

Foreword

This notice cancels and replaces Notice ET1 (April 2008).

1. Introduction

1.1 What is this notice about?

There is provision in the laws on Insurance Premium Tax, Landfill Tax, Aggregates Levy and Climate Change Levy for us to require you to provide an amount of security if we consider that tax is at risk of being unpaid by your business.

This Notice is our Statement of Practice on the circumstances where we may require security for Insurance Premium Tax, Landfill Tax, Aggregates Levy and Climate Change Levy. For our Statement of Practice on VAT Security see Notice 700/52 Notice of Requirement to give security to HM Revenue & Customs.

2. When will you issue a Notice of Requirement to give security?

We may issue a Notice of Requirement to you for example if:

- you have in your previous or current business, failed to comply with your tax obligations
- your business is run by disqualified directors or by undischarged bankrupts
- you have previously been prosecuted or penalised for a tax offence, or
- other persons concerned in the current registration of your business are connected with past failures to pay tax due.

There may also be other circumstances when we may ask you to provide security.

2.1 Will I receive any warning before you require security?

Not always. Where we have strong grounds to suspect that revenue is at risk of being unpaid by your business we may require security without warning.

3. How much security will you require from me?

We base the amount of security on a long-standing and well-tested formula that is approved by the independent tribunals. This formula reflects the minimum time it would take us to recover the debt if, in future, you do not pay your tax. We calculate the amount of security using the most accurate information available to us at the time which may include the:

- tax declared on tax returns from your current business
- tax declared on tax returns from your previous businesses
- tax declared on tax returns from businesses of a similar size, with similar customers and in the same trade class, or
- taxable turnover/premium declared on your application to register.

We may also add any outstanding tax from your current registered business to our calculation before issuing a Notice of Requirement.

If you make quarterly returns, we will require an amount of security based on the tax we estimate you would have to pay over six months.

If you make monthly returns, we will accept a lower amount of security based on the tax we estimate you would have to pay over four months.

4. What forms of security will you accept?

We will normally accept security in the following forms:

- cash or bankers draft
- bank or building society guarantee, or
- a joint bank or building society account.

However, we will only accept a guarantee from a financial institution approved by us. Please contact the address shown on the Notice of Requirement and we will advise you whether the guarantor is acceptable.

4.1 When will I have to provide the security?

The security is required immediately. Please contact us if you need time to make the necessary arrangements.

5. What will happen if I don't provide the security?

It is a **criminal offence** to continue to trade without providing the security and we may prosecute you.

A person is guilty of a criminal offence if he:

	Description
Landfill tax	Carries out taxable activities (as defined in section 69(1) of the Finance Act 1996) without giving security he has been required to give.
Aggregates levy	Is responsible for any aggregate being subjected to commercial exploitation in the United Kingdom where, at the time it is so subjected, he has been required to give security and he has not complied with that requirement.
Climate change levy	Is liable to account for the levy on a taxable supply that he makes where, at the time the supply is made, he has been required to give security and has not complied with that requirement.
Climate change levy	Is liable to account for the levy on a taxable supply that another person makes to him where, if he makes any arrangements for the making of the supply at a time when he has been required to give security and he has not complied with that requirement.
Insurance premium tax	Enters into taxable insurance contracts (as defined by section 73(1) of the Finance Act 1994) without giving security.

You may be liable to a penalty of up to **£5,000 for each taxable supply/taxable activity/taxable insurance contract** you make or enter into without providing the security.

If you do not provide the security, we may prosecute you for the whole period of trading from the date the Notice of Requirement was issued.

5.1 Can I be prosecuted as well as my company?

Yes. If you are involved in a business that continues to trade without providing the security you may be prosecuted individually. You may also be personally responsible for paying any fines and compensation awarded by the court.

6. How long will you hold the security for?

We will regularly review the requirement and will return the security when we consider you are no longer a risk to the collection of tax. If you have any information that you feel may alter our decision to hold security, please contact us and we will reconsider the requirement.

At the very least, we will review the requirement within 12 months of you providing the security (if you make monthly returns) or 2 years (if you make quarterly returns).

6.1 When will you use the security?

If you fall behind with payments of your tax we may offset the security against the amount you owe. We may then ask you to provide a further amount of security.

7. Statutory review and appeal

7.1 What if I disagree with the decision to require security?

If you disagree with our decision to require security as described in Section 2 of this notice you have the statutory right to an independent review of that decision. You should request a review within 30 days of the date of the Notice of Requirement to give security. You should contact us as soon as possible if you:

- think there are facts that may not have been fully considered, or
- can provide further information.

It is in your interests to provide any further information as soon as possible.

7.2 Your right to appeal to tribunal

If you do not want a review or if you are not satisfied with the outcome of a review you can appeal to an independent tribunal. You have 30 days from the date of the Notice of Requirement or, if you have opted for a review, 30 days from the date of our letter telling you of the review decision, to lodge your appeal.

Information about review and appeals is available at [How to appeal against an HMRC decision - indirect tax](#) or by phoning 0845 900 0404. You can find out more about tribunals on the [Tribunals Service website](#) or you can phone them on 0845 223 8080.

If you do not appeal within 30 days of the date of the Notice of Requirement, the tribunal may rule your appeal is out of time.

7.3 Can I continue to make taxable supplies/carry out taxable activities/enter into taxable insurance contracts if I appeal?

If you have been served with a Notice of Requirement for security, you continue to trade at your own risk. Your appeal does not affect your ongoing liability to prosecution should you continue to trade without providing the security.

However, in order to allow time for your appeal to be heard, we may agree to await the decision of the tribunal before taking steps to begin or continue any proposed or ongoing prosecution of you or your business. We will write to you if we agree to await the decision of the tribunal.

If the tribunal dismisses your appeal, or you withdraw it, we may decide to commence or re-commence immediately our prosecution of you or your business.

How we use your information

HM Revenue & Customs is a Data Controller under the Data Protection Act 1998. We hold information for the purposes specified in our notification to the Information Commissioner, including the assessment and collection of tax and duties, the payment of benefits and the prevention and detection of crime, and may use this information for any of them.

We may get information about you from others, or we may give information to them. If we do, it will only be as the law permits to:

- check the accuracy of information
- prevent or detect crime
- protect public funds.

We may check information we receive about you with what is already in our records. This can include information provided by you, as well as by others, such as other government departments or agencies and overseas tax and customs authorities. We will not give information to anyone outside HM Revenue & Customs unless the law permits us to do so. For more information go to www.hmrc.gov.uk and look for Data Protection Act within the Search facility.

Do you have any comments or suggestions?

If you have any comments or suggestions to make about this notice please write to:

HM Revenue & Customs
Central Policy (TAA)
Queens Dock
Liverpool
L74 4AA

Complaints

If you are unhappy with the way we have handled your affairs (because of delays or mistakes, for example) please tell the person or office you have been dealing with. If they are unable to sort things out, ask for your case to be referred to the complaints team.

For more information about our complaints procedures, go to www.hmrc.gov.uk and under 'quick links' select 'Complaints'.