



TC07009

Appeal number: TC/2017/05408

Income tax - fixed and daily penalties for late filing of self-assessment return - appellant encountered difficulties filing online - further delay before filing return - whether reasonable excuse - no - appeal dismissed

FIRST-TIER TRIBUNAL

TAX

EMMA PATTEN

Appellant

- and -

**THE COMMISSIONERS FOR HER MAJESTY'S
REVENUE AND CUSTOMS**

Respondents

TRIBUNAL: JUDGE MICHAEL CONNELL

The Tribunal determined the appeal on 8 February 2019 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 29 June 2016, and HMRC's Statement of Case received by the Tribunal and the appellant on 23 August 2017 with enclosures. The Tribunal wrote to the appellant on 24 August 2017 stating that if she wished to reply to HMRC's Statement of Case she should do so within 30 days of receiving a copy from HMRC. The appellant did not respond.

DECISION

1. This is an appeal by Ms Emma Patten ('the appellant') against penalties totaling £1,000 imposed by the Respondents ('HMRC') under Paragraphs 3 and 4, of Schedule 55 Finance Act 2009 for the late filing of her self-assessment ('SA') tax return for the tax year ending 5 April 2014.
2. The penalties for late filing of a return can be summarised as follows:
 - i. A penalty of £100 is imposed under Paragraph 3 of Schedule 55 Finance Act ('FA') 2009 for the late filing of the Individual Tax Return.
 - ii. If after a period of 3 months beginning with the penalty date the return remains outstanding, daily penalties at £10 per day up to a total of £900 are imposed under Paragraph 4 of Schedule 55 FA 2009.
 - iii. If after a period of 6 months beginning with the penalty date the return remains outstanding, a penalty of £300 is imposed under Paragraph 5 of Schedule 55 FA 2009.
 - iv. If after a period of 12 months beginning with the penalty date the return remains outstanding, a penalty of £300 is imposed under Paragraph 6 of Schedule 55 FA 2009.
3. Penalties of £100, and £900 were imposed, under (i) and (ii) above on 18 February 2015 and 14 August 2015 respectively.
4. The Appellant's appeal is against both penalties.

Filing date and Penalty date

5. Under s 8(1D) TMA 1970 et seq. a non-electronic return must be filed by 31 October following the end of the relevant tax year or an electronic return by 31 January of the following year. The 'penalty date' is defined at Paragraph 1(4) Schedule 55 FA 2009 and is the date after the filing date.
6. A late filing penalty is chargeable where a taxpayer is late in filing their Individual Tax return.

The background facts

7. The notice to file for the year ending 5 April 2014 was issued to the appellant on 6 April 2014.
8. The filing date was 31 October 2014 for a non-electronic return or 31 January 2015 for an electronic return. [The appellant's non-electronic return for the year ending 5 April 2014 was received by HMRC on 30 July 2015 and processed on the same date].

9. As the return was not received by the filing date, HMRC issued a notice of penalty assessment on or around 18 February 2015 in the amount of £100.

10. As the return had still not been received 3 months after the penalty date, HMRC issued a notice of daily penalty assessment on or around 14 August 2015 in the amount of £900, calculated at £10 per day for 90 days.

11. On 1 May 2017, the Appellant appealed to HMRC against the penalties on the grounds below:

“I am writing to you again after speaking to Nina Harris on 21 April 2017. I had gone online to see if I was entitled to tax rebate. I had a message in my inbox from yourselves dated 4 December 2016. It informed me I owed an outstanding balance of £1182.49 due to a penalty and on-going charges.

Up to and including 2012/2013 I had made self-assessment returns online although always with difficulty. By letter 23rd June 2015 I was informed that I had incurred a penalty of £100.00. It was alleged that this was due to late filing of my self-assessment tax return for 2013/2014.

I have appealed this as the reason for it being late was due to the website crashing on me on numerous occasions. I did call to inform yourselves of this and was sent out a paper copy to complete and return. I completed the paper copy and enclosed an appeal letter explaining why it was late.

I did not earn enough money to pay tax so why would I not bother filing my tax return.

I have not had any more correspondence from you, so thought that it had all been sorted but apparently, it isn't. I've been informed by Nina Harris that you did not receive my appeal letter which is strange as it was sent with my tax return and Nina Harris said you had received that.

Once again, I am writing to appeal the late filing of my tax return 2013/2014 and the daily penalty charges, due to the website crashing on numerous occasions.

Please could you contact me regarding this on 07966-865253 or ernmandben@yahoo.co.uk so that I know you have received this appeal letter. This is being sent recorded delivery as advised by Nina Harris.

I believe I am entitled to a tax refund for 2016/2017 and would be grateful if you could look into this as soon as possible. As I have been paying tax throughout the whole tax year”

12. HMRC sent Ms Patten a decision letter on 1 June 2017, rejecting her appeal on the grounds that it was outside the 30 day time limit but offering a review.

13. On 18 June 2017 Ms Patten replied saying as below:

“Thank you for your letter of the 1 June 2017 and regret that it appears you have failed to understand my position i.e. that I did appeal within time but this has been ignored.

It may help to set out again in chronological order what happened so that you may have a better understanding of the sequence of events:

- i. I tried to lodge my tax return for the year ended 5th April 2014 on line in January 2015 — the deadline being 31st January.
- ii. I was unable to complete the process on line as the website kept crashing.
- iii. I telephoned HMRC to tell you of my predicament and was advised to complete a paper return which I was told would be sent.
- iv. By then I was, of course, out of time to complete a paper return so I was advised to write a letter explaining the situation and send it in with the paper return
- v. I received the return, completed it (NO tax was payable) and sent it back with a covering letter, as advised, explaining what had happened.
- vi. I heard nothing further
- vii. I have been told subsequently that you duly received the paper return but apparently not my covering letter which I find strange as the two were together so if you had one you should have had the other.
- viii. However, as I heard nothing I naturally assumed all was well. After all, no tax was payable.
- ix. Subsequent returns have been filed using paper returns.
- x. Following my filing my 2015/2016 return I believed I may be entitled to a tax refund so I looked on line to see if I could get any information. This was in April this year.
- xi. I then saw a message in my messages which had apparently been entered on the 4th December 2016 advising me that I had received penalties etc. and owed £1182.49.
- xii. I immediately contacted you and spoke to Nina Harris on the 21st April who confirmed that this amount was due owing to penalties for not having filed my 2013/2014 return on time.

I consider it is totally unfair and plainly wrong that any penalties should have been imposed for the following reasons:

- I owed no tax for the year in question.
- I explained why I was unable to lodge on line.
- I was advised to do a paper return, write a letter explaining the circumstances and duly complied.
- It was not until December 2016 that apparently, I was advised about penalties and this was not by post or email but by a message left in my message box after I had already told you I was not able to complete the return on line and would have to do a paper return.

- I had no response to my letter explaining why I had been unable to lodge an on-line return or my explanation as to what had happened.

I fail to see why it was reasonable to tell me so many months later that I had been penalised and then by a method which was guaranteed not to come to my attention.

I am in fact unclear as to whether you ignored the letter sent with the paper return or considered and dismissed it. I feel that the circumstances show all too clearly that I did everything that could reasonably be expected and appealed without unreasonable delay when I found that penalties had been imposed.

As I had no idea that penalties had been imposed until April 2017 I feel that I had a reasonable excuse for not appealing within the time limit.”

14. Before HMRC had the opportunity of responding, Ms Patten had on 29 June 2016 already submitted her appeal to the Tribunal. Her grounds of appeal were as previously stated to HMRC in correspondence. She added:

- “I maintain that I had given a valid and reasonable explanation of my problem within time (in January 2015) or I had a reasonable excuse for not having appealed until my letter of 2 May 2017 which was made without unreasonable delay after I had received notice of the penalties.
- I hold no tax for the year in question 2013/14.
- I was advised to do a paper return explaining the circumstances and duly complied.
- It was not until December 2016 that I was advised about penalties not by post or email but by a message in my message box.
- I had no response to my letter explaining why I have been unable to lodge an on-line return.
- I fail to see why it was reasonable to tell me so many months later that had been penalised them by a method which was guaranteed not to come to my attention.”

Relevant statutory provisions

Taxes Management Act 1970

Section 8 - Personal return- provides as follows:

(1) For the purpose of establishing the amounts in which a person is chargeable to income tax and capital gains tax for a year of assessment, [and the amount payable by him by way of income tax for that year,] he may be required by a notice given to him by an officer of the Board-

- a) to make and deliver to the officer, on or before the day mentioned in subsection (1A) below, a return containing such information as may, reasonably be required in pursuance of the notice, and

- b) to deliver with the return such accounts, statements and documents, relating to information contained in the return, as may reasonably be so required.

(1A) The day referred to in subsection (1) above is-

- (a) the 31st January next following the year of assessment, or

- (b) where the notice under this section is given after the 31st October next following the year, the last day of the period of three months beginning with the day on which the notice is given

(1AA) For the purposes of subsection (1) above-

- (a) the amounts in which a person is chargeable to income tax and capital gains tax are net amounts, that is to say, amounts which take into account any relief or allowance a claim for which is included in the return; and

- (b) the amount payable by a person by way of income tax is the difference between the amount in which he is chargeable to income tax and the aggregate amount of any income tax deducted at source and any tax credits to which [section 397(1) [or [397A(1)] of ITTOIA 2005] applies.]

(1B) In the case of a person who carries on a trade, profession, or business in partnership with one or more other persons, a return under this section shall include each amount which, in any relevant statement, is stated to be equal to his share of any income, [loss, tax, credit] or charge for the period in respect of which the statement is made.

(1C) In subsection (1B) above "relevant statement" means a statement which, as respects the partnership, falls to be made under section 12AB of this Act for a period which includes, or includes any part of, the year of assessment or its basis period.

(1D) A return under this section for a year of assessment (Year 1) must be delivered-

- (a) in the case of a non-electronic return, on or before 31st October in Year 2, and

- (b) in the case of an electronic return, on or before 31st January in Year 2.

(1E) But subsection (1D) is subject to the following two exceptions.

(1F) Exception 1 is that if a notice in respect of Year 1 is given after 31st July in Year 2 (but on or before 31st October), a return must be delivered-

- (a) during the period of 3 months beginning with the date of the notice (for a non-electronic return), or

- (b) on or before 31st January (for an electronic return).

(1G) Exception 2 is that if a notice in respect of Year 1 is given after 31st October in Year 2, a return (whether electronic or not) must be delivered during the period of 3 months beginning with the date of the notice.

(1H) The Commissioners-

- (a) shall prescribe what constitutes an electronic return, and
- (b) may make different provision for different cases or circumstances.

(2) Every return under this section shall include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete.

(3) A notice under this section may require different information, accounts and statements for different periods or in relation to different descriptions of source of income.

(4) Notices under this section may require different information, accounts and statements in relation to different descriptions of person.

(4A) Subsection (4B) applies if a notice under this section is given to a person within section 8ZA of this Act (certain persons employed etc. by person not resident in United Kingdom who perform their duties for UK clients).

(4B) The notice may require a return of the person's income to include particulars of any general earnings (see section 7(3) of ITEPA 2003) paid to the person.

(5) In this section and sections 8A, 9 and 12AA of this Act, any reference to income tax deducted at source is a reference to income tax deducted or treated as deducted from any income or treated as paid on any income.

Schedule 55 Finance Act 2009:

15. The penalties at issue in this appeal are imposed by Schedule 55 FA 2009.

Paragraph 1 (4) states that the 'penalty date' is the date after the 'filing date'

Paragraph 3 of Schedule 55 imposes a fixed £100 penalty if a self-assessment return is submitted late.

Paragraph 4 of Schedule 55 provides for daily penalties to accrue where a return is more than three months late as follows:

- (1) P is liable to a penalty under this paragraph if (and only if)--
 - (a) P's failure continues after the end of the period of 3 months beginning with the penalty date,
 - (b) HMRC decide that such a penalty should be payable, and
 - (c) HMRC give notice to P specifying the date from which the penalty is payable.
- (2) The penalty under this paragraph is £10 for each day that the failure continues during the period of 90 days beginning with the date specified in the notice given under sub-paragraph (1)(c).
- (3) The date specified in the notice under sub-paragraph (1)(c)--
 - (a) may be earlier than the date on which the notice is given, but
 - (b) may not be earlier than the end of the period mentioned in sub-paragraph (1)(a).

Paragraph 5 of Schedule 55 provides for further penalties to accrue when a return is more than 6 months late as follows:

- (1) P is liable to a penalty under this paragraph if (and only if) P's failure continues after the end of the period of 6 months beginning with the penalty date.
- (2) The penalty under this paragraph is the greater of--
 - (a) 5% of any liability to tax which would have been shown in the return in question, and
 - (b) £300.

Paragraph 23 of Schedule 55 contains a defence of "reasonable excuse" as follows:

- (1) Liability to a penalty under any paragraph of this Schedule does not arise in relation to a failure to make a return if P satisfies HMRC or (on appeal) the First-tier Tribunal or Upper Tribunal that there is a reasonable excuse for the failure.
- (2) For the purposes of sub-paragraph (1)--
 - (a) an insufficiency of funds is not a reasonable excuse, unless attributable to events outside P's control,
 - (b) Where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure, and
 - (c) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased

Paragraph 16 of Schedule 55 gives HMRC power to reduce penalties owing to the presence of "special circumstances" as follows:

- (1) If HMRC think it right because of special circumstances, they may reduce a penalty under any para-graph of this Schedule.
- (2) In sub-paragraph (1) "special circumstances" does not include--
 - (a) ability to pay, or
 - (b) the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another.
- (3) In sub-paragraph (1) the reference to reducing a penalty includes a reference to--
 - (a) staying a penalty, and
 - (b) agreeing a compromise in relation to proceedings for a penalty.

Paragraph 20 of Schedule 55 gives a taxpayer a right of appeal to the Tribunal and paragraph 22 of Schedule 55 sets out the scope of the Tribunal's jurisdiction on such an appeal. In particular, the Tribunal has only a limited jurisdiction on the question of "special circumstances" as set out below:

- (1) On an appeal under paragraph 20(1) that is notified to the tribunal, the tribunal may affirm or cancel HMRC's decision.
- (2) On an appeal under paragraph 20(2) that is notified to the tribunal, the tribunal may--
 - (a) affirm HMRC's decision, or
 - (b) substitute for HMRC's decision another decision that HMRC had power to make.

- (3) If the tribunal substitutes its decision for HMRC's, the tribunal may rely on paragraph 16--
- (a) to the same extent as HMRC (which may mean applying the same percentage reduction as HMRC to a different starting point), or
 - (b) to a different extent, but only if the tribunal thinks that HMRC's decision in respect of the application of paragraph 16 was flawed.
- (4) In sub-paragraph (3)(b) "flawed" means flawed when considered in the light of the principles applicable in proceedings for judicial review.

The appellant's case

16. The appellant's grounds of appeal are as set out in correspondence and her Notice of Appeal to the Tribunal.

HMRC's Case

17. HMRC's records show that the appellant has two separate periods of self employment as a childminder - the first from 19 April 2004 to 5 April 2011 and from 11 January 2010 to 5 April 2016. Therefore, HMRC consider her to be fairly experienced with the self-assessment system including the due dates for paper and online returns and that she should have been aware a self-assessment return was required for the year 2013-14.

18. The due filing date for the online return is clearly shown on the notice to file form SA316 issued to the appellant on 6 April 2014. In addition, the due filing dates and the consequences of late filing are clearly shown on the HMRC website and were therefore available to the appellant.

19. A taxpayer can choose to file a paper return or submit the return online. If the appellant chose to file her return online, it had to reach HMRC by midnight on 31 January 2015. Where a return is filed after the relevant deadline a penalty is charged. The later a return is received, the more penalties are charged. This information was clearly shown on the form SA316 Notice to File issued to the appellant on 6 April 2014.

20. To support taxpayers with their responsibility HMRC publishes information and advice about their obligations and how they can adhere to them. This information about self-assessment, the completion of returns, tax payment dates, penalties and so on, is well within the public domain and widely available via the internet including HMRC's website. An individual acting in a responsible manner to ensure that they adhered to their legal obligations would make themselves aware of such information and act accordingly.

21. The appellant's letter of 2 May 2017 was dealt with by HMRC's letter dated 1 June 2017. The reasons she gave for her appeal against the late filing penalties were not looked at because the deadline for appealing had passed. The penalty notice says that a taxpayer has 30 days in which to write in and appeal. The £100 late filing penalty was issued on the 18 February 2015 and the £900 daily late

filing penalty was issued on 14 August 2015. The appellant's appeal was dated 2 May 2017.

22. In her appeal to the Tribunal the appellant states she was unable to complete her return online in January 2015 because the website kept on crashing. The appellant states she informed HMRC of the problems at the time, that she was advised to complete a paper return and also send a letter explaining the circumstances why her return was late to avoid any penalties being imposed. A check of HMRC's self-assessment, PAYE Service and Debt Management records shows there are no notes of any contact made by the appellant in January 2015.

23. HMRC's records show a 30 day penalty reminder was issued on 2 June 2015 and a 60 day penalty reminder on 30 June 2015 to the address on the appellant's records, 9 Daggers Copse, Newton Abbot, TQ12 11.

24. On 30 July 2015 the appellant filed her 2013-14 self-assessment tax return online. It is impossible to file an internet self-assessment return if a paper return had already been filed. The first return to be registered on the self-assessment computer system is treated as the tax return for the year. The appellant's self-assessment records show the only return as being received is the internet return on 30 July 2015.

25. The appellant says she telephoned HMRC in January 2015. The appellant states she was told to complete a paper return and when she sent it back to HMRC to send a letter with it explaining the circumstances why her return was late. The appellant has not sent a copy of the return or a copy of the letter explaining her circumstances for late filing. The appellant states she duly complied with HMRC's requirements in January 2015 but there are no notes of her call to HMRC at that time. Also the appellant has not confirmed the date she sent her paper return and letter of explanation back to HMRC with her appeal to the Tribunal.

26. A responsible taxpayer who expected a reply from HMRC regarding her appeal against late filing penalties would have contacted HMRC sooner to find out why she had not had a reply.

27. The appellant states HMRC left her messages in April 2017 that penalties had been imposed. The appellant states she had not visited HMRC's website since January 2015. HMRC's records show that the appellant enrolled for online filing on 31 January 2014 and signed for digital services on 21 April 2017. At this time the appellant knew HMRC had not received her appeal and made no further attempt to contact HMRC to rectify this matter. The appellant has not submitted any of her online messages with her appeal to confirm what messages had been left for her by HMRC.

28. The appellant states it was not until December 2016 that she was advised about the penalties. HMRC's records show statements of account were issued to her on 11 March 2015, 23 June 2015, 9 September 2015 and 7 December 2015.

All these statements were issued non-electronically to the address on the appellant's self-assessment record at the time of issue. All the statements show the late filing penalties with interest accruing.

29. There is no evidence that the above statements and reminders have been returned to HMRC as undelivered; therefore the documents are deemed to have been served within the ordinary course of post-delivery in line with s 7 of the Interpretation Act 1978.

30. The appellant states all her subsequent returns have been filed using paper returns. HMRC's records show the appellant filed electronic returns for 2014-15 and 2015-16.

31. In her appeal, the appellant asks why she did not have a reply to her letter explaining why she had been unable to lodge an online return. No reply was sent because there is no record of this letter being received in HMRC.

32. HMRC are entitled to satisfy themselves that no tax is due in any tax year. This is what they set out to do by means of asking the appellant to complete a self-assessment tax return for the period in question.

33. The appellant appears to take the view that because she is satisfied that no tax is due she does not have to complete a return. The appellant is responsible for meeting the deadlines for filing her tax return whether or not she considers any tax is due. Penalties are no longer linked to liability and remain fixed even if there is no tax due.

34. As the return for the tax years 2013-14 was received late, the penalties have been charged in accordance with legislation. Penalties are in place to promote efficient operation of the taxation system and are intended as a measure of fairness, so that customers who file late do not gain any advantage over those who file on time. The amount of the penalties charged is set within the legislation. HMRC has no discretion over the amount charged and must act in accordance with the legislation.

35. Late filing penalties are raised solely because the self-assessment tax return is filed late. They are no longer linked to liability and remain fixed even if there is a repayment or no tax due. The effect the penalties may have on the appellant financially is not a reasonable excuse to reduce or cancel the penalties.

36. It is the contention of HMRC that in order for the appellant's appeal to succeed, she must demonstrate that a reasonable excuse existed which prevented her from complying with her Income Tax obligations. HMRC have concluded, based on the evidence held, that no reasonable excuse exists and as a consequence the penalties were correctly charged in accordance with legislation.

Special Reduction

37. Paragraph 16(1) of Schedule 55 allows HMRC to reduce a penalty if they think it is right because of special circumstances.

“Special circumstances” is undefined save that, under paragraph 16(2), it does not include ability to pay, or the fact that a potential loss of revenue from one taxpayer is balanced by a potential overpayment by another.

38. In other contexts “special” has been held to mean ‘exceptional, abnormal or unusual’ (*Crabtree v Hinchcliffe* [1971] 3 All ER 967), or ‘something out of the ordinary run of events’ (*Clarks of Hove Ltd v Bakers' Union* [1979] 1 All ER 152). The special circumstances must also apply to the particular individual and not be general circumstances that apply to many taxpayers by virtue of the penalty legislation (*David Collis* [2011] UKFTT 588 (TC), paragraph 40).

39. HMRC have considered the appellant’s submissions and assert that there are no special circumstances which would merit a reduction of the penalties below the statutory amount and that the penalties are appropriate in the circumstances.

40. Where a person appeals against the amount of a penalty, paragraph 22(2) and (3) of Schedule 55, FA 2009 provide the Tribunal with the power to substitute HMRC’s decision with another decision that HMRC had the power to make. The Tribunal may rely on paragraph 16 (Special Reduction) but only if they think HMRC’s decision was ‘flawed when considered in the light of the principles applicable in proceedings for judicial review’.

41. HMRC submit that its decision not to reduce the penalties under paragraph 16 was not flawed but, in any event, there are no special circumstances which would require the Tribunal to reduce the penalties.

Conclusion

42. Paragraph 23 of Schedule 55 FA 2009, provides that a penalty does not arise in relation to a failure to make a return if the person satisfies HMRC (or on appeal, a Tribunal) that they had a reasonable excuse for the failure and they put right the failure without unreasonable delay after the excuse ceased. That is, if there is a reasonable excuse, it must exist throughout the failure period.

43. There is no statutory definition of “reasonable excuse”. Whether or not a person had a reasonable excuse is an objective test and “is a matter to be considered in the light of all the circumstances of the particular case” (*Rowland v HMRC* (2006) STC (SCD) 536 at paragraph 18).

44. The actions of the taxpayer should be considered from the perspective of a prudent person, exercising reasonable foresight and due diligence, having proper regard for their responsibilities under the Tax Acts. The decision depends upon the particular circumstances in which the failure occurred and the particular circumstances and abilities of the person who failed to file their return on time.

The test is to determine what a reasonable taxpayer, in the position of the taxpayer, would have done in those circumstances and by reference to that test to determine whether the conduct of the taxpayer can be regarded as conforming to that standard.

45. The appellant had successfully filed previous tax returns online and would have been aware of online filing procedures, the deadlines and penalties for non-compliance.

46. HMRC sent a late filing penalty to the appellant on 18 February 2015 for £100. This should have acted as an alert that she had not filed her return. HMRC's records show that she was informed of the penalties at the time they were issued and that a 30 day penalty reminder was issued on the 2 June 2015 and a 60 day penalty reminder on 30 June 2015, to the address on the appellant's records, 9 Daggars Copse, Newton Abbot, TQ12 11. She lodged a late electronic return on 30 July 2015, it has to be assumed in response to the reminders.

47. The Appellant would have also received the 90 day penalty of £900 on or around 14 August 2015. She says however that she had no idea that penalties had been imposed until 2017. However HMRCs records show the appellant telephoned HMRC regarding the penalties on 7 September 2015.

48. HMRC have no notes of any contact made by the appellant in January 2015.

49. On the available evidence I have to accept HMRC's submissions.

50. Furthermore, any excuse the appellant may have had (in terms of her inability to file on line and the late return which she filed online on 30 July 2015), did not subsist throughout the entire period of delay and therefore does not amount to a reasonable excuse.

51. The late filing penalties have been charged in accordance with legislation and I find that no reasonable excuse has been shown for the appellant's failure to file her tax return on time, nor by the date the penalties arose.

52. I also find that there are no special circumstances which would allow the penalty to be reduced under Special Reduction regulations

53. The appeal is therefore dismissed and the late filing penalties of £100 and £900 are confirmed

54. 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.

**MICHAEL CONNELL
TRIBUNAL JUDGE**

RELEASE DATE: 28 FEBRUARY 2019