

How will the new penalties apply under Schedule 55 FA 2009?

The new penalty system under **Schedule 55 Finance Act (FA) 2009** starts in October 2011 and replaces the current Section 98A penalty system. The first return to attract a penalty under Schedule 55 will be the return due for the month ended 5 November 2011.

Under Schedule 55, penalties will be charged as follows.

Initial failure to meet due date

If a return is not received by HMRC by its due date of the 19th of the month, a penalty of £100 will be charged.

Return still outstanding two months after due date

If the return has still not been received by HMRC two months after its due date, a further penalty of £200 will be charged.

Return still outstanding six months after due date

If the return is still outstanding six months after its due date, a 'tax-geared' penalty becomes due. This penalty is the greater of 5% of any deductions shown on the outstanding return or £300.

Return still outstanding twelve months after due date

If the return is still outstanding twelve months after its due date, a second 'tax geared' penalty becomes due as described below.

If HMRC determines that withholding information on the return has been deliberate and concealed, the penalty is the greater of 100% of any deductions shown on the return or £3,000.

If HMRC determines that withholding information on the return has been deliberate but not concealed, the penalty will be the greater of 70% of any deductions shown on the return or £1,500.

In all other cases, where HMRC determines that information on the return has not been withheld deliberately, the penalty will be the greater of 5% of any deductions shown on the return or £300.

If you have not sent any previous returns and are filing your first returns late, there will be an upper limit of £3,000 on the total fixed penalties (£100 and £200) that may accrue.

This upper limit does not apply to any 'tax-geared' penalty except that, where it applies, it removes the £300 minimum penalty that would otherwise be charged where the tax-geared penalty is less than £300.

The limit only applies in respect of contractors new to CIS that have not sent in their first returns on time. It **does not apply** to contractors that have already filed returns previously.