

Information about penalties and interest (LBTT)

What are Revenue Scotland penalties

This factsheet provides information about penalties we may charge if you have failed to submit tax returns or tax payments on time, with explanations and helpful questions and answers about penalties and interest associated with Land and Buildings Transaction Tax (LBTT).

The Revenue Scotland and Tax Powers Act 2014 (RSTPA) sets out the penalties and interest that apply when taxpayers fail to meet the requirements of the Land and Buildings Transaction Tax (Scotland) Act 2013.

It is important that the tax system for Scotland's devolved taxes operates fairly and efficiently and Revenue Scotland recognises that the vast majority of taxpayers want to comply with their obligations.

To encourage compliance and deter non-compliance, a range of fixed amount, daily and tax-g geared (percentage-calculated) penalties apply to the devolved taxes. Revenue Scotland has the power in certain circumstances, and for certain penalties, to suspend, reduce or even waive a penalty.

If you disagree with the penalty imposed you have a statutory right to request that Revenue Scotland reviews its decision and/or you can appeal directly to The Scottish Tribunals.

Revenue Scotland will issue notices direct to you as the taxpayer. Where you have authorised a solicitor or other representative to act on your behalf, Revenue Scotland will communicate with them by sending them copies of any notices. **But it is important to understand that you, the taxpayer, are ultimately responsible for your tax matters.**

Please be aware that Revenue Scotland cannot become involved in any dispute or disagreement between a taxpayer and their representative.

You can find more information on penalties by visiting the Revenue Scotland website, specifically the online guidance RSTP3001 - www.revenue.scot/legislation/rstpa-legislation-guidance/penalties.

Why have I received a penalty

If you did not file your tax return on time, we may have charged you all or some of the following penalties:

- an initial penalty of £100 on the day after the date your tax return was due

- daily penalties of £10 per day for 90 days after your return was 3 months late
- a ‘further penalty’ of £300 or 5% of your tax liability after your tax return was 6 months late
- a second ‘further penalty’ of £300 or 5% of your tax liability after your tax return was 12 months late, or, £300 or 100% of your tax liability if you have deliberately withheld information.

If you did not pay your tax on time, we may have charged you all or some of the following penalties:

- an initial penalty of 5% of the unpaid tax
- a second penalty of 5% of the unpaid tax after 5 months
- a third penalty of 5% of the unpaid tax after 11 months.

You may also receive an interest charge on late payment of, or failure to pay, tax. Interest will be charged where you have failed to pay in full the amount of tax due. Similarly, interest will be charged on late payment of a penalty where it has not been paid in full by the due date.

Where we might reduce, suspend or cancel a penalty

We may reduce, suspend or cancel a penalty for failing to file your return or pay tax on time if you had a reasonable excuse as long as you then met your obligation without delay once the reasonable excuse had ended.

There is no statutory definition of a reasonable excuse, which is a matter to be considered in the light of all the circumstances of the particular case. What is reasonable will differ from person to person depending on their particular circumstances.

Revenue Scotland will need to consider carefully both the point at which a reasonable excuse ends and the actions you took after that time to put right the action/inaction, or otherwise remedy the failure. Each case must be dealt with on its own merits.

You can find more information on reasonable excuse in relation to penalties at www.revenue.scot/legislation/rstpa-legislation-guidance/penalties/discretionary-powers/rstp3022

Letting us know about any special circumstances

If there are any special circumstances that you believe should be taken into consideration in relation to these penalties for failing to file your tax return and pay tax on time, you should let Revenue Scotland know straight away.

To be special, the circumstances in question must apply to you and must not be general circumstances that apply to many taxpayers. Specialist circumstances are either uncommon or exceptional, or where the strict application of the legislation applying to the penalty in question produces a result that is contrary to the clear compliance intention of that legislation.

You can find more information on special circumstances in relation to penalties at www.revenue.scot/legislation/rstpa-legislation-guidance/penalties/discretionary-powers/rstp3023

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 have a statutory right of appeal against we will write to you to explain the decision and tell you what to do if you disagree. You will usually have two options. Within 30 days you can:

- request a review (this is an internal Revenue Scotland procedure where your case will be looked at by a member of Revenue Scotland staff who has not previously been involved with your case)
- appeal to The Scottish Tribunals (an independent body which will hear your case).

Details about how to do this are included in each penalty notice.

You do not have to request that Revenue Scotland conducts a review in order to proceed direct with an appeal to the tribunal. If you have requested a review and you are not satisfied with the outcome of it you can still appeal to the tribunal.

Please note that appeals to the tribunal should be submitted no later than 30 days from the date of the penalty notice. Late notice of an appeal may be given to the tribunal where Revenue Scotland agrees or where the tribunal gives permission.

You can find more information on dispute resolution at www.revenue.scot/legislation/rstpa-legislation-guidance/dispute-resolution

Further information on the role of the tribunal and guidance for submitting an appeal can be found at www.taxchamber.scot.

Frequently asked questions

Q1: Why have I received a penalty for late submission of a tax return?

A: We received your tax return after the deadline set by legislation.

Q2: Why have I received a penalty for not submitting a tax return when there is no tax to pay?

A: The devolved tax legislation sets out when tax returns should be submitted. Even where no tax was due, taxpayers in certain transactions still have to meet their legal obligations to submit a tax return on time. For example, an LBTT transaction that is valued above £40,000, but below £145,000 would still require a return where no tax was due to be paid.

Q3: Why have I received a penalty for failure to submit a tax return?

A: We think that a tax return is due from you but we have not received one.

Q4: Why have I received a penalty for failing to pay tax?

A: Either we received a part or full payment from you, but it was after the deadline set by legislation; or we think that a payment is due and we have not yet received it from you.

Q5: Why do you issue penalties for late returns and payments?

A: We issue penalties to those who fail to meet their statutory obligations. This is to promote compliance and to encourage taxpayers to comply with future obligations.

Q6: If I disagree with the assessment of this penalty, can I ask for a review or appeal the decision?

A: If you disagree with the penalty then you have a statutory right to request a review. A review is an internal procedure where an independent officer of Revenue Scotland reviews the original penalty decision and can uphold, vary or cancel the penalty assessment.

If you remain dissatisfied with the outcome of the review you can submit an appeal to the tribunal. You can also submit an appeal directly to the Tribunal, without first requesting a review by Revenue Scotland.

Q7: I have good reasons why a penalty should not apply. Is my reason, or my excuse, enough for the suspension, reduction or withdrawal of a penalty?

A: We will consider the reasons you set out in writing, when you request a review, and will notify you of our decision. The conclusion of the review might uphold our original decision to impose the penalty or suspend, reduce or withdraw the penalty. When we carry out a review we consider each case on its own merits. We cannot process a request for a review by telephone.

Q8: Can I apply for a payment postponement of LBTT tax, penalties or interest charged if I apply for a review or appeal?

A: Yes, we will consider a written application of postponement where you have exceptional circumstances that would justify granting the application.

Q9: How much is the penalty in my case?

A: You will find this stated on the penalty notice you have received. The amounts are set out in law and depend on specific circumstances.

Q10: I have received a penalty notice, but I believe my solicitor or other representative is at fault. Why have you given **me** a penalty? Do I still have to pay it?

A: Yes, you have to pay the penalty unless it is suspended, reduced or withdrawn. It is your responsibility to make tax returns and pay tax on time.

Q11: Why have I received an interest charge on a late payment?

A: Revenue Scotland charges interest where an amount of tax or a penalty has been paid, or remains outstanding, after the due date.

Q12: I do not agree with the amount of interest charged on my late payment, for example, I think the interest has been calculated incorrectly.

A: You should write to Revenue Scotland requesting a review and/or appeal to The Scottish Tribunals.

Q13: What rate has the applied interest been charged at?

A: The rates are set by legislation and change as the Bank of England base rate changes. The current applicable rate is 2.75%.

Explanation of terms

Effective date (LBTT) – The effective date is normally the completion date of a contract for a purchase of land and / or buildings. In most residential property transactions this will be the date a buyer pays the price to the seller for the property and in exchange receives the keys.

Filing date – This is the date by which the return must be made under legislation.

Representative – Someone you have authorised to correspond with Revenue Scotland and deal with your tax affairs. In many cases this will be the solicitor dealing with your property purchase, but in other cases it may be an accountant, tax adviser, relative *etc.*

Transaction reference – This is the reference number generated by Revenue Scotland’s IT system and sent to you or to your representative, if they submitted the tax return on your behalf. The reference number allows us to trace your transaction.

The Scottish Tribunals – This is an independent panel appointed to deal with certain tax disputes in Scotland including those relating to devolved taxes.

Tax liability - This is the amount of tax that should have been shown or notified on your return.

Standards and Values

Our Charter of Standards and Values sets out the behaviours we should expect from each other. It applies equally to you (taxpayers, agents and representatives) as it does to us (Revenue Scotland).

For more information, go to www.revenue.scot/who-we-are/charter-standards-and-values.

More information

If there is anything about your health or personal circumstances that may make it difficult for you to deal with this matter, please tell us and we will help you in the most appropriate way.

If you are unhappy with our service, please tell us and we will try to put things right. If you are still unhappy, we will tell you how to complain.