

# Self assessment late filing penalties: improving fairness for unrepresented taxpayers

A position paper by  
**The Low Incomes Tax Reform Group**



# Executive summary

Taxpayers face late filing penalties if they do not submit their self assessment tax return on time.

In April 2024, a new penalty regime began to be introduced for volunteers of HMRC's Making Tax Digital for Income Tax Self Assessment (MTD for ITSA) programme. These new penalties replace the existing regime for late filing (as well as for late payment, which is not considered in this paper). This means that HMRC now have two different penalty regimes for taxpayers – those who are part of the MTD regime and those who are not.

The presence of two different penalty regimes has the potential to be confusing. It may also be unfair – particularly so for lower income and less digitally capable taxpayers, as they may be more likely to remain under the existing (and arguably harsher) penalty scheme that has been in place since April 2010.

Ideally, penalty reform for all taxpayers would take place at the same time and as soon as possible.

Until then, in addition to work to ensure people understand their obligations before reaching a penalty situation, there are a series of practical steps that HMRC could take to make sure that late filing penalties are fairer and more consistent for all taxpayers. These include:

- A more lenient approach towards first-time failures to file.
- Ensuring that GOV.UK guidance on the self assessment process is better aligned with taxpayers' legal obligations.
- Before a return is submitted, making it clearer that a requirement to file a self assessment return can be withdrawn when a taxpayer does not meet HMRC's self assessment criteria. Messaging should be reviewed and HMRC advisers trained to identify when this will apply.
- After a return is submitted, automatic cancellation of late filing penalties for taxpayers falling outside of the self assessment criteria.
- The use of simple assessment (rather than self assessment) to recover taxes that are owed through pay as you earn (PAYE).

# About us

The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998, LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those who are least able to pay for professional advice. We also produce free information, primarily via our website [www.litrg.org.uk](http://www.litrg.org.uk), to help make a difference to people's understanding of the tax system.

LITRG works extensively with key stakeholders such as HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the tax system. LITRG also considers the welfare benefits system, and other related systems, to the extent that they interact with tax.

The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

# Background

## The current landscape

If a taxpayer is asked by HMRC to file a self assessment tax return, they have a legal obligation to do so by the deadline. For those filing online, this is usually 31 January following the end of the tax year in question. If they fail to do this, they will be charged late filing penalties.

The current late filing penalty regime has been in place since the 2010/11 tax year.<sup>i</sup> Under this regime, the initial penalty is £100, with further penalties charged if the return is still outstanding after three months. Those who have still not filed 12 months after the deadline will receive penalties totalling a minimum of £1,600. The final amount could be more than this, depending on the tax owed.

According to HMRC, penalties exist to “alter the cost of breaking the rules”, and to encourage taxpayers to comply with their tax obligations.<sup>ii</sup> Penalties also help to maintain perceptions of fairness and trust within the tax system. Taxpayers who are compliant reasonably expect others to be as well, and for HMRC to punish those who are not. Also, taxpayers meeting their obligations is vital to the smooth operation of HMRC’s primary function, which is to collect tax revenues so public services can be funded.

Even though late filing penalties exist, there are many taxpayers who fail to meet their filing obligations. For the 2022/23 tax year, HMRC estimated that 1.1 million taxpayers missed the 31 January 2024 deadline for filing a self assessment tax return.<sup>iii</sup> This figure represents a 10% increase on the previous year.<sup>iv</sup> The charity, TaxAid, say that late filing penalties are one of the most frequent issues they deal with. They estimate that between February and April 2023, 11% of the queries they received involved a late filing penalty.<sup>v</sup>

A programme to reform late filing penalties (and late payment penalties) is ongoing. From April 2024, a new regime started to apply to volunteers for HMRC’s MTD for ITSA programme. It has meant that two different penalty regimes are now running side-by-side, with notable differences.

## Existing safeguards

Currently, late filing penalties are charged regardless of the taxpayer’s circumstances, the reason for the delay, or the amount of tax owed. This means that penalties can be due even where there is no tax liability.<sup>vi</sup> This was not a feature of the penalty system that existed before the 2010/11 tax year (see Appendix 1 for further background).

It is possible under the current penalty system for taxpayers to get late filing penalties cancelled in either of the two following situations:

1. Before filing the tax return, the taxpayer demonstrates to HMRC that they do not meet HMRC's self assessment criteria and HMRC agree to withdraw the requirement to file a tax return. By law, HMRC can do this within two years of the end of the tax year (or later, where the circumstances are exceptional).<sup>vii</sup>
2. On appeal, it is shown that the penalty has been incorrectly charged, or the taxpayer shows they have a reasonable excuse for missing the deadline. In the latter case, the taxpayer must also demonstrate that they filed the return without unreasonable delay after the excuse ceased.

Both cases require the taxpayer to take action. The taxpayer must therefore be aware of the relevant routes available to get the penalties cancelled **and** have the confidence and ability to challenge either HMRC's notice to file or penalty decision letter.

This is in contrast to the system that existed prior to 2010/11, where penalties were automatically cancelled if no further tax was owed.

Some taxpayers need help in arguing their case with HMRC. TaxAid tell us that in the majority of late filing penalty cases they pursue with HMRC, a valid reasonable excuse exists – likely on the grounds of mental health or physical health issues.

HMRC are also required to consider whether the late filing penalty should be reduced because of 'special circumstances'. Broadly, special circumstances are described by HMRC as either 'uncommon or exceptional' or 'where the strict application of the penalty law produces a result that is contrary to the clear compliance intention of that penalty law'.<sup>viii</sup>

Although it cannot include ability to pay by itself, if a taxpayer's underlying circumstances (for example, homelessness, or certain events outside of the taxpayer's control) mean that they are unable to pay, these may qualify.<sup>ix</sup>

HMRC does have the discretion to apply the law in such a way which avoids various anomalies and injustices, depending on the circumstances.<sup>x</sup> While HMRC should not depart from the letter of the law as a general rule, this power may come into play if a taxpayer is in a position of severe financial hardship with little or no prospect of this changing. For example, this may be due to long term or terminal illness. In such cases, HMRC may agree not to collect a tax debt (including penalties) while the taxpayer's circumstances remain unchanged. This is known as remitting the debt.<sup>xi</sup>

## Penalty capping and penalty reform

LITRG and others were concerned about the removal of penalty capping (where late filing penalties were capped by the amount of tax owed at the filing date) when the existing penalty regime was introduced in 2010/11. LITRG's response in 2008 to the HMRC consultation 'Meeting the obligations to file returns and pay tax on time' stated the need for low-income taxpayers to have protection where a fixed penalty would be disproportionate to the amount of tax they owe, and that if fixed penalties were no longer to be capped by reference to the tax due, some other means of protecting taxpayers on low incomes was needed. LITRG's response suggested some alternatives to capping that could offer this protection.<sup>xii</sup> However, HMRC proceeded with their proposals and removed capping by reference to the amount of tax outstanding, rejecting LITRG's call to introduce an alternative capping by reference to the level of income or profits, or to introduce a 'time to file' facility.

Then, in 2015, HMRC published 'HMRC Penalties: a Discussion Document', which marked the beginning of further penalty reform.<sup>xiii</sup> In the document, HMRC discussed the removal of penalty capping. Stakeholders used the consultation to argue for a return to a system where late filing penalties were linked to the amount of tax outstanding.

A new points-based model for late-filing penalties was devised (as part of a programme of penalty reform). This happened alongside the development of MTD for ITSA.

Under penalty reform, late filing penalties may still be triggered by missing a tax deadline. However, they are not associated directly with that specific missed obligation but with the broader, cumulative non-compliance which has led to that point. Because the link between the penalty and a specific missed obligation (with which an identifiable tax liability is associated) is broken, one could argue that the concept of penalty capping no longer applies. It is not a feature of the new system.

The new model also does not include escalating late filing penalties relating to the same missed obligation. A single missed return attracts, by itself, a fixed penalty of £200 – and only once the penalty points threshold has been reached. This means that there is no financial penalty the first time someone misses the deadline. By contrast, currently a single missed return can amass penalties of £1,600 or even more, depending on the tax unpaid (as 6-month and 12-month late filing penalties are tax-gated).

HMRC say the new penalty regime is fairer. It is less harsh on occasional non-compliance and instead focusses on persistent non-compliance for repeatedly missed obligations. Taxpayers have an opportunity to learn from their mistakes before they need to pay a financial penalty. See Appendix 2 for a high-level comparison of the different regimes, including a comparison (in the bottom row) of the maximum annual penalties for non-taxpayers who are persistently non-compliant.

## Penalty reform: timescale for implementation

Penalty reform for self assessment is scheduled to be introduced in stages alongside MTD for ITSA:

1. April 2024: Volunteers for the MTD for ITSA programme have the new penalty system applied to them (in respect of annual filing obligations only).<sup>xiv</sup> The first of these filing obligations arises in January 2026, for the 2024/25 tax year.
2. April 2026: Taxpayers with more than £50,000 of 'MTD income' (that is, turnover from self-employment together with gross rental income, if any) will be mandated to join MTD, and hence the new penalty system.
3. April 2027: Taxpayers with MTD income of more than £30,000 will also join.

The position for the remaining taxpayer population is not yet clear. HMRC have not currently stated how and when penalty reform will apply to taxpayers not in scope of MTD, other than that it 'will apply after the introduction for MTD taxpayers'.<sup>xv</sup>

But penalty reform has been designed such that it can work equally for a non-MTD taxpayer. So what is behind its staged introduction?

As we understand it, the principal reason why these penalty reforms have not yet been applied to all taxpayers are limitations on HMRC's IT systems. Although the exact nature of these limitations is unclear, we understand that taxpayers in scope of MTD for ITSA must be migrated within HMRC's internal systems to a different platform (known as Enterprise Tax Management Platform, or ETMP). This platform is programmed with both penalty reform and MTD for ITSA, unlike the predecessor platform, which is programmed with neither. This means that penalty reform cannot apply to non-MTD taxpayers without a mass migration of these taxpayers to the new platform, something which we understand is difficult to do in a short timescale with the numbers of taxpayers involved.

# Current issues and proposed solutions

Ideally, all taxpayers would be moved onto a single penalty regime at the same time. But as this does not appear to be possible in the short term, we believe that there are a number of steps that HMRC could take, within existing limitations, to make the current penalty regime fairer for all involved and particularly for low-income taxpayers.

We set out the challenges below and how these could be addressed.

## Two penalty regimes running concurrently

HMRC currently have two penalty regimes running at the same time. This adds a layer of complexity for taxpayers, who will need to understand which of the two sets of rules applies.

However, a greater issue is the unfairness that now exists between these two groups. One group faces a £100 penalty for a single missed annual obligation, but the other only gets a penalty point.

This situation becomes especially indefensible when it is considered that higher income, possibly more digitally capable taxpayers will be more likely to come into the scope of MTD for ITSA (and its more favourable penalty regime) sooner – with lower income, unrepresented taxpayers remaining under a penalty regime which HMRC acknowledge is less fair.<sup>xvi</sup>

**HMRC should explore further how to overcome their IT limitations so that penalty reform for self assessment can be brought in at the same time for all taxpayers, whether in scope of MTD for ITSA or not, and as soon as possible. If these limitations are insurmountable, HMRC should be transparent about this exploration work and the basis on which their conclusions have been reached.**

To the extent that this aim is not achievable, HMRC should urgently consider ways in which the relative unfairness of the current penalty regime can be mitigated. For example, it is a feature of penalty reform that occasional non-compliance is not penalised with a financial penalty. This could be replicated under the current system.

**HMRC should explore how the current penalty regime can be modified so that penalties are not charged for the first missed self assessment filing deadline if there has been no previous non-compliance in the previous, say, two years.**



The above suggestion would be comparable to the feature of penalty reform where penalty points expire automatically after 24 months (provided the penalty point threshold has not been met). Given HMRC were able to introduce penalty easements in response to the coronavirus pandemic, we assume that such a tweak should be achievable – though it may require legislation.

### **Taxpayers falling outside HMRC's self assessment criteria**

More broadly, a late filing penalty might be viewed as unfair if it was not clear that the taxpayer was required to file a return. To address the unfairness arising out of this ambiguity, it is necessary to consider HMRC's self assessment criteria and a taxpayer's legal obligations.

We think it is unfair for individuals to be penalised for not filing tax returns if they do not fall within HMRC's self assessment criteria. Unfortunately, this is not always a straightforward matter.

HMRC are currently progressing a programme of work to reform their own self assessment criteria, to ensure that the 'right' people are in self assessment. HMRC say that a taxpayer should be in self assessment if they:

- have a tax liability that is not managed through PAYE or another withholding regime, and/or
- have complex tax affairs or are in a group where HMRC need more information, and/or
- need to file a return to make a claim or election.<sup>xvii</sup>

This does **not** include those taxpayers who might register for self assessment in anticipation of a liability which does not materialise, or those who are forced into self assessment by HMRC simply as a means of creating a legally enforceable debt.

These two groups should not be required to file a return, and late filing penalties for missed obligations in these cases may be considered unfair. The first group should be given a clearer route to deregister from self assessment (see also our recommendation below on better training of HMRC call centre staff and webchat advisers on this point), while the latter should be handled via simple assessment.

**HMRC should avoid issuing self assessment tax returns to taxpayers with PAYE debts, and instead explore how simple assessment can be used. This may require further integration of simple assessment and PAYE systems.**

Returning to HMRC's self assessment criteria principles, translating these into a set of clearly defined rules (especially for those who have complex tax affairs or are in a group where HMRC need more information) is HMRC's current challenge. We believe that this work should be approached with the aim of reducing unfairness in the current late filing penalty regime. The further unfairness arising from two different penalty regimes running concurrently from April 2024 increases the urgency of this task.

### **Lack of alignment between HMRC's self assessment criteria and the law**

One of the main challenges to be resolved as part of this work is that the current self assessment criteria are not set out in law. In fact, the law structures taxpayers' obligations very differently from how they are presented in mainstream guidance on GOV.UK and by HMRC.

Under the law, there are two separate obligations:

- a) an obligation to notify HMRC that you have a tax liability (subject to a number of important exceptions, such as where all your income is taxed under PAYE),<sup>xviii</sup> and
- b) an obligation to submit a return, but only where HMRC have issued a notice to do so and have not withdrawn that notice.<sup>xix</sup>

Each of these obligations comes with different deadlines and different penalties for missing those deadlines. It is therefore important to consider these obligations separately.

However, language on GOV.UK speaks of 'needing to send a tax return' – by which HMRC mean whether a taxpayer falls within HMRC's self assessment criteria. Aside from the point that HMRC's self assessment criteria are not set out definitively (there is some inconsistency and ambiguity across the relevant sources<sup>xx</sup>), three immediate problems arise by this mismatch:

1. A taxpayer might appear to have a legal obligation to notify their tax liability to HMRC, but does not meet HMRC's self assessment criteria. An example is where an individual has savings interest in excess of their personal savings allowance, but less than the £10,000 threshold for self assessment. With interest rates on savings having broadly risen over the last couple of years, in 2023 we saw much confusion about whether taxpayers need to take any action before the 5 October notification deadline.<sup>xxi</sup> This drove unnecessary contact to HMRC to clarify the position. More recently, we are seeing similar issues arise with pensioners who have state pension income in excess of their personal allowance<sup>xxii</sup> – a problem which is set to increase over time.
2. A taxpayer might not have a legal obligation to notify a tax liability to HMRC (for example, where no liability exists), but HMRC still consider that their self assessment criteria are met. An example of this would be where an individual is trading with income above the trading allowance, but no tax or NIC is due

because their total taxable income is within their personal allowance. In this situation, HMRC and GOV.UK guidance would say the individual ‘needs’ to file a return, yet without a notice to file the law imposes no such obligation on the taxpayer.<sup>xxiii</sup> A further example was HMRC’s former position that company directors should file a self assessment tax return – this was subsequently shown by a Tribunal to be outside of what the law required and HMRC subsequently changed their criteria.<sup>xxiv</sup> It is confusing that HMRC and GOV.UK suggest that action is ‘needed’ when, legally speaking, it is not.

3. An individual who has received a notice to file a tax return may not meet HMRC’s self assessment criteria. This may be because of a change of circumstances in the tax year. In this situation, the individual is given two conflicting messages: one on the legal notice that they must file a return, and another on GOV.UK that they do not need to. Regardless of which message the taxpayer heeds, there are potential problems: if they follow the wording on GOV.UK, then they will receive late filing penalties for not complying with the notice to file; if they follow the legal notice and file the return, then they will miss out on any opportunity to get the notice withdrawn and for any late filing penalties to be automatically cancelled if they file late. We expand on this issue below, under the heading Withdrawal of a filing requirement: raising awareness.

**In order to resolve the above points, as part of their work under the Tax Administration Framework Review in reviewing the self assessment criteria and associated legal obligations, we urge HMRC to ensure that the self assessment criteria and language on GOV.UK are aligned with a person’s legal obligations as far as possible, and to do this as soon as possible.**

**This should help resolve the issues described above as well as provide greater clarity on who should or should not be in self assessment. In turn, this should reduce instances of unfairness for those who receive late filing penalties but should not be required to file a return.**

The timescales for HMRC’s self assessment criteria review are not clear. In HMRC’s publication in February 2024, ‘Simplifying and modernising HMRC’s Income Tax services through the tax administration framework review: summary of responses’, HMRC simply said their review of the criteria will be continued.<sup>xxv</sup> We hope this work continues to remain a priority for HMRC given the recent change of government.

### **Withdrawal of a filing requirement: raising awareness**

We think HMRC should consider how existing safeguards can be better deployed to ensure that only the ‘right’ people are penalised for the late filing of a tax return.

If a taxpayer demonstrates to HMRC they do not meet HMRC’s self assessment criteria, they can ask that the notice to file is withdrawn.<sup>xxvi</sup> The consequence of this is that any late filing penalties are cancelled automatically.<sup>xxvii</sup>

However, at present, such a route is not available if the return has already been filed.<sup>xxviii</sup> If there is no other route to cancel the penalties (for example, there is no reasonable excuse for the late filing), this leaves such a taxpayer in a rather strange position:

1. Prior to notice being withdrawn, they have a legal obligation to file the return. The headline messaging on any penalty notices is to file the return as soon as possible to prevent further penalties from accruing.
2. However, complying with the legal obligation prevents HMRC from withdrawing the notice, and so closes the door to this safeguard against late filing penalties where the self assessment criteria are not met.

We think HMRC need to do more to prevent unrepresented taxpayers falling into this trap, although we recognise some improvements have been made recently. For example, the Check if you need to send a Self Assessment tax return tool does make some reference to the case where HMRC have asked the taxpayer to file a return, but this message sits below the bold headline 'You do not need to send a Self Assessment tax return'. The tool does not mention any deadline for contacting HMRC, nor the late filing penalties which might still apply if a taxpayer waits until after the statutory deadline.

We also understand HMRC is working on further improving their interactive service on GOV.UK, aimed at taxpayers who have received late filing penalties for self assessment tax returns. This would provide a route for taxpayers to get these penalties cancelled if they have not yet submitted their return and they do not meet HMRC's self assessment criteria. However, at the time of writing, it is still in development.

For the current messaging on a standard notice to file, see Appendix 3a. The existing wording is confusing. The taxpayer is told clearly 'You need to file your tax return' at the head of the letter, so they may not think that the section headed 'If you don't think you need to file a return' applies. The phrase 'need to file' is used in two different senses: the first relating to the legal obligation, the second to whether the taxpayer falls within the self assessment criteria. The wording outlined by us in red also does not explicitly refer to the cancellation of penalties if the filing requirement is withdrawn (and nor does the GOV.UK page which the taxpayer is instructed to look up for more information).

However, the wording on the penalty notice is worse (Appendix 3b). The first page of the letter clearly instructs the taxpayer to file their return and pay the penalty, even though this may not be in their interest. It is only on the second page of the letter, towards the end, that there is some wording (outlined by us in red) about not 'needing' to file a tax return – but again, the wording is confusing and there is nothing to suggest that the late filing penalties can be cancelled if HMRC agree to withdraw the filing requirement. We think unrepresented taxpayers in receipt of such a penalty notice who do not meet the self assessment criteria are more likely to file the return than to realise that the filing requirement can be withdrawn and the penalties cancelled automatically.

**HMRC should consider how the messaging on notices to file and penalty notices can be improved to highlight the facts that (a) it is possible to get a filing requirement withdrawn and (b) doing so will result in the cancellation of late filing penalties.**

**HMRC call centre staff and webchat advisers should also be better trained to check whether the self assessment criteria are met when late filing penalties have been issued, to see if there is an opportunity for the filing requirement to be withdrawn.**

**HMRC should expedite their work on their interactive service which aims to remove taxpayers from self assessment if they do not meet the self assessment criteria.**

### **Further safeguards**

Even with improved messaging and training of HMRC staff, there is still the potential for taxpayers to fall through the gaps. We find it unjust that the structure of the law is such that a taxpayer should potentially be disadvantaged by complying with a legal obligation.

To mitigate that inequity, we therefore urge HMRC to consider the following two additional safeguards:

**HMRC should automatically cancel late filing penalties if a return is submitted which demonstrates that the taxpayer did not meet the self assessment criteria. HMRC already have systems to determine this is the case, because the taxpayer would usually be automatically removed from self assessment for the following year.**

**If this is not possible, then HMRC might commit to treating as a reasonable excuse the case where a taxpayer did not file a tax return on time because they did not meet HMRC's self assessment criteria and consequently believed that they did not need to file the return.**

# Appendix 1

## Background to the current system of late filing penalties for self assessment

Prior to the 2010/11 tax year, late filing penalties were capped by the amount of tax owed at the filing date.<sup>xxix</sup> This meant that:

- An individual who did not owe any further tax to HMRC, or was due a refund, could essentially ignore late filing penalties which might be issued while the return was outstanding, because they knew that once the return was submitted those penalties would be cancelled.
- Sanctions for late filing were therefore, ultimately, focussed on the remainder of the self assessment population. This meant that only those who believed they owed tax were incentivised to work out that tax liability and file on time. This presumably also meant that those taxpayers were more likely to pay on time, too. Those who believed they did not owe any tax were not ultimately penalised for declaring that fact late (though late filing penalties were still issued in the interim).
- To some degree, penalty capping was viewed as an additional safeguard for individuals on a low income. It meant that individuals who did not owe any tax because, for example, their total taxable income was less than their personal allowance, would not face penalties which might be disproportionate to their income if filing their return late.

However, HMRC said that this system was problematic:

- While the tax return was outstanding, it was not possible for HMRC to distinguish between a taxpayer who was filing late because they thought they did not owe any tax and a taxpayer who was avoiding their obligations to pay tax by failing to submit a return.
- There was little incentive for non-taxpayers to file their returns on time, as the late filing penalty in these cases was unable to achieve its deterrent effect.
- It was administratively costly for HMRC to chase these outstanding returns.
- There was also a question of fairness between taxpayers and non-taxpayers, and knock-on impacts for trust in the tax system.


Accordingly, a consultation was launched by HMRC in 2008, 'Meeting the obligations to file returns and pay tax on time',<sup>xxx</sup> which led to reforms contained in Schedule 55, Finance Act 2009.

## Comparison of maximum annual penalties for non-taxpayers, under the current penalty system and penalty reform for self assessment (MTD and non-MTD case)

Current self assessment late filing penalty system	Under penalty reform for self assessment (annual filer, non-MTD case)	Under penalty reform for self assessment (non-volunteer MTD case)
<ul style="list-style-type: none"> <li>• Automatic £100 penalty immediately after statutory deadline is missed for filing the return.</li> <li>• Daily penalties of (usually) £10 a day while the return is between 3 to 6 months late (that is, a maximum of £900).</li> <li>• Six-month penalty: £300 or 5% of tax (whichever greater).</li> <li>• 12-month penalty: £300 or 5% of tax (whichever greater).</li> <li>• A return outstanding for 12 months therefore accrues minimum late filing penalties of £1,600.</li> </ul>	<ul style="list-style-type: none"> <li>• If a statutory filing deadline is missed as a one-off, the taxpayer is awarded one penalty point.<sup>xxxi</sup> There is no financial penalty. Provided there are no other missed annual obligations, this point will expire after 24 months.<sup>xxxii</sup></li> <li>• But if the taxpayer misses another deadline and is awarded a further penalty point before the first point has expired, they have now reached the penalty threshold of 2 points. They therefore receive a £200 penalty.</li> <li>• Each subsequent missed annual obligation will trigger a further £200 penalty until points are reset – this broadly requires a 24-month ‘period of compliance’.</li> </ul>	<ul style="list-style-type: none"> <li>• An individual will typically have five filing obligations in the year (four quarterly update submissions and a final declaration).</li> <li>• The penalty points threshold is 4.</li> <li>• The period of compliance required to reset penalty points to zero once at the threshold is 12 months, but all outstanding filing obligations for the previous 24 months must also be submitted before the points total can be reset.</li> <li>• For example, suppose in year 1 an individual misses all five filing obligations. They will have accrued the maximum penalty points and received 2 x £200 penalties (for the 4th and 5th missed obligation) – i.e. a total of £400.</li> <li>• In year 2, if they continue to miss all five filing obligations for that year, they will receive £200 x 5 = £1,000 in filing penalties for that year.</li> </ul>
<p>For a non-taxpayer, where the 6-month and 12-month penalties would be £300, the maximum annual penalties for persistent non-compliance would be <b>£1,600</b>.</p>	<p>For a non-taxpayer, the maximum annual penalties for persistent non-compliance would be <b>£200</b>.</p>	<p>For a non-taxpayer, the maximum annual penalties for persistent non-compliance is <b>£1,000</b>.</p>

# Appendix 3a

## Sample notice to file



**HM Revenue  
& Customs**

**Notice to complete a  
Self Assessment tax return**

UTR [REDACTED]  
Tax Reference [REDACTED]  
Employer Reference [REDACTED]

Date 06 April 2024

HM Revenue and Customs  
SELF ASSESSMENT  
HM REVENUE & CUSTOMS  
BX9 1AS

Phone 0300 200 3310

---

**You need to file your tax return for the tax year 6 April 2023 to 5 April 2024**

Our records show you need to file a Self Assessment tax return for April 2023 to April 2024. By law, you must file a return. That applies even if you've already paid all the tax you owe, or you don't think you owe any tax.

**When you need to file your tax return**

- If you file online, you must file your return by 31 January 2025 (or 3 months after the date of this notice, whichever is later)
- If you file a paper return, you have less time and must file your return by 31 October 2024 (or 3 months after the date of this notice, whichever is later)
- If you want us to collect any tax you owe through your pay or pension in the 2025-2026 tax year, and you owe less than £3,000, you must file your return by 30 December 2024.

**We charge penalties for late filing of a return**

The penalty for missing the deadline is £100 (or £100 for each of the partners if you're filing a Partnership return). There are further penalties if your return is late by 3, 6 and 12 months.

**If you don't think you need to file a return**

You must tell us if you think you no longer need to file a tax return. We need to agree this with you before 31 January 2025 or you may have to pay a penalty. For more information, go to GOV.UK and search 'if you no longer need to send a tax return'.

**If you owe any tax, you'll need to pay by 31 January 2025**

Or 3 months after the date of this notice, whichever is later. For guidance on how to pay, including options on making regular payments, go to GOV.UK and search 'pay your Self Assessment tax bill'.

**If you need to file a Partnership return**

If this notice is in the name of a particular partner, by law that partner must file the return, along with any other information we ask for.

If this notice is in the name of the Partnership, the other members of the Partnership can nominate one partner, who must by law complete and file the return. If the partners can't nominate someone, they should ask us to do so.

You'll need to have commercial software to send a Partnership or Trust and Estate return online, or if you're a minister of religion or lived abroad as a non-resident. For more information, go to GOV.UK and search 'Self Assessment commercial software'.

SA316

Page 1


HMRC 11/23

N.B. The red outline has been added by LITRG to highlight the relevant text. It does not appear on the letter itself.



# Appendix 3b

## Sample penalty notice



**HM Revenue  
& Customs**

**Self Assessment: Late tax return  
Notice of penalty assessment**

Tax Reference [REDACTED]

Date 13 February 2024

Issued by:  
HM Revenue and Customs  
SELF ASSESSMENT  
HM REVENUE & CUSTOMS

BX9 1AS

Phone 0300 200 3310

For: [REDACTED]

Ref: [REDACTED]

**We didn't receive your tax return on time**

We've charged you a £100 penalty because we didn't receive your tax return for the year ended 5 April 2023 on time.

You'll need to pay the penalty within 30 days of the date of this letter. We charge interest on late payments.

**What you need to do**

1. Send us your tax return now.
2. Clear any outstanding tax balance.
3. Pay the penalty.

**How to send us your tax return**

The quickest way to file your return is to log in to your HMRC Online Services account. Go to **GOV.UK** and search 'Self Assessment', then choose 'File your Self Assessment tax return online'.

If you don't have an account, you can register for one. Go to **GOV.UK** and search 'Self Assessment', then choose 'Registering and sending a return'.

You must send us a tax return, even if you don't think you owe any tax, or you've already paid all the tax you owe.

SA326D HMRC 02/24

**Paying HMRC**

**Ways to pay**

**Direct Debit**  
Set up a Direct Debit through your HM Revenue and Customs online account. Go to [www.gov.uk/pay-tax-direct-debit](http://www.gov.uk/pay-tax-direct-debit) and follow the instructions.

**Bank details for online or telephone banking, CHAPS, Bacs**  
Make a transfer from your bank account by Faster Payments, CHAPS or Bacs. Pay into account number 12001020, sort code 08-32-10, account name 'HMRC Shipley' using payment reference [REDACTED]

**By online card payment**  
Go to [www.gov.uk/dealing-with-hmrc/paying-hmrc](http://www.gov.uk/dealing-with-hmrc/paying-hmrc) and follow the instructions.

**At your bank or building society**  
Pay by cash or cheque at your branch. Make cheques payable to 'HM Revenue and Customs only [REDACTED]'.

**By cheque through the post**  
Send your payslip and a cheque payable to 'HM Revenue and Customs only [REDACTED]':  
HM Revenue and Customs  
Direct  
BX5 5BD

**Payment questions**  
Go to [www.gov.uk/pay-self-assessment-tax-bill](http://www.gov.uk/pay-self-assessment-tax-bill)

HMRYE\_4\_L802065\_06032410283311021642021

**How to pay**  
The easiest way to pay is online. Go to **GOV.UK** and search 'Self Assessment', then choose 'pay your Self Assessment tax bill'.

**If you don't file your tax return or pay what you owe**  
If you still haven't filed your return 3 months after the deadline, we'll start charging you £10 a day until we receive it. We can charge daily penalties for up to 90 days, starting from 01 February 2024 for paper returns or 01 May 2024 for online returns.

If you also don't pay the tax you owe on time, you may have to pay a separate penalty. This is on top of the penalty for not sending your tax return on time.

**If you don't think you should have to pay this penalty**  
If you believe you sent your tax return on time, please call us on 0300 200 3310 or write to us at the address at the top of this letter. Please include full details of how you sent your tax return and when.

If you believe you have a good reason for not sending your tax return on time, you can appeal against this penalty. You need to appeal within 30 days of the date of this letter – please read the enclosed leaflet first.

If you think you don't need to send a tax return for the year ended 5 April 2023, use our online tool to check. Go to **GOV.UK** and search 'Self Assessment'. Choose 'who must send a tax return' then 'check if you need to send a tax return'.

If you don't need to send us a return because you're no longer self-employed, go to **GOV.UK** and search 'stop being self-employed', then choose 'tell HMRC you're stopping self-employment'. If you don't need to send us a return for another reason, please call us on 0300 200 3310.

If you've filed your return and paid in the last 2 weeks, thank you. You don't need to do anything else.

If you have someone who helps you with your tax affairs, you may want to show them this letter.

**We issue penalty notices over a number of days so there's no need to tell us if you've received yours late. We've given you more time to appeal your penalty. You now have until 21st April 2024.**

N.B. The red outline has been added by LITRG to highlight the relevant text. It does not appear on the letter itself.

# References

<sup>i</sup> Schedule 55, Finance Act 2009 (brought into force by The Finance Act 2009, Schedules 55 and 56 (Income Tax Self Assessment and Pension Schemes) (Appointed Days and Consequential and Savings Provisions) Order 2011)

<sup>ii</sup> The purpose of penalties was explored in HMRC's February 2024 call for evidence: [The Tax Administration Framework Review: enquiry and assessment powers, penalties, safeguards](#). LITRG [responded](#) to that call for evidence.

<sup>iii</sup> HMRC Press Release, [A record 11.5 million tax returns filed by the deadline](#), 1 February 2024

<sup>iv</sup> HMRC Press Release, [A record 11.4 million tax returns received on time](#), 1 February 2023. The proportion of late tax returns compared to total tax returns due has also increased: for 2022/23, the proportion of late returns was  $1,000,000/12,060,872 = 8.29\%$ ; for 2023/24 the figure is  $1,100,000/12,187,811 = 9.02\%$ .

<sup>v</sup> Out of 5,344 cases. This is the latest information available.

<sup>vi</sup> A freedom of information request submitted by RSM UK indicated that for 2021/22, c.95,000 individuals with income below £12,570 suffered a £100 late filing penalty. See [95,000 with low incomes and no tax liability suffer £100 penalties](#), RSM UK, 26 June 2024.

<sup>vii</sup> [Section 8B](#), Taxes Management Act 1970, introduced through s 233 and Schedule 51 Finance Act 2013

<sup>viii</sup> See [CH173000](#) and [CH170600](#)

<sup>ix</sup> See, for example, [Pokorowski v HMRC \[2019\] UKFTT 86](#)

<sup>x</sup> HMRC Admin Law Manual, [ADML3200](#)

<sup>xi</sup> This is considered under HMRC's Debt Management and Banking Manual, [DMBM735000](#) et seq, though unfortunately much of the content is redacted because of exemptions under the Freedom of Information Act 2000.

<sup>xii</sup> See paragraph 4.4.8 of LITRG's [response](#)

<sup>xiii</sup> HMRC discussion document, [HMRC Penalties](#), February 2015

<sup>xiv</sup> HMRC policy paper, [Making Tax Digital volunteers and penalties](#), November 2023

<sup>xv</sup> HMRC policy paper, [Interest harmonisation and penalties for late payment and late submission](#) (updated November 2023)

<sup>xvi</sup> For example, see the [preamble](#) to HMRC's Policy Paper on Penalty Reform for MTD for ITSA volunteers

<sup>xvii</sup> HMRC consultation document, [Simplifying and modernising HMRC's Income Tax services through the tax administration framework](#), paragraph 4.17, March 2023

<sup>xviii</sup> [Section 7](#), Taxes Management Act 1970

<sup>xix</sup> [Section 8](#), Taxes Management Act 1970

<sup>xx</sup> The criteria are set out in multiple places. See the [annex](#) to the March 2023 HMRC consultation document, 'Simplifying and modernising HMRC's Income Tax services through the tax administration framework'. See also HMRC's manual at [SAM100050](#) and [SAM100060](#), GOV.UK guidance on [Who must send a tax return](#), and the [Check if you need to send a Self Assessment tax return](#) tool. It is not clear which source HMRC consider to be definitive and there are some inconsistencies (for example, where taxpayers have foreign income)

<sup>xxi</sup> [Section 7\(1C\)](#), Taxes Management Act 1970

<sup>xxii</sup> For example, this issue was discussed on BBC Breakfast on 24 April 2024. See also our blog post of 1 February 2024, [Tax on state pensions: looking back and ahead](#).

<sup>xxiii</sup> For example, see [this result](#) of the GOV.UK 'Check if you need to send a Self Assessment tax return' tool. But if an individual cannot be liable to tax (or NIC) under self-assessment, then the source of income falls within [section 7\(7\)](#) of Taxes Management Act 1970, which means the obligation to notify chargeability under that section is disapplied

<sup>xxiv</sup> See [Mohammed Salem Kadhem v HMRC \[2017\] UKFTT 0466 \(TC\)](#)

<sup>xxv</sup> HMRC consultation document, [Simplifying and modernising HMRC's Income Tax services through the tax administration framework](#), March 2023

<sup>xxvi</sup> [Section 8B](#), Taxes Management Act 1970

<sup>xxvii</sup> HMRC's Compliance Handbook, [CH61700](#)

<sup>xxviii</sup> [Section 8B\(3\)](#), Taxes Management Act 1970

<sup>xxix</sup> [Section 93, Taxes Management Act 1970](#) (now repealed)

<sup>xxx</sup> Available through [The National Archives](#)

<sup>xxx</sup><sub>i</sub> However, HMRC have the discretion not to award a penalty point when someone is liable (paragraph 6(1), Schedule 24, Finance Act 2021).

<sup>xxx</sup><sub>ii</sub> The 24-month period begins with the first day of the month after the month in which the failure occurs (paragraph 7(2)(a), Schedule 24, Finance Act 2021). For an annual filing obligation due on 31 January 2026, the failure is deemed to occur on 1 February 2026, under paragraph 3(10) of that Schedule. The 24-month period would therefore end on 28 February 2028.

Low Incomes Tax Reform Group  
30 Monck Street  
London  
SW1P 2AP  
[www.litr.org.uk](http://www.litr.org.uk)

Reproduction, copying or extracting by any means of the whole or part of this publication must not be undertaken without the written permission of the publishers.

This publication is intended to be a general guide and cannot be a substitute for professional advice. Neither the authors nor the publisher accept any responsibility for loss occasioned to any person acting or refraining from acting as a result of material contained in this publication.

The Low Incomes Tax Reform Group is an initiative of the Chartered Institute of Taxation (Registered Charity number 1037771)



**Low Incomes  
Tax Reform  
Group.**

**A voice for the unrepresented.**

Cover image © Canva