

Indirect Tax Penalties

The 2007 Finance Act introduces a new penalty regime for both direct and indirect tax. Although the dates of implementation are not yet clear it is likely that the new penalties will not apply to VAT returns until early 2009.

This may seem like a long time in the future, however, it is vitally important that businesses consider the potential impact of the new regime at an early stage.

What are the changes?

Currently the serious misdeclaration penalty rate is 15% and for a penalty to apply the error must be relatively large (usually more than 30% of the total amount of VAT recorded on a return). Under the new regime the penalty will be driven by the behaviour which leads to the inaccuracy.

The scale of penalties for incorrect returns under the new regime is shown below.

Type of behaviour	Statutory maximum penalty	Statutory minimum penalty with unprompted disclosure	Statutory minimum penalty with prompted disclosure
Careless	30%	0%	15%
Deliberate but not concealed	70%	20%	35%
Deliberate and concealed	100%	30%	50%

Careless mistakes are likely to be subject to penalties more frequently and with a doubling of the penalty rate applied. This makes it more important than ever to prevent errors and try to identify and disclose any mistakes that do arise.

How can I avoid a penalty?

One of the most important aspects of the new system is the need to show that reasonable care has been taken in preparing a return. HMRC are likely to look at not just the preparation of VAT returns, but also at the underlying systems from which the figures in the returns have been derived. Taking expert advice on complex matters might also be evidence of reasonable care, as well as reducing the risk of an inaccuracy.

VAT accounting systems should be clearly documented and include details of all checks and controls, which should be subject to appropriate management supervision and review.

It is important to begin looking at your systems now as if changes are necessary time must be allowed for training etc. We would be happy to assist in the review process and to make recommendations if required.

To discuss any of the above issues please contact Dean Carey on 01473 220022 or email dean.carey@ensors.co.uk