

# Isle of Man Customs and Excise Compliance Checks – VAT Dishonest Conduct Penalties

This factsheet contains information about VAT dishonest conduct penalties.

This factsheet is one of a series. For the full list of factsheets in our compliance checks series, go to <https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/public-notices/visits-by-customs-and-excise-officers/>

## VAT dishonest conduct penalties

Apply to:

- any VAT irregularity involving dishonest conduct for periods **before** the introduction of the 'new' penalties shown below
- the evasion of VAT by failure to submit a VAT return. This applies to periods **before** and after the introduction of the 'new' penalties.

**New** penalties are for:

- inaccuracies in VAT returns due from 1 April 2009
- failure to notify an under-assessment of VAT for returns due from 1 April 2009 – where there is dishonest conduct, VAT dishonest conduct penalties may also apply, but we will never charge both penalties together
- failure to register for VAT for returns due from 1 April 2010
- VAT wrongdoings for returns due from 1 April 2010

You can find more information about **new** penalties in the compliance checks series of factsheets. Details of how you can get a copy of these are shown above.

## Why we have given you this factsheet

We have given you this factsheet because we have found out about a VAT irregularity to which VAT dishonest conduct penalties may apply. We now need to establish whether there was dishonest conduct.

## What we mean by 'dishonesty'

Dishonesty is where a person does something or fails to do something that would be regarded as dishonest according to the ordinary standards of reasonable and honest people.

## Customers with particular needs

If there was anything about your health or personal circumstances that contributed to your dishonest conduct please tell the officer that is carrying out the check. Telling them will mean that they can take this into account when considering penalties.

## How we work out the amount of the dishonest conduct penalty

The penalty will be a percentage of one of the following:

- the difference between any VAT that you have under-declared or over-claimed (or tried to under-declare or over-claim) and the correct amount of VAT
- the VAT that you declared late because of your failure to submit your return

When working out the penalty we start with the maximum possible penalty, which can be 100% of the VAT. We then consider whether to reduce the penalty.

### **What you can do to reduce any dishonest conduct penalty**

The amount we can reduce the penalty by will depend on:

- disclosure – whether you tell us everything we need to know about what is wrong
- co-operation – how well you co-operate with us throughout the compliance check

The more you help us to get your VAT affairs up to date the larger the reduction may be to the penalty.

#### **Disclosure**

We can normally reduce the penalty by up to 40% for an early and full disclosure.

If you don't tell us that anything is wrong until near the end of the check, we will give you very little or no reduction for disclosure.

The size of the reduction will depend on the individual circumstances.

#### **Co-operation**

We can reduce the penalty by up to 40% for good co-operation. Good co-operation includes:

- letting us have the information we need quickly
- agreeing to meet us if we believe this will help us with our check
- answering our questions as fully and correctly as possible

If you delay giving us the information we need or give us misleading answers and generally obstruct our check, we will give you little or no reduction for co-operation.

### **What happens if you have deliberately done something wrong**

If you:

- give us information that you know to be untrue, whether verbally or in a document, or
- dishonestly misrepresent your liability to tax or claim payments to which you are not entitled

we may carry out a criminal investigation with a view to prosecution.

### **When a company officer may have to pay some, or all of a company's dishonest conduct penalty**

A company officer may have to pay some or all of the company's penalty, if the penalty is due to their conduct.

If the company pays the penalty, we will not ask the individual officers to pay.

A company officer is a director, shadow director, company secretary or manager of a company, or a member of a limited liability partnership.

### **Interest and surcharges for paying VAT late**

If you pay any VAT after the original date it was due, we will charge you interest. You may also have to pay a late payment surcharge.

## How we tell you about a penalty

We will tell you how much the penalty is and how we have worked it out. If there is anything about the penalty, that you do not agree with, or if you think there is any information we have not already taken into account, you should tell us straightaway.

## What to do if you disagree

If there is something that you do not agree with, you should tell us.

If we make a decision that you can appeal against we will write to you to explain the decision and tell you what to do if you disagree. You will usually have 3 options. Within 30 days you can:

- send new information to the officer you have been dealing with and ask them to take it into account
- have your case reviewed by an IOM Customs & Excise officer who has not been involved in the matter
- arrange for your appeal to be heard by an independent tribunal, who will decide the matter.

You can find more information about this in factsheet IOMC&E1 *IOM Customs & Excise decisions – what to do if you disagree*. Details of how you can get a copy are on page 1.

## Your rights when we are considering penalties

The European Convention on Human Rights gives you certain important rights. If we are considering penalties, we will tell you. We will also tell you that these rights apply and ask you to confirm that you understand them. These rights are that:

- if we ask you any questions to help us decide whether to charge you a penalty, you have the right not to answer them. The amount of help that you give us when we are considering penalties is entirely a matter for you to decide
- when deciding whether to answer our questions, you may want to get advice from a professional adviser – particularly if you do not already have one
- if you disagree with us about the tax or any penalties we believe are due, you can appeal. If you appeal about both tax and penalties, you have the right to ask for both appeals to be considered together
- you have the right to apply for funded legal assistance for dealing with any appeal against certain penalties
- you are entitled to have the matter of penalties dealt with without unreasonable delay.

You can find full details about these rights in factsheet 9 (MAN) 'The Human Rights Act and penalties'.