

This information sheet is one of a series produced by the States of Jersey Income Tax Office to explain various aspects of Jersey's new Goods and Services Tax (GST). Whilst care has been taken in its preparation, readers are advised to consult the Goods and Services Tax (Jersey) Law 2007 and the GST Regulations for authoritative text. In cases of conflicting interpretation, the legislation takes precedence.

#### Introduction

The Information sheet "GST: Estimated assessments and penalties" explains what penalties are available for GST. They include:

- a £200 penalty for late Returns,
- a 10% surcharge for late payments,
- a 10% surcharge for repeated errors, and
- a fine for failure to register.

This information sheet goes on to explain how and when these penalties will be applied, from July 2009 onwards. Other than in exceptional cases, Income Tax will adopt the same tried and tested criteria for reducing or waiving penalties as are used for business and personal tax. Where two penalties may apply for the same failure, only the higher will be imposed.

#### Reasonable excuse

In all cases except conduct involving dishonesty, a penalty will not be imposed (or will be withdrawn if it has been) where the taxable person demonstrates that they had a reasonable excuse for their action or omission.

There is no definition of "reasonable excuse" in GST or Income Tax Law or guidance, however the following are **not** regarded as a reasonable excuse:

- shortage of funds / cash flow difficulties, or
- reliance on a third party.

Circumstances that will be viewed sympathetically for reasonable excuse include:

- serious illness or injury of key personnel, where reasonable steps have been taken to cover this;
- loss of electronic data or accounting records;
- key records are held by a 3<sup>rd</sup> party who refuses to release them.

The list is not exhaustive.

#### Mitigation

Article 79 of the GST Law 2007 explains that the amounts or percentages of penalty or surcharge detailed in the Law are a maximum and may be mitigated downwards, including to zero. Mitigation of penalties in GST will follow established practice in Income Tax.

**The GST Team will not normally issue a penalty or surcharge if it is the first occurrence in the case of:**

1. failure to submit a GST Return or pay GST on time;
2. issuing an invoice showing "GST" while not registered (unless deliberately); or
3. making an error on a GST Return.

For a **second or subsequent occurrence**, a penalty or surcharge will not be issued where there is full, unprompted, voluntary disclosure followed by full co-operation and assistance in making good the non-compliance.

**A penalty of surcharge will be reduced by 60% where** an error on a GST Return is discovered in the course of enquiries by Income Tax followed by full co-operation and assistance in making good the non-compliance.

For **failure to register for GST**, a penalty will not be issued where there is full, unprompted voluntary disclosure followed by full co-operation and assistance in making good the non-compliance.

Where **failure to register for GST** is discovered in the course of enquiries by Income Tax, but followed by full co-operation and assistance in making good the non-compliance, the penalty will be reduced by 60%.

**Mitigation does not apply where:**

- there is general delay or prevarication,
- there is piecemeal disclosure and truthfulness,
- the irregularities continue in the course of the enquiries, or
- there are attempts at concealment.

Or

- Where the taxpayer has been demonstrably careless or negligent.

In all cases, where an amount of penalty is £50 or less, it will be waived.

**Conduct involving dishonesty**

Article 71 of the GST Law 2007 provides for penalty tax equal to the amount of GST evaded or sought to be evaded by the conduct. This includes dishonestly seeking a credit or refund of tax to which the person is not entitled, and also extends to partners and officers in the case of corporate dishonesty.

The amount of penalty will be reduced by –

- up to 20% for full, unprompted voluntary disclosure.
- up to 40% for full co-operation and assistance in making good the non-compliance.

The maximum reduction available is thus 60%.

**Can I appeal a penalty?**

Penalties and surcharges may be appealed under Article 84, GST Law 2007. Please see the Guide "GST: Appeals" for further information.

**Duplicate GST Returns**

GST Returns can be submitted electronically via the Income Tax Business-to-Business website using the link:  
[https://empret.jsytax.je/gstsecure/its\\_gstwebret.aspx](https://empret.jsytax.je/gstsecure/its_gstwebret.aspx)

If you need a duplicate hard copy Return, please contact the GST Help Desk as below.

**Where can I get further help?**

If you need further assistance please contact the GST Help Desk on:

- (01534) 440555 during office hours,
- by fax on 737978
- or by e-mail [gst@gov.je](mailto:gst@gov.je).

**How penalties will be applied**