

# Isle of Man Customs and Excise Compliance Checks – The Human Rights Act and penalties

Article 6 of the European Convention on Human Rights (HRA) gives you certain rights when we are considering whether to charge certain types of penalties.

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

## **The penalties that Article 6 of HRA apply to**

Article 6 rights apply to penalties that are based on a maximum penalty percentage rate of 70% or more of any tax or duty unpaid, understated, over-claimed, under-assessed, or that should have been shown on your tax return.

## **What your rights under Article 6 mean for you when we are considering penalties**

We always welcome your cooperation with our compliance check and in establishing your correct liabilities, including whether any penalties may be due. The extent to which you cooperate with us and provide us with information is entirely your choice.

When we are considering penalties you have the right under Article 6 not to answer our questions. This is sometimes referred to as the right not to self-incriminate or the right to silence. This right does not cover information or documents that already exist. This means that you must provide us with such information or documents that already exist, if we have a legal right to ask for them.

In making a decision about how much you are going to cooperate with us, you have the right to get help from a professional adviser. If you do not already have an adviser, you may want to consider consulting one.

You have the right to have the matter of penalties dealt with without unreasonable delay. We will normally tell you whether any penalties are due once we have agreed the tax position with you. If we cannot agree the tax position, we will send you an amendment or assessment of any additional tax we believe is due. If we consider that a penalty is also due, we will send you an assessment of the penalty, based on the additional tax.

If we charge you a penalty, you have the right to ask for a review or to appeal. You also have the right to ask for your review or appeal against both the tax and the penalty decisions to be considered together. Our factsheet *IOM Customs & Excise decisions – what to do if you disagree*, explains what to do if you want to ask for a review, or to appeal. Details of how you can get a copy are shown above. You can find more information about tribunals on the tribunals website. Go to [www.tribunals.gov.uk](http://www.tribunals.gov.uk)

Public funding may be available to help you bring certain appeals before the tribunal. If you intend to appeal against the penalty assessment you may wish to check whether your case qualifies for financial assistance. You may wish to make an application through an advocate. If you need an advocate you will be able to find one through:

- <http://www.iomlawsociety.co.im/advocates-database/>
- General Registry Legal Aid by emailing [legaid@registry.gov.im](mailto:legaid@registry.gov.im)
- Yellow pages

**If there is anything you do not understand about these rights or what they mean for you, please tell the officer who is dealing with the compliance check straightaway.**