

Penalties for Inaccuracies Schedule 24 FA07

Chapter 6 New Penalty System (NPS)

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Introduction

Welcome to Chapter 6 of the Penalties for Inaccuracies Schedule 24 FA 2007.

In Chapters 2 and 3 you learnt how inaccuracies are identified, evidence and disclosed. Chapter 4 explained how to calculate the potential loss of revenue, how penalties are calculated and how to decide on a suspension. In Chapter 5 you saw how penalties are approved and authorised.

In this Chapter you will learn how all of the information is brought together and input into the New Penalty System (NPS), how NPS calculates the penalty, and how the summary calculations, penalty notices, suspension notices and other information that it produces, are used.

Study Objectives

By the end of this unit you will be able to

- state what systems you should use to calculate a penalty
- state the information that you will need to be able to calculate the penalty
- state when you must not use the penalty calculator
- state two examples of when you might have to issue an estimated assessment

Study Advice

This is the sixth chapter and we think it will take you around 45 minutes to complete.

You will need access to

- the Compliance Handbook (CH)

You should also have completed the Introduction and Chapters 1-5 before working through this chapter.

6.0 Overview of the New Penalty System

The New Penalty System (NPS) is part of the CaseFlow Information System for Compliance (a new computer system for case management and workflow, covering the whole lifecycle of an intervention case).

For penalties arising under Schedule 24, NPS will

- contain information about penalty inaccuracies
- calculate penalties
- produce summary calculations, penalty notices and suspension notices
- generate formal, standardised penalty-related correspondence to customers
- provide management information relating to penalties for use by a range of internal and external stakeholders, for example Internal Audit and the National Audit Office
- ensure a consistent approach to all penalty calculation

Until CaseFlow and NPS become available, you should use the SEES penalty calculator on your desktop. This calculator mirrors exactly the format and types of information that will be captured through NPS on CaseFlow. This is the only method which should be used to calculate a penalty under Schedule 24 until NPS is available. You must **NOT** make manual calculations.

6.1 Data needed for NPS

CH451200

By the time you reach the stage of issuing a penalty you should have all the following details that you will need to input onto NPS for each inaccuracy.

- UTI (Unique Taxpayer Identifier e.g. UTR, VAT No, NINO, Emp Ref)
- Period
- Tax/Duty Type
- description
- type of inaccuracy (behaviour)
- reductions (telling, helping, giving access)
- suspension and conditions
- special Reduction (see Chapter 7).

These must be entered on the Penalty Calculation Summary.

This will provide

- the audit trail of decisions
- a summary sheet for issue to the person and any agent
- the basis for automatic entries into the Notice of Suspension and Penalty Assessments
- automatic data entry into the Penalty Database.

As NPS will automatically generate standardised letters and forms relevant to the penalty to be assessed, you will have to input information about the customer and their agent.

For direct taxes the customer name and address will be populated automatically when the UTI is entered, you will however have to enter any agent details manually.

For indirect taxes both customer and agent information will have to be entered manually.

CH451100

is the information required will be

- customer name
- customer address
and, if relevant
- details of any agent
- company officer (if the penalty has to be recovered from them) or other alternative source of payment.

6.2 When must I use the NPS/SEES calculator

You must use NPS to record details for *all* cases.

If, before you are at the stage of inputting the case details onto NPS, a customer asks for an idea of how much penalty could be charged, you should use the SEES calculator for these calculations (a screen shot of the SEES Penalty Calculator is included at the end of this chapter).

6.2.1 VAT specific issues

For VAT inaccuracies where the VAT-registered trader is on the VAT mainframe, the procedures are different.

- You will need to complete the NPS/SEES calculator to obtain the Penalty Percentage Rate (PPR). You should initially enter a nominal figure of £1 for each inaccuracy to generate the PPR.
- The PPRs should then be entered onto the VAT 641 (a revised VAT641 will be issued) assessment document for input to the VAT mainframe. The VAT mainframe will then calculate the penalty.
- On receipt of a D2211, you should then update the NPS/SEES Calculator with the details thereon. The PLR and penalty calculation rules are the same, so the resulting figures should be the identical on both the VAT mainframe and the NPS/SEES calculator. If the figures don't match you will have to investigate the differences and take the appropriate corrective action.

You may receive a D2211 where there has been no VAT 641/642 completed. This can happen where a return has been amended during a pre-credibility check and the amendment (in a higher amount) is received more than 30 days after the issue of a central assessment.

The D2211 will be produced with a single PLR and a PPR of 30%. You will need to decide the breakdown of the PLR. Was it due to single or multiple behaviours (if multiple behaviours then they cannot be grouped together as one single PLR)?

You will then enter the single/multiple elements into the NPS/SEES calculator. After a penalty assessment has been issued these details should be captured to the VAT mainframe by means of a VAT292.

For penalties in relation to 8th/13th Directive, or DIY house builder claims, the penalty figure from NPS/SEES will not be automatically captured on the indirect taxes accounting systems. These will have to be manually updated onto the relevant system.

6.2.2 When can't I use the NPS/SEES Calculator?

If your compliance check covers years prior to Schedule 24, you will have to calculate penalties for those earlier years separately under the earlier legislation. The NPS/SEES Calculator must only be used for calculating penalties under Schedule 24.

6.3 Issuing the Penalty Calculation

Once your inputs are complete, the Penalty Calculator in NPS will show

- the PLR for each inaccuracy
- the penalty percentage to be applied to the PLR
- individual penalties, and suspensions
- the total penalties for the tax period.

You will already have had the proposed penalty authorised. You will then need to confirm that the penalty has been authorised and enter the authorising officer's PID into the summary.

NPS will issue the relevant forms direct to the customer and agent but you will also receive copies of the Penalty Calculation Summary Sheet (NPS1) together with a Proposed Suspension of Penalty (NPS9), if you are proposing a suspended penalty. If you entered agent details into the NPS/SEES calculator, you will also receive copies of the correspondence issued to the agent.

CH348200

6.4 Issuing a penalty assessment using NPS

6.4.1 No suspension of penalty

If you are not proposing to suspend the penalty and

- you have received a signed acceptance form (this form is issued with the NPS1) from the customer of the penalty position
- or
- you have received no response after 30 days to your request for signed acceptance of the penalty

you should now request on NPS for formal assessment notices to be issued.

6.4.2 Suspension of Penalty

If you have proposed suspending a penalty

- you should receive back a signed acceptance on the NPS9 from the customer, requesting formal assessments to be issued
- if no signed acceptance has been received after 30 days, then you should withdraw the suspension by amending the penalty calculation in NPS/SEES and arrange for formal assessments to be issued

After you request the issue of formal assessments through NPS the Notice of Penalty Assessment (NPS2) will be issued automatically to the customer and/or agent, you will also receive copies of the correspondence which is issued. If a suspension was offered you will also receive a copy of Notice of Penalty Suspension (NPS3).

6.5 When to issue a Penalty Assessment

Normally you should issue the penalty assessment to the customer when the inaccuracy or under-assessment that gave rise to the penalty, is put right.

CH83040

However, a penalty assessment does not have to be made at the same time as the inaccuracy or under-assessment it refers to, is put right. It may be made up to 12 months after either

- the end of the period during which a person can appeal against our correction of an inaccuracy or under-assessment
- or
- when a person has appealed against the correction of an inaccuracy, the time when the appeal is finally decided or the person withdraws it.

Where the inaccuracy has been corrected before discovery

Where a person corrects the inaccuracy or under-assessment before we have discovered it, for example by an amendment to an SA return, you must tell them about the penalty by sending a penalty assessment up to 12 months after the date the correction was made.

Where no assessment is needed to correct the inaccuracy

Where no assessment is needed to correct the inaccuracy or under-assessment, you must tell the person of the penalty up to 12 months after the date on which the inaccuracy is put right.

If you expect any delay, refer the issue to your manager to consider whether they should authorise the penalty. They might need to confer with the Authorising Officer.

In cases when there is no immediate tax consequence, such as an adjustment to losses that will be carried forward, issue the penalty assessment as soon as possible after the adjustments have been agreed.

6.6 Estimated Assessments

CH348350

These are most likely to be needed in cases where co-operation has been so poor that you can't work out how much is owed, but you still consider that there are inaccuracies with a tax consequence.

When this occurs, calculate the tax effect to the best of your judgement and make sure you fully record within your case papers how you reached the figures.

If the tax assessment is not appealed, or the Tribunal confirm your figures, then you will also issue a penalty assessment to the best of your judgement. This should be done as soon as possible after the date the tax assessment becomes final and conclusive.

Other occasions when you might issue tax assessments, will be for Best Judgement cases in VAT, or for direct tax when you establish, or it becomes likely that

- the person intends to dispose of their assets
- the person intends to become non-resident
- the person intends to apply for bankruptcy or, for a company, go into liquidation
- the person might be about to go to prison.

You will issue Jeopardy Amendments under Self Assessment. At the same time consider whether you need to protect HMRC's position by issuing penalty assessments.

Calculate the penalty based upon the information you have. Send out the Jeopardy Amendment or VAT assessment and the penalty summary calculation at the same time. In VAT Officer Assessment cases, it may not be possible to issue these at the same time.

6.7 Amended Assessments

CH348300

After an appeal is settled, you may need to amend the penalty assessment, to take account of instructions from the Tribunal or figures agreed between you and the customer.

You should make the relevant changes to the entry on NPS/SEES to reflect the revised figures and arrange for the issue of revised formal notices. For VAT cases on the VMF the procedures at 6.2.1 should be followed to make the necessary changes to the penalty.

6.8 Further or supplementary assessments

CH348350

The supplementary assessment lets you raise a further assessment for a tax period where an existing penalty assessment has become final and conclusive.

The time limit for the supplementary penalty assessment is 12 months from the date of the supplementary tax assessment to recover the additional PLR.

Example

You receive further details at a late stage in a compliance check. You might find that the existing tax assessment was inadequate and that the PLR in the penalty assessment should be increased. The time limit in this instance would be 12 months from the time that the inaccuracy was finally corrected.

You will have to refer back to the authorising officer on a second authorising form. When you apply for authorisation include an explanation why the further assessment is needed.

If you have any difficulty deciding whether the legislation will allow for a supplementary assessment, for example, following a change of decision on behaviour, refer it to Central Policy (TAA).

6.9 How penalties are collected

Penalties will be collected via the relevant taxes accounting systems. For direct taxes this will be via SAFE and for indirect taxes this will be the VAT Mainframe system or Customs and Excise Collection and Accounting System (CECAS).

The charge will be for the amount of non-suspended penalty only. A demand for the suspended amount will only be issued if the Central Penalty Team decides that the person has not met the suspension conditions.

If you receive a payment on account before the SAFE system allocates its reference, the payment will be held in 'suspense' and allocated when the charge and reference are known.

When an appeal is received you will need to set the appeal signal on the New Penalty System. This will enable all, or part, of the charge to be stood over or postponed until the appeal is settled.

Once the appeal is settled and you have put details into NPS, SAFE will automatically issue the final amended charge.

If tax is paid late, SAFE will calculate any interest for Direct tax cases. Debt Management and Banking will then issue demands.

6.10 Contract Settlements

CH348100


Contract settlements cover tax, interest and penalties. You will use NPS/SEES Calculator to calculate the penalty. You will issue a copy of the Penalty Calculation Summary Sheet (NPS1) but it will not be necessary to issue formal notices (NPS2) unless it is impossible to conclude matters via the contract settlement. The settlement will be entered onto the appropriate accounting system and collected in the usual way.

List of NPS forms

NPS 1	Penalty calculation summary
NPS 2	Notice of penalty assessment
NPS 3	Notice of penalty suspension
NPS 4	Penalty assessment withdrawal
NPS 5	Compliance reminder letter – checking whether suspension conditions have been met
NPS 6	Penalty cancelled – following fulfilment of penalty suspension conditions
NPS 7	Penalty enforced – following withdrawal of suspension as conditions not fulfilled
NPS 8	Alternative source of recovery of the penalty from an individual
NPS 9	Proposed penalty suspension and conditions
NPS 10	Agent's covering letter

Screenshot of SEES Penalty Calculator

ABCDEFGHIJKLMNOP



Inaccuracy Recording

Correspondence Reference _____
 Tax Regime _____
 Tax Period From 01/04/2007 To 01/01/2008
 Taxpayer Reference _____
 Taxpayer Name _____

Collectable penalties £0.00
Suspended penalties £0.00

Important note:
 Information required for each inaccuracy is entered into the white cells
 No validation of the information entered has been carried out
 The totals are shown in the blue boxes above
 (calculations are carried out in the grey columns on the right)

11	Description	Behavior	Potential Lost Revenue	Prompted?	Tell HMRC about it	Help HMRC quantify it	Give Access to records	Suspended	Company Officer's Liability	Penalty Rate	Penalty (suspensions highlighted)	Max %	Quality of disclosure	Suspended penalty amount	Collectable penalty amount
12	Enter text here		£0.00		0-30	0-40	0-30			0%	£0.00	0%	0%	£0.00	£0.00
13										0%	£0.00	0%	0%	£0.00	£0.00
14										0%	£0.00	0%	0%	£0.00	£0.00
15										0%	£0.00	0%	0%	£0.00	£0.00
16										0%	£0.00	0%	0%	£0.00	£0.00
17										0%	£0.00	0%	0%	£0.00	£0.00
18										0%	£0.00	0%	0%	£0.00	£0.00
19										0%	£0.00	0%	0%	£0.00	£0.00
20										0%	£0.00	0%	0%	£0.00	£0.00
21										0%	£0.00	0%	0%	£0.00	£0.00
22										0%	£0.00	0%	0%	£0.00	£0.00
23										0%	£0.00	0%	0%	£0.00	£0.00
24										0%	£0.00	0%	0%	£0.00	£0.00
25										0%	£0.00	0%	0%	£0.00	£0.00
26										0%	£0.00	0%	0%	£0.00	£0.00
27										0%	£0.00	0%	0%	£0.00	£0.00
28										0%	£0.00	0%	0%	£0.00	£0.00
29										0%	£0.00	0%	0%	£0.00	£0.00
30										0%	£0.00	0%	0%	£0.00	£0.00
31										0%	£0.00	0%	0%	£0.00	£0.00
32										0%	£0.00	0%	0%	£0.00	£0.00
33										0%	£0.00	0%	0%	£0.00	£0.00
34										0%	£0.00	0%	0%	£0.00	£0.00

Quick Guide
Inaccuracies
Supporting Information
Approve and Authorise

Review

NPS is part of the new CaseFlow system. It will hold details of inaccuracies, calculate penalties and issue penalty assessments.

If NPS is unavailable, or you need an estimate of likely penalties, there is a Penalty Calculator which is available in SEES. You must not prepare manual calculations.

Where possible agree the tax due with the customer before inputting details onto NPS. You may prepare estimates based on the available information if you can't reach agreement.

Normally a penalty is issued at the time an inaccuracy is put right, however there are occasions when the penalty will be assessed at a later date.

VAT cases will continue to be dealt with through the VAT mainframe. However you will still need to use NPS to calculate the penalty and then input to the VAT mainframe so that it can apply offsetting rules.

If an assessment is later found to be insufficient you may prepare a further assessment, provided this is within 12 months of the date the inaccuracy is corrected or an appeal is determined. CaseFlow and NPS allow for amendments but you will need fresh authorisation.

VAT penalties are collected through the VAT mainframe or CECAS. Direct tax related penalties can either be assessed and included in a contract settlement or assessment. Both will be collected through the SAFE system.

Learning Check - Answers

1. State what systems you should use to calculate a penalty

You should use the NPS which will be part of CaseFlow. In the event that NPS is not available or you are working outside of the office on laptop you should use the penalty calculator in SEES.
2. State the information that you will need to be able to calculate the penalty
 - The head of duty that the inaccuracy relates to
 - The inaccuracy (or group of inaccuracies)
 - The behaviour type for that inaccuracy
 - The disclosure type (unprompted/prompted) for that inaccuracy
 - The amount of the inaccuracy (PLR)
 - Did it relate to an inaccuracy in a document or was it an under-assessment by HMRC or an over-assessment?
 - The Quality of the Disclosure reductions.
3. State the situation when you must not use the penalty calculator.

If your compliance check covers years prior to Schedule 24, you will have to calculate penalties for those years separately under the earlier legislation.

4. State two examples of when you might have to issue an estimated assessment
- where co-operation has been so poor that you can't work out how much they owe, but you still consider that there are inaccuracies with a tax consequence.
 - Best Judgement cases for VAT
 - for direct tax when you find out, or it becomes likely that
 - the person intends to dispose of their assets
 - the person intends to become non-resident
 - the person intends to apply for bankruptcy or, for a company, go into liquidation
 - the person might be about to go to prison.