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TAX don't pay the penalty for an incorrect return

Understanding the different penalties HRMC applies across the UK tax system is an important aspect of the Principles of Taxation and the TPS Taxation courses.

HMRC has developed legislation to align the penalties and create a more simple and consistent approach.

THERE ARE FOUR MAIN REASONS WHERE A PENALTY WILL APPLY

1 Failure to notify chargeability

It is the taxpayer's responsibility to tell HMRC when they have not received a notice to file a tax return when they have income that is chargeable to tax.

If the taxpayer fails to notify HMRC of the chargeable income, a tax geared penalty will be imposed.

Penalties can be reduced for full disclosure, co-operation with HMRC and unprompted disclosure.

	MAXIMUM penalty	MINIMUM penalty for prompted disclosure	MINIMUM penalty for unprompted disclosure
Careless action	30%	10% if within 12 months 20% if after 12 months	0% if within 12 months 10% if after 12 months
Deliberate action without concealment	70%	35%	20%
Deliberate action with concealment	100%	50%	30%

2 Filing an incorrect tax return

If a taxpayer files a tax return that contains a mistake, HMRC will charge a penalty if the mistake:

Is because the taxpayer failed to take reasonable care – 30% penalty.

Is deliberate, that the taxpayer sent the return with a mistake that they knew about but didn't try to hide – 70% penalty.

Is deliberate and concealed, that the taxpayer sent the return with a mistake and tried to hide it – 100% penalty.

	MAXIMUM penalty	MINIMUM penalty for prompted disclosure	MINIMUM penalty for unprompted disclosure
Careless action	30%	15%	0%
Deliberate action without concealment	70%	35%	20%
Deliberate action with concealment	100%	50%	30%

3 Late filing of a tax return

With the exception of VAT and stamp duty (which have their own penalties), the penalties for a late return are:

< 3 MONTHS LATE
£100

3 MONTHS LATE
£10 Daily

6 MONTHS LATE
GREATER OF
5% of the tax due on return or £300

> 12 MONTHS LATE

100%
for a deliberate failure to file the return with concealment.

70%
for a deliberate failure to file the return without concealment.

5%
for a non-deliberate failure to file the return.

In each case a minimum penalty of £300 applies.

The penalties can be reduced if the taxpayer:

- Tells HMRC about the failure to file the tax return.
- Gives HMRC reasonable help in quantifying the unpaid tax.
- Allows HMRC access to records to check how much tax is unpaid.

4 Failure to pay on time

Penalties are imposed in respect of any payments of tax made late, as follows:

	Income tax, capital gains tax, stamp duty reserve tax, stamp duty land tax	Corporation tax
Penalty date	30 days after normal payment date	Corporation tax return filing date
Initial penalty of 5% based on:	Any unpaid tax at penalty date	Any unpaid tax at penalty date
Further penalty of 5% based on:	Unpaid tax at 5 months after penalty date	Unpaid tax at 3 months after penalty date
Further penalty of 5% based on:	Unpaid tax at 11 months after penalty date	Unpaid tax at 9 months after penalty date

TOP TIPS FOR TAX PENALTIES

For the Principles of Tax course, all the information about penalties is included in the rates sheet – it is important to get familiar with the format of each penalty.

Question practice is essential in this area – there are lots of Workshop Exercises which contain penalties in both the Principles of Tax and TPS Tax courses.

Don't forget that although the detail of tax penalties is covered in the Principles of Tax course, they can be (and have been) examined as part of a scenario in a TPS tax exam.

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