50% (or 60% from 6 April 2016) to 100%

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

Penalty rates for deliberate withholding of information

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 we work out a late filing penalty, including a late filing penalty for deliberate withholding. The penalty percentages in this factsheet for deliberate withholding do not apply to offshore matters. The offshore rates are explained below.

The minimum penalty we can charge depends on the tax year. From the tax year 2016 to 2017 and later years the minimum penalty for deliberate and deliberate and concealed increase by 10%. For Inheritance Tax this increase in the minimum penalty relates to transfers on or after 1 April 2016. These higher penalty rates only apply to Income Tax, Capital Gains Tax and Registered Pension Schemes.

Category of territory	Deliberate	Deliberate and concealed
1 Unprompted	20% (or 30% from 6 April 2016) to 70%	30% (or 40% from 6 April 2016) to 100%
1 Prompted	35% (or 45% from 6 April 2016) to 70%	50% (or 60% from 6 April 2016) to 100%
2 Unprompted	30% (or 40% from 6 April 2016) to 105%	45% (or 55% from 6 April 2016) to 150%
2 Prompted	52.5% (or 62.5% from 6 April 2016) to 105%	75% (or 85% from 6 April 2016) to 150%

Category of territory	Deliberate	Deliberate and concealed
3 Unprompted	40% (or 50% from 6 April 2016) to 140%	60% (or 70% from 6 April 2016) to 200%
3 Prompted	70% (or 80% from 6 April 2016) to 140%	100% (or 110% from 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 'Compliance checks: penalties for inaccuracies in returns or documents – CC/FS7a'. Go to www.gov.uk and search for 'CC/FS7a'.

Taxes and tax periods these penalty rules apply to

The higher penalty rates for categories 2 and 3 only apply 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.

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
- deliberate withholding for the tax year 2011 to 2012 or later years

Additional information requirements for offshore matters

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, we take this information into account when calculating the penalty and reduction we'll give you 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 the 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've been asset holders of the asset during your beneficial ownership of it
- in relation to an asset holder who 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've no assets located outside the UK held by another person, then by telling us this you've met the requirement to give us additional information.

We'll take account of the amount and quality of the additional information you give us when working out any reduction for quality of disclosure. This is explained in more detail in the relevant penalty factsheet.

Offshore asset moves penalties

You may be liable to an offshore asset moves penalty if both of the following apply:

- we've charged you an earlier penalty for failing to comply with certain Income Tax, Capital Gains Tax or Inheritance Tax obligations - this is called the underlying penalty
- there's 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's 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 we can charge an asset moves penalty:

- 1 the underlying penalty must involve a deliberate inaccuracy, deliberate failure to notify, or deliberate withholding
- 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 (the relevant time is explained 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 that led to the underlying penalty

Relevant time for asset move penalties

We can charge an asset moves penalty when the conditions above have been met. To charge a penalty 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
- failure to notify and deliberate withholding penalties, 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 in addition to the underlying penalty.

Offshore asset based penalties

You may be liable to an asset based penalty where all of the following apply:

- you've been charged an underlying penalty for a deliberate inaccuracy, failure to notify, or for deliberate withholding
- 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
- 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 are 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

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 deliberate withholding. How we work out the PLR and liability to tax is explained in the relevant penalty factsheets.

2 Deciding whether the disclosure was unprompted or prompted

Whether the disclosure of the inaccuracy or failure was unprompted or prompted determines the minimum penalty percentage that we can charge 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 we may reduce the penalty to a lower amount than if you make a prompted disclosure. This is explained 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 we work out the quality of disclosure, we'll also consider how long it's taken you to tell us about an offshore asset. We consider the earliest date you could've told us about the asset to the actual date you did tell us. If it's taken you a long time, (such as 3 years or more), to tell us, we'll 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.

We'll reduce the amount of the asset-based penalty 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 (timing, nature and extent of information you give), determines where the penalty will fall within the penalty range. The reduction we give you depends on how much help you give us.

4 Considering other reductions

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

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

We may carry out a criminal investigation with a view to prosecution 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