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**Special Report ...**

# **“How To Avoid And Deal With Tax Investigations”**

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**Taxman:** *“The position is that if I don’t have one thousand pounds from you soon, you’re going to jail.”*

**Businessman:** *“Now you’re talking. Here’s one thousand pounds in used notes.”*

**Taxman:** *“Let me give you a receipt.”*

**Businessman:** *“What, a thousand nicker in cash and you’re going to put it through the books?”*

Guardian

## Hello

And welcome to **How To Avoid And Deal With Tax Investigations For Your Small Business.**

## Why This Report Has Been Created For You

- ☐ This report **focuses on small businesses**, identifies the key issues relating to tax investigations for them and uses jargon free language to explain them.
- ☐ By reading the report, it will help you **get inside the head of your accountant** to put you in a position to know if your accountant is doing everything possible for you. You won’t become a tax expert but it will enable you to have a sensible conversation with your accountant regarding what he or she should be looking at in your own situation.

## But My Accountant Would Deal With The Investigation For Me

They may do, but consider the following...

- ☐ **How do you know** they are doing everything possible for you to help you? This report will help you find out.
- ☐ Not **all accountants are the same**. Of course, partly thanks to Monty Python there is the stereotype of the accountant being that “appallingly dull fellow, unimaginative, timid, spineless, easily dominated, no sense of humour, tedious company and irrepressibly drab and awful”. But not all accountants are like this!
- ☐ Because your accountant is qualified, doesn’t mean he or she automatically has a high level of tax investigation skills and you need to find one suitable to you.
- ☐ Different accountants have different attitudes to tax planning and it’s **attitude** that counts for so much.
- ☐ **Are you sure** if your accountant is doing a good job for you in an investigation. This report will help you to decide and then you can make an informed decision to do something about it. This report will allow you to have a more informed discussion with them. If you don’t know what to discuss in the first place, you can’t do anything about it. **Knowledge is everything.**

## Tax Evasion v Tax Avoidance & Why The Taxman Isn’t Always Right

In very simple terms, **tax evasion is illegal and tax avoidance isn’t.**

A few examples will show the difference...

- The most common example of Tax Evasion amongst small businesses is making **cash sales** and not putting this money into your bank account or recording it in your accounting records, so the tax man will never know about it, or so you think!
- A slightly more thought out example, may be making up some **forged purchase invoices**. You write out the cheques to pay them with the name of the fictitious supplier on the cheque stub but it’s actually made payable to you and goes into a secret offshore account. Again, this is evasion and is illegal.
- Choosing to run your business as a Limited Company rather than as a sole trader in order to benefit from lower rates of tax paid by Limited Companies is an example of Tax Avoidance and is **legal**.

But it’s not always black and white, there are grey areas...

- ☐ This may be because the **law itself is in question** or the facts of your particular case are in question. It often arises that HMRC may interpret something in one way, surprisingly to their advantage, but the accountant and the taxpayer may interpret it differently.
- ☐ Please remember that HMRC **do not make the law of the land** and they often get it wrong. Be prepared to stand up for your rights if necessary and don't be bullied by them.
- ☐ You should fight HMRC on technical grounds and they will respect you for it. If you can't come to an agreement with HMRC, the matter normally ends up before a Tax Tribunal which is an independent Tax Court to decide the matter. **Many accountants don't like going to the Tax Tribunals** but they shouldn't be afraid to go if they have a reasonable argument.
- ☐ The Taxman knows it costs you money in accountants fees to argue with them and you may back down as the tax saved is not worth it after paying your accountant. In these situations look at getting your accountant to work on a **no win, no fee basis** for you.

## TAX WARNING AGAIN

Do not attempt to implement any tax idea in this report without talking to an accountant who specialises in tax planning first to get full information on the idea in your own personal circumstances, as not all ideas may be suitable for **you**.

OK, so that's the background. Let's get on with looking at tax investigations...

## Understand The Type Of Enquiry You Have

Technically we now start with **enquiries** rather than **investigations** into your Tax Return. Let's start with the basic facts...

- ☐ The enquiry may be an **aspect** enquiry into one aspect of your tax return or a **general** enquiry into the whole return.
- ☐ Over 250,000 enquires are carried out every year and most are innocent enough affairs but if it leads to a full-blown investigation, it's not nice.
- ☐ The change to the self-assessment system has allowed HMRC to spend **more time** on enquiries and they have also put more and more resources into it.
- ☐ Interestingly, most enquiries are into the affairs of men, rather than women.
- ☐ HMRC are also becoming more business like, targeting the businesses where they are most likely to get a result.
- ☐ Whether they admit it or not, HMRC do have internal **targets** for the number of investigations to be carried out that are there to be met.
- ☐ HMRC may select you for enquiry for a reason or you may be chosen at **random** for a full enquiry.
- ☐ The problem is, they **don't tell** you whether you have been picked randomly or not, and they don't tell you what they already know. They often indicate they know something to make you confess to perhaps more than they know about.
- ☐ It all starts with a standard letter saying they are going to make an enquiry into your return and assuming you have an accountant, they will send a separate letter to them with the details of what their enquiries are. From this you can normally tell whether it is an aspect or general enquiry into the whole return.
- ☐ Aspect enquiries do have the potential to turn into full enquiries. A full enquiry will turn into an investigation when it spreads over into looking into your affairs for **more than one year**.
- ☐ With effect from 2007/08 onwards HMRC have one year after the date you file your tax return to enquire into it.

After that you are safe unless they make a **discovery** of **fraudulent** or **negligent** behaviour. In these cases they can go back up to **20 years**, although **6 years** is the norm. It therefore helps to give them all relevant information when submitting your return to help ensure finality.

- ☐ Even your death isn't the end of the matter as the enquiry can still continue through your representatives. In war, your death is the end, but not so with tax.

## What's At Stake?

As an example, let us say the Taxman finds just £1000 of income that hasn't been declared on a return, the tax on this could be £400.

If they can show this was **likely (not proven)** to have occurred for **6 years**, that tax bill becomes £2400. **Interest** will now be due on this, which could perhaps be another £1000.

In addition, there can be a **penalty** that can be as much as the tax. And in some situations from 1 April 2011 this can be up to 200% of the tax for those with financial interests outside the UK who have failed to declare the full extent of their offshore liabilities.

You are now looking at a tax bill of up to £5800, just because they found £1000 of income missing in one year.

Imagine how much you're looking at if £20,000 was missing from your accounts in a year.

Aspect enquiries often tend not to lead to fines and penalties but general enquiries are more likely to. **Jail** is always an option but very rare amongst small businesses and is reserved for cases of serious fraud.

**Accountants** are more likely to go to jail for tax evasion and no doubt lists of dodgy agents exist at local tax offices whose clients are therefore more prone to enquiry.

The problem with investigations is that the Inspector seems to have all the time in the world to go through your affairs with a fine tooth comb, to the extent of identifying what restaurants you eat in, where you go on holiday, etc. They do this to try to prove the income declared in your accounts cannot support your lifestyle. They may want detailed information going back years.

Can you...

- ☐ Remember why you didn't have any cash takings on the 3<sup>rd</sup> November 2001?
- ☐ Identify where a banking in your private bank account 6 years ago for £123.18 came from?



☐ Remember how much a week you spent on milk in 2002?

It's not out of the question that some tax inspectors will want to know the answers and be suspicious if you can't answer.

The taxpayer on the other hand has to pay an accountant and so time is often limited by **cost constraints** and even when you've done nothing wrong. It can end up being easier for some taxpayers to just give up the fight, particularly when the investigation has been going on for a couple of years.

Please note a full investigation can take **years**, not months to conclude.

Both the financial pressure and the pressure of just dealing with the investigation enquiries can be an enormous strain to taxpayers if they let it get on top of them. It's important not to panic or be pressurised into surrendering.

Also, did you know **accountancy expenses** in dealing with a tax investigation are **not** usually deductible as an expense against tax.

Sometimes it doesn't pay to own your own home, have savings, etc. There are some clients that just don't worry about a Tax Investigation and are happy to concede whatever the Taxman wants. Often, these are clients with **few assets** who know that whatever the Inspectors finds, they **can't pay**. If you haven't got the assets to pay, HMRC aren't going to be able to take anything from you. If this is the case with you, it helps to point this out at an early stage.

Remember also, ignorance of the law is no excuse. As Lord Denning once said, "ignorance is a misfortune, not a privilege."

## Why Do Enquiries Start?

A tax enquiry often starts because HMRC has some information on you. They try to select those cases where they feel there is a good chance of a successful outcome from their point of view.

They keep a file on you so that as much information as possible is kept in one place.

This means that they can review your affairs properly and it is often information from other sources that may lead to an investigation. So ensure you are properly prepared before meeting with the inspector as they have information from many sources...

☐ **The Informers**

HMRC have a special hotline for informers to call as well as being able to report via the HMRC website and all informers can do so anonymously if they wish. There are many jealous neighbours, disgruntled customers, ex lovers and particularly **ex spouses** out there. Not all accusations are true but it could be the start of your enquiry.

☐ **The Curious Inspector**

Part of the make up of being a tax inspector is to be naturally curious. How do their neighbours afford that expensive new car? They read local newspapers; scan the Internet, etc looking for anything that they can check against the information they hold on you.

If you're going to do a job cheaper for cash, you'd better hope, it's not for a tax inspector. Do you know what all your customers do for a living?

☐ **From Other Taxpayer Enquiries**

Fred in the course of his investigation mentions that you lent him £15,000. The Taxman may want to discuss with you where you got this £15,000 from.

☐ **Other Taxpayers Accounts**

For, example the inspector can request details of who commissions or rent in another taxpayer's accounts are paid to, in order to ensure they are declared by the recipient.

☐ **Links With Customs & Excise & Government Departments**

The Revenue are now combined with Customs & Excise as well as having better links with other government departments. This also means that when your investigation finishes and you have undeclared cash takings, you are also likely to be clobbered by the VATman for the VAT due on them.

Even worse, if you weren't registered and your higher income now puts you over the VAT registration limit.

The **Collector of Taxes** may comment on the affluence of homes of people he visits and report payments in cash!

The **Stamp office** will report property transactions.

☐ **Explanations On Your Tax Return**

Or rather, a lack of them. For owners of small businesses, enquiries often stem from their business accounts. The simplest way to avoid an investigation is to avoid an enquiry being made into your Return in the first place. The best way to do this is to explain anything unusual when your Tax Return is submitted rather than just sending it in without any explanations.

Your Tax Return is originally processed by a **computer** that carries out **analytical checks** on the figures to look for unusual items. If you know

there is something unusual, explain it in the white space on your return, and then HMRC are far less likely to start an enquiry. It is crucial your accountant does this although often it doesn't seem to happen.

Examples of things you might explain:

- ◆ If profits or drawings are low, how have you lived?
- ◆ If you introduced some money into the business, where did it come from?
- ◆ If the gross profit margin has changed significantly, why is this?
- ◆ If any expenses are unusually high, why is this?
- ◆ If sales have fallen, why is this?

You are looking for anything that is unusual, looking particularly at what HMRC already knows about you from previous years.

Most of these will have simple explanations, so give them now and stop an enquiry being made.

Another reason for an enquiry could be that you haven't declared any interest being received in the year but HMRC knows you have an interest earning account. Is this where you have filtered away undeclared profits they wonder?

#### ☐ **Get It In On Time**

Sending Returns in late is also more likely to lead to an enquiry, so be organised. After all, if your Return goes in late it's an indication you are **disorganised** and so maybe your accounting records are a bit disorganised and may not be correct.

**Random enquiries** – a percentage of returns are also randomly selected for enquiry and there's nothing you can do to prevent these.

## **The Inspector's Job Is To Find The Correct Amount Of Tax Payable, Isn't It?**

The Inspector will always tell you this at the start of an enquiry.

Often with investigations, **there isn't always a right and wrong answer**. In fact if you ask 10 different accountants to prepare your accounts, you'll get 10 different profit figures.

If in an investigation it was shown there were cash sales not declared or recorded, how do you get to the correct amount, particularly going back 6 years. The Inspector may present you with a financial model they have built up of you and your business to suggest the amount, but different models can arrive at different figures and the assumptions for each model may be in dispute.

Therefore, you often find that **tactical negotiations** between your accountant and the Inspector come into play. The Inspector has to abide by their own Charter for dealing with investigations. If they do something procedurally wrong, it gives you the opportunity to take the initiative and use it to your advantage in negotiations.

If you can't agree with the Inspector, the matter would normally end up being decided a Tax Tribunal, an informal independent tax court. Your accountant should never be afraid of taking your case to the tribunal. If the inspector has done something wrong, do they really want this information being brought to the attention of the tribunal? Everyone makes mistakes and if they have they'll often be more open to negotiation.

The **first tier tax tribunals** tend to hear most cases relating to small businesses. The hearings are in private and informal often held around a table. More complicated cases of a technical nature may go before the **upper tax tribunals** where they are tax experts and they are a more formal court.

## Do You Use Your Existing Accountant?

Why you should...

- ◆ The existing accountant has **prepared the accounts** and has a lot of the detail already. This helps keep their fees down.
- ◆ They **feel bad** that the investigation arose from accounts they sent in, even though in reality it may well not be their fault. This could help in the fees that they charge.

However, with an investigation, you should be prepared to pay for the right help as it is a specialist type of service. Not getting the right help can be **extremely costly** given the amount of tax at stake. So possible reasons not to use your existing accountant are...

- ◆ Many accountants do not like dealing with investigation cases and some do. If you find an accountant who loves them, chances are he's the one for you.

- ◆ You want an accountant who is going to take the **initiative**, not just act as a middleman passing information backwards and forwards to the Tax Inspector. You can do this yourself without paying for it. Is your accountant the proactive type who will take the initiative?
- ◆ **You don't have to** use your existing accountant.
- ◆ You can change accountant at any time **during** an investigation.

Just imagine a client being dealt with by a rather aggressive tax inspector. – not unheard of! The investigation could have been going on for 2 years, nearing its end with the client about to sign a contract settlement for around £200,000. This would probably ruin the client. Having run out of options, he may consult another accountant as a last desperate measure.

Now imagine being the Tax Inspector on the other end of the phone, when they got the phone call informing them that the investigation they had spent two years on and were about to settle for a nice £200K had now been taken over by another accountant. That accountant wanted the inspector to copy every single paper and document that had been generated during the enquiry for review and the case was effectively being **starting again**.

There is nothing to stop you doing this.

It can often be helpful to resolve matters because the existing accountant and the Inspector can become so embroiled in the finer detail of the investigation, that they can't see the wood from the trees and get entrenched in their respective positions.

In the case of the client owing £200K, this was a real life case and various procedural and other errors were found. A meeting was arranged just with the tax inspector. 3 hours later there was a deal at around £80,000. Not a bad result and the client got to fight another day.

## The Inspection Of Your Accounting Records

The Inspector will want to see all your accounting records. That includes bank statements, invoices, cheque stubs, paying in books, etc. It may also extend to items such as your work diary.

The issues revolving around this request are...

- ☐ You may prefer not to send them to the Inspector as this allows them to go through them at their leisure but ask for them to be inspected at your **accountant's office**. It's not normally recommended to have inspections at your own premises due to the opportunity offered to raise even more questions based on what the Inspector sees there.
- ☐ They are entitled to take **copies** of any documents and even take the originals away but you can argue you need them to run your business. The more they have to copy perhaps the less likely they are to take as many.
- ☐ Never, give them your records on **computer disc** as they have the technology to interrogate your computer records to raise even more questions. Always provide printouts.
- ☐ Never, make up **false invoices** or records retrospectively as they have the technology to date the ink.
- ☐ Many investigations arise when the Taxman doesn't fully understand your business and perhaps why you make the profit margins you do. As a result the Taxman may start an investigation and start with asking to see all of your business records. If you give them to him you give control to the Taxman.

You could instead start by offering to explain to him your business and how it works which may reduce the necessity for him to widen the investigation into looking at your records.
- ☐ They can only ask for information that is **reasonable** (fair & sensible) so don't let them overstep the mark. Sometimes, a request for private bank statements is reasonable and sometimes not, especially on the first request for records.

The reasons the inspector wants the **private bank statements** are:

- ◆ He is looking for **bankings** that haven't been taxed, particularly undeclared business takings. He is also on the look out for sales of assets he wasn't aware of and may want to know where you got the money from in the first place to buy them.
- ◆ He may ask you to prove that all the income on your tax return, such as dividends is banked in your personal account. If not, this may mean there is a second **undisclosed** account around he would like to see!
- ◆ He will also use your private bank statements to build a picture of the regular payments that go out of your account to get an idea of your **lifestyle** and see if you can afford it on the income you have declared. This information will then be used to catch you off guard at a meeting with him.

♦ If he sees no cash withdrawals out of the account he may be suspicious as he may take the view no one can live without cash. However, you can get cashback in many shops these days on debit cards, state benefits could be paid to you in cash, or perhaps older children with jobs or your spouse have their own accounts that cash is got from for family use.

It is normally best to let the Inspector see the records **first** before meeting them otherwise you often end up with the Inspector wanting another meeting after they have gone through the records. Better to get it all sorted in one meeting if possible. That's if you are going to have a meeting at all...

## Meeting The Tax Inspector

Early on in an enquiry the Tax Inspector may want to meet with the taxpayer. It is **not compulsory** to attend but it can help to speed the investigation up and if you choose not to attend it may be seen as a lack of co-operation or suspicious by the Inspector.

Whether you go or not is a decision to be made on a case-by-case basis. Are you likely to help your cause by going, will you talk too much or lose your temper when interrogated for a couple of hours?

Whilst you do not have to attend a meeting, if the investigation ends with the Inspector finding additional tax liabilities on which **penalties** are due, the size of those penalties will depend on your level of co-operation and refusal to attend meetings may not help you here. Therefore, perhaps only if you are absolutely sure there is nothing for the inspector to find should you insist on not attending an interview?

If there isn't a meeting, everything has to be done by correspondence.

Let's find out a bit more about the meeting and how to handle it...

- ☐ If you do have a meeting, you should ask for an **agenda** and list of questions before attending so that you can prepare. You don't want the Inspector going on a fishing expedition into your affairs.
- ☐ This meeting is a prime time for the Inspector to find out all about you, your lifestyle and your business. It is one of the key moments so you need to be prepared for it. You should ideally have a **mock meeting** with your accountant first so you know what to expect. Only answer the questions, do not ramble. The more you talk, the more this is likely to lead to never ending questions.
- ☐ Open questions will be used to get you talking more than you should. A typical one may be **"Now Tell Me About Your Business"**. A reply something like, "What specifically would you like to know about my

business?” may be the best response.

Only try to answer specific questions and one item at a time. As they say, “give a guilty man enough rope & he’ll often hang himself.”

- ☐ **Don't** answer questions of detail that really need more consideration or are impossible to answer from memory. You can then reply to these in writing.
- ☐ If you feel more comfortable get the meeting at your **accountants office** rather than on the Inspectors turf. Don’t be bullied into going to their premises if you don’t want to.
- ☐ It’s up to you if you offer them a **cup of tea**, but they are unlikely to offer you one if you go to them!
- ☐ Always have your accountant attend the meeting.

You will be sent **notes of the interview** to sign to confirm they correctly record the meeting – these may go to 20 or more pages. Never sign them at the meeting if asked to. Even subsequently, there is no legal obligation to sign them, especially as they may contain errors. Its best to get someone to take notes of the meeting on your behalf, or even video it!

## Watch The Financial Models

The Inspector loves to present you with financial models, “proving” the undeclared profits.

Make sure you look at these models and the assumptions they are based on as the assumptions are often **open to debate**.

Also, ensure you check the **mathematical basis** for the model. This should be just the thing for your accountant.

One tax inspector presented a model that was supposed to prove the client had undeclared takings.

On the surface this model looked hard to defeat based on its assumptions. However, on closer inspection it was noticed the formulas used in the model were mathematically flawed. By using algebraic equations it was possible prove the model didn’t work and if corrected the result would be greatly in favour of the client.

On triumphantly showing this to the Tax Inspector, her response was she didn’t understand algebraic equations and there was no way it could be wrong because she had been using it on clients for years. Can you imagine all the taxpayers who have been wronged by this?



She wasn't having any of it and as it revolved around the use of VAT in the formula, stated that the VAT department of HMRC should check it out. It was protested that this was ludicrous as the only thing you needed to know About VAT to get the formula correct was that it was 17.5% and that anybody in HMRC who understood maths would be able to tell her she was wrong.

Despite this she insisted on the matter going off and it took a further 3 months before she grudgingly conceded, but no sign of an apology. This later helped in the final negotiations.

## How Else To Help Yourself

### ☐ Don't Be Funny

A lack of sense of humour probably isn't a prerequisite for working for HMRC, but many Inspectors seem to lack one. Apologies to all those OK inspectors.

The client who wrote "F.All" in one box on his tax return regarding a question about income, did not amuse the Tax Inspector until he pointed out it meant "Family Allowance".

### ☐ Meet The Deadlines

During the enquiry, the Inspector will expect you to reply and provide information by certain dates. Doing this can help with any final penalty you receive. Don't bury your head in the sand.

### ☐ Make A Payment On Account

If you know the Inspector is going to find you've underpaid on your taxes, then make a payment on account early on. It will stop interest running.

### ☐ Don't Be Bullied

Not all Tax Inspectors are the same and again apologies in advance to those that are always fair and reasonable, which many of them are.

However, you do get some Tax Inspectors who take the bullying approach to win. They have the full weight of HMRC behind them and they love using it. It's important not to let them get away with it and fight back.

You don't need to be aggressive in a personal manner but you do need to sometimes be aggressive **technically** by insisting on the rights that are enshrined in the legislation and by fighting on technical grounds wherever possible. Once you or more importantly your accountant does this, they will have more respect for you and are less likely to bully you again. HMRC would never like to admit it but it is far easier for them to pick on **weak accountants** without a great technical knowledge and natural human instinct may lead to this on their part.

Looking for errors that the Inspector has made procedurally is part of how to fight them. For example, they shouldn't just ask to see your **spouse's bank statements** without asking her permission. To do so is scandalous and yet Inspectors have been known to do it.

## Dealing With The Penalties

At the end of an enquiry or investigation, there may well be penalties to deal with.

Firstly, there is **interest** to pay but HMRC see this as just financial compensation for them not having use of the money from when it should have been payable and so is largely fair and at a reasonable interest rate.

However, **penalties** are also due. There is a new penalty regime for return periods starting on or after 1 April 2009 or where the due filing date is on or after 1 April 2009. In fact the new penalty system replaces all penalties for incorrect returns which lead to an underpayment of tax for income tax, corporation tax, PAYE, National Insurance and VAT.

Penalties under the new legislation are based on the potential lost revenue. The starting point for the **maximum** penalty depends on the behaviour that gave rise to the inaccuracy.

For unintentional errors...

- Mistakes made despite taking reasonable care – no penalty.
- Mistakes made where there is a lack of reasonable care (i.e. carelessness) – maximum penalty is 30% of the potential lost revenue.

For deliberate inaccuracies....

- For deliberate mis-statements – maximum penalty is 70% of the potential lost revenue.
- For deliberate mis-statements which are then concealed – maximum penalty of 100% of the potential lost revenue.

So the starting point involves an assessment of the behaviour that gave rise to the penalty. And what is reasonable care will vary from taxpayer to taxpayer and is judged on the circumstances and abilities of the individual.

The maximum penalties can be reduced based on the disclosure made by the taxpayer to the taxman. Where a **disclosure is unprompted** in that it is made at a time when the person making it has no reason to believe that

HMRC have discovered or are about to discover the inaccuracy, the **minimum** penalties can be as follows...

- For careless errors – 0% (as opposed to 30%)
- For deliberate mis-statements – 20% (as opposed to 70%)
- For deliberate mis-statements which are then concealed – 30% (as opposed to 100%)

However where a disclosure is **prompted** as opposed to unprompted the minimum penalties are as follows...

- For careless errors – 15% (as opposed to 30%)
- For deliberate mis-statements – 35% (as opposed to 70%)
- For deliberate mis-statements which are then concealed – 50% (as opposed to 100%)

Please note that once an enquiry starts, it would be very rare for a disclosure to be unprompted if it is about something related to the enquiry.

How much the penalty is reduced from the maximum penalty to the minimum penalty is then based on the quality of the disclosure. The **quality factors** to consider are...

- Telling HMRC about it – up to 30% reduction
- Helping HMRC to quantify the inaccuracy – up to 40% reduction
- Giving HMRC access to the records to ensure inaccuracy is fully corrected – up to 30% reduction

So for example, someone with a prompted disclosure of a deliberate mis-statement with concealment can have the penalty reduced from 100% to 50%. If you score 25%, 15% and 30% on the above 3 items, this will give a 70% reduction of the 50% reduction which is 35%. i.e. the penalty will be 100% less 35% = 65%!

If the penalty arose because you failed to take reasonable care, HMRC can **suspend** the penalty for a period of time, a bit like a suspended sentence. As long as you behave during that time, the penalty will not then be payable.

### The Old Penalties

Although the new regime is coming in based on return dates, there will still be penalties around under the old rules for some time. So these are summarised here.

The starting point is **100% of the tax** underpaid. That's an awful lot and another good reason to get your Tax Return right in the first place.

However, the penalties will be mitigated downwards according to certain factors as follows:

- ☐ Up to 40% discount relating to the amount of **tax at stake**.
- ☐ Up to 40% discount for the degree of **co-operation** of the taxpayer.
- ☐ Up to 20% discount for **voluntary disclosure** at an early stage.

In theory the penalty can go down to zero but this is rare. Something like a 10% to 30% penalty is more normal. If you disagree on the penalty, you can again make an appeal.

## Claim Compensation From The Taxman When He's Out Of Order

You will not get compensation for everyday mistakes, at most an apology. Examples of this include errors in inputting tax return information, incorrect calculations, wrong penalty notices etc.

To get compensation you need **serious or persistent errors**. A serious error is something that no responsible person acting in good faith and with proper care could reasonably have done. Perhaps wrong advice from the Taxman that you relied upon.

A persistent error is one where the Taxman continued with the mistake after it had been pointed out to him or keeps making the same mistake or made several unconnected mistakes in the any twelve-month period.

The compensation you will get will cover putting the tax position back to where it should have been, reimbursement of expenses or financial loss and a consolatory payment.

Making a claim of this kind is a **customer service issue** and the Taxman will not hold it against you in any way.

## Error Or Mistake Relief Claims

Although you normally only have one year after the filing deadline to amend your return, if you discover errors or mistakes that meant you overpaid tax going back up to 6 years, there are provisions within the legislation for making a claim for error or mistake relief.

These claims sometimes arise as a result of visiting earlier years during an investigation.

## And Always

Don't panic, get a good accountant and let them take the pressure off of you.