

By 18 June 2025



Reform of behavioural penalties

Response from ICAS

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About ICAS

1. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants. We represent over 24,000 members working across the UK and internationally. Our members work in the public and not for profit sectors, business and private practice. Approximately 11,500 of our members are based in Scotland and 10,000 in England and Wales.
2. The following submission has been prepared by the ICAS Tax Board. The Tax Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community; it does this with the active input and support of over 60 committee members.
3. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members into the many complex issues and decisions involved in tax and regulatory system design, and to point out operational practicalities.

General comments

4. We welcome the opportunity to respond to the HMRC consultation – [Reform of behavioural penalties](#). We were pleased to have the opportunity to discuss the consultation with HMRC at the workshop held on 13 May.

Specific Questions

Question 1: What are your views on removing the minimum 10% penalties for inaccuracies disclosed after 3 years and failures to notify disclosed after 12 months for non-deliberate behaviour?

5. We feel that the minimum penalties that are currently in place act as a disincentive for taxpayers to come forward to correct errors and inaccuracies. By removing minimum penalties, this should help ensure greater compliance and any penalties charged could instead take account of the gravity of the error.

Question 2: What are your views on the ways in which HMRC could simplify penalty reductions for unprompted disclosure and simplify penalty reductions for the quality of disclosure?

6. In principle, we would support the proposal for a set reduction being applied to the maximum penalty, based on whether the disclosure was prompted or unprompted. A simplified penalty regime could potentially avoid disproportionately high penalties being charged by HMRC.
7. Whilst we see the value of the penalty regime, it is important that the level of penalty is commensurate with the error and takes account of the full circumstances. The existing penalty regime can give instances where essentially the same error is penalised several times because it has occurred over several years. Feedback from our members would support the penalty regime taking account of the underlying issue rather than the number of occasions which it is identified as part of an enquiry.
8. Feedback from our members also suggests that the level of interest being charged by HMRC on unpaid tax is such that this is acting as a de facto penalty. We would suggest that the interaction between interest and penalties should be taken into account as part of the broader review of penalties.

Question 3: With reference to the existing inaccuracy and failure to notify penalty ranges, what would you consider to be proportionate and appropriate penalty rates for both deliberate behaviour and repeated instances of deliberate behaviour? Which factors should be considered when applying these?

9. We have no comments on the range of penalties. However, we feel that it is important for a simplified regime to apply where a taxpayer makes an unprompted and full disclosure to HMRC.
10. Consideration should also be given to the technical nature of the error. For example, there are some aspects of tax legislation which are complex, such as the pensions annual allowance. It is in such areas that a taxpayer may be unaware that they have incurred a tax liability without taking advice from a tax professional. In reviewing the penalty regime, it is important to distinguish between inadvertent errors where a taxpayer is unaware of the underlying legislation, compared with deliberate errors such as the suppression of takings in a trading business which any reasonable person should recognise as being incorrect.

Question 4: How could penalties for offshore non-compliance be simplified whilst still acting as an effective deterrent? What would be the cost of introducing monthly reporting?

11. The existing penalty regime includes a higher level of penalty for offshore tax liabilities and this reflects the fact that, at the time the penalties were introduced, it was often harder for HMRC to obtain information that was needed to detect and tackle tax offshore non-compliance. The circumstances have very much changed in the years since the introduction of the higher levels of penalties.
12. Indeed, the introduction of the Common Reporting Standard (CRS) has led to the regular exchange of financial account information between HMRC and over 100 jurisdictions. As such, this could perhaps be seen as much a deterrent as higher penalties.
13. Given that HMRC now has improved access to a taxpayer's overseas income sources compared with when the offshore penalties were introduced, we would support a simplification of the additional penalties, particularly in relation to asset based penalties.
14. We are unable to comment on the cost of introducing monthly reporting, however would question whether this was necessary given the increased availability of information on overseas income as noted above.

Question 5: How could HMRC simplify penalty suspension while retaining an effective prompt to taxpayers to address the source of the inaccuracy?

15. Our members strongly support the ability of penalties to be suspended, especially where the taxpayer has taken steps to improve the level of their compliance. Feedback from our members would suggest that this is not always being offered by HMRC and, where suspension is offered, HMRC is adopting an inconsistent approach to both the granting of suspension and conditions being applied.
16. We would argue that there would be merit in HMRC automatically suspending penalties for cases where there is genuine error that was not deliberate or concealed. The risk of taxpayers taking advantage of the leniency could be countered by the adoption of higher levels of penalty where the same error is identified in a subsequent enquiry or compliance check.

Question 6: What do you see as the opportunities and challenges of this approach? How does it compare with potential simplification to existing penalties, as outlined in Chapter 3?

17. We feel that it is important for HMRC to have the right to apply a civil evasion penalty for those taxpayers who are deliberately not complying with their obligations under the UK tax system. The civil penalty should be reserved for those cases where the level of co-operation with HMRC is poor and the nature of the conduct is deliberate.

Question 7: What is your view on HMRC's use of tougher non-financial sanctions to deter and respond to deliberate and repeated non-compliance and to promote future compliance?

18. Whilst tougher use of non-financial sanctions such as removal of a taxpayer's driving licence or passport could have some merit in the most extreme of cases, in some cases this would affect the livelihood of taxpayers and this could result in taxpayer hardship. We feel that a financial deterrent, taking account of the gravity of the error and the level of co-operation with HMRC, such as a civil evasion penalty should be sufficient in the majority of cases.

Overall, we feel that whilst penalties provide an incentive to encourage good taxpayer behaviour, this is not the only incentive. The requirements of [Professional Conduct in Relation to Taxation](#) (PCRT) requires high standards of ethical behaviour, corporate governance and tax strategy and there is also the reputational impact of an error for a finance professional, which can be significant. Indeed, the impact of a penalty extends beyond the monetary amount.



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