

VAT Errors and Penalties



VAT error regime changes

The VAT penalty system and the VAT error threshold have both been amended resulting in a regime that requires fewer errors to be separately disclosed to HM Revenue & Customs but a greater risk of being penalised for making mistakes.

VAT penalty regime changes

Implementation date

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The increased VAT error threshold applies to errors discovered on or after 1 July 2008.

Penalty rates

VAT error regime changes

The new penalty regime applies to VAT returns covering periods starting on or after 1 April 2008 that are due to be submitted on or after 1 April 2009.

Reduction of penalties?

The VAT error regime threshold has been raised from £2,000 to the greater of:

- £10,000; or
- 1% of turnover (subject to a ceiling of £50,000)

Reasonable care

VAT errors higher than the threshold must be separately disclosed to HM Revenue & Customs whereas smaller amounts can be amended by inclusion on the next VAT return.

Notification of errors to HMRC

Suspension of penalties

Penalisation of errors

This is a significant increase so the number of error disclosures should fall dramatically.

VAT penalty regime changes

A penalty could arise where:

- A VAT return or other document has been submitted that understates the VAT liability or makes a false or inflated claim for repayment of VAT; and
- The inaccuracy is careless, deliberate, or deliberate and concealed.

For businesses that file quarterly VAT returns this means that the first returns to be affected by this new penalty regime will be for quarters ending 31 March, 30 April, or 31 May 2009.

Penalty rates

The penalties will be a percentage of the extra VAT due but the rate will depend on the behaviour that gave rise to the error:

- Reasonable Care; No penalty
- Careless; Maximum 30% - Minimum 0%
- Deliberate; Maximum 70% - Minimum 20%

Deliberate and Concealed; Maximum 100% - Minimum 30%

Reduction of penalties?

HMRC will reduce the penalties in the following circumstances:

- You have told them about it;
- You have helped work out the extra VAT due; and

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- You have given access to your records so that they can check your figures.
- So the fact that an error has been disclosed may not be enough to avoid a penalty completely.

Reasonable care

HMRC expects every VAT registered business to take reasonable care when compiling VAT returns. However the definition of what is reasonable will depend on the abilities of the person and their circumstances.

Businesses with complex VAT affairs will be expected to exercise a higher degree of care than those with simpler affairs.

HMRC will also expect a business that encounters a transaction or event that is unfamiliar to seek suitable advice.

Notification of errors to HMRC

The matter should be dealt with promptly otherwise HMRC will treat the inaccuracy as being careless and apply the 30% penalty rate.

To avoid being penalised the business must take reasonable steps to notify HMRC such as:

- Consulting with an accountant or agent to discuss the position so that they can inform HMRC; or
- Calling HMRC to discuss the matter; or
- Discussing the matter with the HMRC Officer during a VAT inspection; or
- Emailing, faxing or writing to an HMRC Office with the details.

Suspension of penalties

The penalty applicable to careless errors (the 30% rate) can be suspended for a period of up to 2 years at the discretion of HMRC.

To qualify for suspension the business will have to comply with certain conditions such as improvements to record keeping. If at the end of the suspension period the conditions have been met then the penalty will be cancelled

Penalisation of errors

Any form of mistake made in calculating your VAT return figures could lead to a penalty, including:

- Paying the assessment issued by the VAT computer rather than filing the VAT return because you know that your true VAT liability is higher.
- No loss of tax situations e.g. where you should have billed an associated entity that can fully recover VAT - HMRC may still issue a penalty even though there has been no overall loss of tax.
- Timing errors - if the VAT on an invoice should have been included in an earlier period a penalty may arise.

Specific advice should be obtained before taking action, or refraining from taking action, on any of the subjects covered.

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