



**TC03882**

**Appeal number: TC/2014/02753**

*Corporation tax – filing annual return – filed in wrong computer format – unfair to insist on taxpayer buying software – no reasonable excuse*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**SYSTEMS PLUS LIMITED**

**Appellant**

**- and -**

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

**TRIBUNAL: JUDGE ALASTAIR J RANKIN**

**The Tribunal determined the appeal on 1 August 2014 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 13 May 2014 (with enclosures), HMRC's Statement of Case submitted on 5 June 2014 (with enclosures) and the Appellant's Reply dated 25 July 2014.**

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## DECISION

- 5 1. This is an appeal by Systems Plus Limited (the Company) against late filing penalties of £200.00 and £890.44 for the late filing of a corporation tax return for the accounting period ending 31 March 2011. The filing date for the return was 31 March 2012.
- 10 2. HMRC sent the Company a notice to file for the specified period 1 April 2010 to 31 March 2011 on 18 April 2011. As the return was not received by the due date, 31 March 2012, a notice of penalty determination for £100.00 was issued on 17 April 2012 to both the Company and its agent.
3. An electronic return was received on 11 June 2012 but HMRC notified the agent on 6 July 2012 that the return could not be accepted as the computations submitted were in pdf format rather than the required iXBRL format.
- 15 4. As the return had still not been received three months after the filing date HMRC increased the flat-rate penalty to £200.00 and on 23 July 2012 issued a further penalty determination to both the Company and its agent.
- 20 5. As the return was still not filed eighteen months after the end of the accounting period on 19 October 2012 HMRC raised a tax-related penalty of £2,284.71 calculated at the rate of 10% of the then estimated unpaid tax of £22,847.16.
6. As the return had still not been filed two years after the end of the accounting period on 3 April 2013 HMRC raised a further tax-related penalty of £4,569.43 calculated at the rate of 20% of the then estimated unpaid tax of £22,847.16.
- 25 7. The return was filed online on 13 April 2013 and as a result the corporation tax charge replaced the original estimated amount and the tax related penalty was reduced to £890.44.
- 30 8. On 17 May 2013 the Company's agent appealed against the penalties on the ground that it was wrong for HMRC to insist that taxpayers must purchase certain software to enable them to submit returns. The return was originally filed in good time but was declined due to the wrong software being used. HMRC had previously written to the agent on 27 February 2013 and 10 April 2013 indicating that the Company did not appear to have a reasonable excuse. Unfortunately copies of those letters are not included in the papers submitted to the Tribunal.
- 35 9. Although HMRC wrote to the Company's agent on 31 May 2013 in reply to the letter dated 17 May 2013, it appears the agent did not receive the letter as it wrote again on 7 February 2014. As a result HMRC wrote to the Company on 6 March 2014 advising that the Company did not appear to have a reasonable excuse for its failure to send the return in on time.

10. The agent wrote to HMRC on 10 March 2014 reiterating, inter alia, the point that the reason why the return was rejected was due to the fact that a specific document was in the wrong format and that to rectify this it would have been necessary to purchase additional software.

- 5 11. On 17 April 2014 a Review Officer of HMRC concluded that the decision to charge the penalties was correct.

### **The Law**

12. Paragraph 3 of Schedule 18 Finance Act 1998 (the 1998 Act) requires a company to deliver a return and Paragraph 14 stipulates the filing date.

- 10 13. Directions under regulations 3 and 10 of the Income and Corporation Taxes (Electronic Communications) Regulations 2003 (S.I. 2003/282) (the Directions) apply in relation to the delivery of information by or on behalf of a company in relation to the application of Schedule 18 of the 1998 Act.

- 15 14. Paragraph 6 (b) of the Directions states that where other software is used, or where a company using the HMRC filing product chooses not to use the integrated accounts template, the company's individual accounts required to be prepared under Chapter 4 of Part 15 of the Companies Act 2006 ... must be delivered in iXBRL\*\*\* format.

### **The Decision**

- 20 15. In order to succeed in its appeal the Company must have a reasonable excuse for its failure to file the return by the due date. There is no definition of reasonable excuse. It is a matter to be considered in the light of the circumstances of the particular case.

- 25 16. When the Company first filed the return on 11 June 2012 it was already 72 days late. The Company and its agent received notifications of the penalties on 17 April 2012, 23 July 2012, 19 October 2012 and 3 April 2013 but it did not file an acceptable return until 13 April 2013.

- 30 17. The legislation places the responsibility for delivery of the corporation tax return on the Company. The legislation stipulates the format in which the return must be filed. As the Company had a full year in which to file the return and did not do so it does not have a reasonable excuse.

18. Following the decision of the Upper Tier Tribunal in Hok Ltd the Tribunal has no jurisdiction to discharge or adjust a penalty which is properly due because it thinks it is unfair.

- 35 19. 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.

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**Alastair J Rankin**  
**TRIBUNAL JUDGE**

**RELEASE DATE: 06 August 2014**

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