
PUBLISHING THE NAMES OF DELIBERATE TAX DEFAULTERS

Who is likely to be affected?

1. Taxpayers (individuals, businesses and companies) who are penalised for deliberately understating tax due, or overstating claims or losses, of more than £25,000.
2. Taxpayers who are penalised for deliberately failing to notify HM Revenue & Customs (HMRC) when required to do so, leading to a loss of tax of more than £25,000.
3. Taxpayers who are penalised for deliberately committing certain VAT and excise wrongdoings, leading to a loss of tax of more than £25,000.
4. Those who make an unprompted disclosure or a full prompted disclosure within the required time will not be affected.
5. This measure will not have effect for tax credits.

General description of the measure

6. Legislation will be introduced in Finance Bill 2009 enabling HMRC to publish the names and details of individuals and companies who are penalised for deliberate defaults leading to a loss of tax of more than £25,000. Names will not be published of those who make a full unprompted disclosure or a full prompted disclosure within the required time.
7. Details will be published quarterly within one year of the penalty becoming final and will be removed from publication one year later.

Operative date

8. The new provisions will be brought into effect by Treasury Orders with the date that they have effect specified in the Orders. No details of deliberate defaults committed prior to the legislation becoming effective will be published.

Current law and proposed revisions

9. Currently the names and details of those who are convicted for deliberate tax defaults are published but those who are subject to a civil penalty for such defaults remain confidential unless exceptionally their appeal against any penalty reaches the courts.
10. The proposed change ensures consistency of treatment for tax fraud, whether investigated through civil or criminal proceedings.
11. The criteria for publication will be tightly defined and are linked to the penalties for errors legislated in Schedule 24 to the Finance Act (FA) 2007 (and amended by Schedule 40 to FA 2008) and penalties for failure to notify and certain VAT and excise wrongdoings, legislated in Schedule 41 to FA 2008. Only those who are penalised for deliberate defaults or deliberate and concealed defaults will have their names and details published, not those who are penalised for having failed to take reasonable care. The tax lost as a result of the deliberate defaults must exceed £25,000.
12. There will be exemption from publication for those who:
 - make a full unprompted disclosure to HMRC of their defaults; and
 - make a full prompted disclosure to HMRC within the required time (to be specified by HMRC).
13. There is an appeal right to an independent tribunal against all elements of the penalty which would determine whether names would be published and taxpayers will be informed prior to publication and be able to make representations to HMRC.
14. Sufficient details will be published to ensure that the correct person is identified and the extent of the default. This will include:
 - name and address;
 - trade, profession or sector;
 - amount of tax, interest and penalties; and
 - the period covered.
15. Details will not be published until all appeal avenues against the additional tax and penalties are exhausted or expired. Details will then be published on quarterly lists on HMRC's website, within 12 months of the penalty becoming final. Details will be removed from the website after 12 months.
16. If you have any questions about this change, please send an email to powers.review-of-hmrc@hmrc.gsi.gov.uk or contact Maria Richards on 020 7147 3223. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk