



**TC03214**

**Appeal number: TC/2013/06584**

*INCOME TAX – Individual Tax Return – Self Assessment – late filing penalty – reasonable excuse – information on HMRC website – appeal dismissed*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**SHOSHANA PINE**

**Appellant**

**- and -**

**THE COMMISSIONERS FOR HER MAJESTY'S      Respondents  
REVENUE & CUSTOMS**

**TRIBUNAL: JUDGE RICHARD J MANUELL**

**The Tribunal determined the appeal on 22 November 2013 without a hearing under the provisions of Rule 26 of the Tribunal Procedure (First-tier Tribunal)(Tax Chamber) Rules 2009 (default paper cases) having first read the Notice of Appeal dated 18 September 2013, HMRC's Statement of Case dated 16 October 2013 (with enclosures) and the Reply dated 31 October 2013.**

## DECISION

1. This determination has been prepared following the Appellant's request for full findings following the promulgation of the standard short form determination usual in default paper appeals. In reality having heard no live evidence from either side there is little which the Tribunal can usefully add, nevertheless a full decision is required to enable a Notice of Appeal to be considered.
2. The Tribunal decided that the Appellant had not shown a reasonable excuse for her failure to file by the prescribed date her self assessment income tax return for the year ending 5 April 2012. The Appellant incurred a penalty of £100.
3. The Appellant contended in summary through her accountants that she should not have been required to file a return at all because the income received was below the personal allowance level for that year. According to HMRC's website there was no need for her to complete a return.
4. HMRC's response was that once a person had been issued with notice to file a return (such notice having been sent to the Appellant on 6 April 2012) then the requirement to file a return arose and had to be complied with. As a non resident landlord the Appellant had to include rents with no tax deducted.
5. The legal framework was set out in HMRC's Statement of Case and was not the subject of any challenge and need not be recited here. An appeal to the First-tier Tribunal against a late filing penalty will succeed where the taxpayer shows that there was a reasonable excuse which continued for the whole of the relevant period: see Finance Act 2009, schedule 55, paragraph 23(1).
6. The explanation provided by the Appellant is not a reasonable excuse, i.e., in simple and unrestricted terms, something unforeseeable, unexpected and beyond the Appellant's control. The Appellant's accountants' lengthy and repetitive arguments entirely miss the essential point and border on the mischievous or vexatious. Regardless of the general guidance on HMRC's website, any person may be required to file a tax return. The form of the notice makes that abundantly clear, and warns of the penalties for non compliance. The public policy reasons for that are obvious: HMRC is entitled to check any person's position to ensure that tax obligations are being satisfied. The fact is that the Appellant was earning an investment income in the United Kingdom. HMRC have provided a full explanation of the position for non resident landlords in the Statement of Case illustrated by references to the HMRC website with which the Tribunal agrees and which therefore need not be repeated here.
7. The Tribunal has no power to reduce penalties of this type in the absence of a reasonable excuse. No special circumstances were shown. The appeal is dismissed.

8. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to “Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)” which accompanies and forms part of this decision notice.

**RICHARD J MANUELL  
TRIBUNAL JUDGE**

**RELEASE DATE: 7 January 2014**