



**TC08269**

**Appeal number: TC/2021/00038**

*INCOME TAX – Appellant failed to meet deadline for filing tax return – whether reasonable excuse for the delay – no – Appellant failed to pay outstanding tax due by deadline for paying tax due – whether reasonable excuse for delay – no – appeal dismissed*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**PAUL OWEN**

**Appellant**

**- and -**

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

**Respondents**

**TRIBUNAL: JUDGE JANE BAILEY**

**The Tribunal determined the appeal on 1 September 2021 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 filed 5 January 2021 (with enclosures), HMRC's Statement of Case dated 2 March 2021, the Documents bundle prepared by HMRC, the Authorities bundle, also prepared by HMRC, and the correspondence from the parties on the Tribunal file.**

## DECISION

### **Summary of the conclusions reached**

As this is a lengthy decision, I consider it appropriate to start by setting out, in bullet point form, the conclusions that have been reached. I have decided that:

- The late filing and late payment penalties imposed on Mr Owen for 2018/19 were imposed by HMRC in accordance with the relevant penalty legislation; and
- Mr Owen has not provided a reasonable excuse for his late filing of his tax return for 2018/19, nor has he provided a reasonable excuse for the late payment of the outstanding tax due from him for 2018/19;

In consequence:

- Mr Owen's appeal against the penalty of £100 for the late filing of his tax return for 2018/19 is dismissed;
- Mr Owen's appeal against the penalty of £49 for the 30 days late payment of the tax due for 2018/19 is dismissed; and
- Mr Owen's appeal against the penalty of £49 for the six months late payment of the tax due for 2018/19 is dismissed.

### **Introduction**

1. This appeal by Mr Owen (the "Appellant") is against HMRC's decision to issue him with three penalties. The first of those penalties, in the sum of £100, was imposed under Paragraph 3 of Schedule 55 to the Finance Act 2009 ("FA 2009") because HMRC took the view that the Appellant had not filed his tax return for the tax year 2018/19 on or before the statutory filing deadline for that return.

2. The remaining two penalties were imposed under Paragraphs 3(2) and 3(3) of Schedule 56 to FA 2009 because HMRC took the view that the Appellant had not paid all of the tax due for 2018/19 by the statutory payment deadline. These penalties are in the sum of £49 each.

3. Therefore, the total penalties in dispute between the parties for the Tribunal to consider in this appeal amount to £198, consisting of one late filing penalty of £100, and two late payment penalties totalling £49.

### **Are other penalties under consideration in this appeal?**

4. In his 14 May 2020 submissions to the Tribunal, the Appellant stated that his appeal is against all penalties incurred by him prior to June 2020. However, Rule 20 of the Tribunal Procedure Rules requires an appellant to provide a written copy of the

decision that is being challenged with his Notice of Appeal. The Appellant's Notice of Appeal to the Tribunal was accompanied by two pages of HMRC's letter of 23 December 2020, and a payment proof. Although HMRC's 23 December 2020 letter refers to the Appellant's dispute with HMRC regarding the tax years 2012/13 to 2017/18 (which are the subject of a separate appeal to the Tribunal with a 2020 reference), HMRC's letter of 23 December 2020 is a decision only in respect of the three penalties for 2018/19 set out above.

5. Therefore, even though the three penalties set out above were all issued after June 2020, and despite the Appellant's statement that the appeal is in respect of penalties issued prior to June 2020, I conclude that the penalties covered by this decision are only the late filing penalty of £100 and two late payment penalties each in the sum of £49, all of which were issued for 2018/19.

### **Factual background to this appeal**

6. On the basis of the documents before me I make the following findings of fact:

a) During 2018/19, the Appellant was an employee, earning in excess of £50,000. During that tax year the Appellant's household received £993 in Child Benefit. As the Appellant earned in excess of £50,000 and was the highest paid earner in his household, the Appellant was liable to the High Income Child Benefit Charge in 2018/19.

b) On 10 October 2019, HMRC sent a letter to the Appellant that referred to the Appellant's liability to the High Income Child Benefit Charge ("HICBC"). The subsequent interactions between the Appellant and HMRC resulted in HMRC issuing the Appellant with Section 29 assessments to tax for the years 2012/13 to 2017/18 to try to collect the HICBC due from the Appellant for those years. HMRC also issued the Appellant with penalties because the Appellant had failed to notify HMRC of his liability to the HICBC for those six years. The Appellant appealed to the Tribunal against those assessments and penalties, and that appeal (the "2020 appeal") is currently stayed pending the final determination of *HMRC v Wilkes*.

c) On 24 January 2020, HMRC registered the Appellant for Self Assessment. On 30 January 2020, HMRC issued the Appellant with a full tax return for 2018/19. This tax return included a statutory Notice to File. I am satisfied of the date of issue because a copy of the paper tax return completed by the Appellant has been provided in the documents bundle, and the date on which this document was issued is visible on the top left hand side of the front page.

d) The copy of the tax return in the documents bundle bears the Appellant's name and postal address, including postcode, on the top right hand side. I take judicial notice of the fact that HMRC's usual procedure is to post tax returns to taxpayers very shortly after issue. I am satisfied on the balance of probabilities that the tax return issued by HMRC was posted to the Appellant, in accordance with HMRC's usual procedure. (The date of receipt of that return by the Appellant is considered below.)

e) Legislation specifies the filing deadlines for tax returns (see further below). Half way down the front page of the tax return issued to the Appellant, on the left hand side, is a box with the headline “Deadlines”. The text under that headline begins:

We must receive your tax return by these dates:

- If you’re using a paper return – by 31 October 2019 (or three months after the date of this notice if that’s later)
- If you’re filing a return online – by 31 January 2020 (or three months after the date of this notice if that’s later)

f) The date that is three months from the date of the tax return issued to the Appellant was 30 April 2020. As that date is later than either 31 October 2019 or 31 January 2020, 30 April 2020 was the date specified on the front of the return as the deadline for it to be received back by HMRC. By concession, HMRC allow a further seven days for a tax return to be received by a taxpayer. In the documents bundle is a print of HMRC’s electronic SA Return Summary for 2018/19. That document shows that HMRC understood the filing deadline for a paper return to be 6 May 2020.

g) On 23 July 2020, HMRC issued a late filing penalty of £100 to the Appellant because the deadline for the Appellant to file a tax return for 2018/19 had passed and HMRC had yet to receive a tax return for this year. I am satisfied that notice of this penalty was posted to the Appellant at his postal address, and that it was received by him in the ordinary course of post.

h) On 4 August 2020, the Appellant appealed to HMRC against this late filing penalty. The Appellant’s grounds of appeal to HMRC were:

The requirement to complete self assessment arises from HMRC’s own errors highlighted in Tax Tribunal case TC/2020/01953. As such any penalties imposed fall within the scope of that appeal where I have detailed the difficulties from attempting to subvert the appeals process like this. In addition, the statutory deadline had already passed when this notice was received from HMRC.

i) As set out above, the 2020 appeal does not concern the tax year 2018/19 and it does not include the penalties under consideration here.

j) In his appeal to HMRC the Appellant did not specify the date on which he did receive the 2018/19 tax return issued by HMRC. The Appellant also did not make clear, when he referred to the statutory deadline, whether he meant that he did not receive the tax return by 31 October 2019 (the deadline for filing a paper tax return if the return had been issued by 31 July 2019), by 31 January 2020 (the deadline for filing a return online if the return had been issued by 31 October 2019) or by 30 April 2020 (the statutory filing deadline in this case). The tax return must have been received by 4 August 2020, when the Appellant submitted his appeal to HMRC as he referred to his receipt of that return in his appeal. In his 14 May 2021 submissions to the Tribunal the Appellant argued that he was not notified until June 2020 that he was liable to complete Self Assessment tax returns.

k) I have found that HMRC posted the 2018/19 tax return, containing the Notice to File, to the Appellant. Section 7 of the Interpretation Act 1978 provides:

Where an Act authorises or requires any document to be served by post (whether the expression “serve” or the expression “give” or “send” or any other expression is used) then, unless the contrary intention appears, the service is deemed to be effected by properly addressing, pre-paying and posting a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

l) Therefore, the onus is now on the Appellant to demonstrate “the contrary”, i.e., that the Notice to File was not received in the ordinary course of post. It is possible, although extremely rare, for post to be lost for several months in the postal system but then ultimately delivered very late. It is more likely, though still rare, for items of post to be completely lost in the postal system and not delivered at all. The Appellant has not referred to any other post from HMRC being delivered several months late. The dates on which the Appellant appealed against the penalties issued are both within three weeks of the date of the penalty notices having been issued by HMRC (and so those penalty notices are more likely than not to have been received in the ordinary course of post). The Appellant also received HMRC’s letters of 10 October 2019, 11 November 2020 and 23 December 2020 (as he has referred to them) but he did not mention several months delay in receiving those letters. Therefore, other items of post from HMRC have been received by the Appellant at his postal address both before and after the 30 January 2020 Notice to File was sent to him, and those other items of post were received in the ordinary course of post.

m) There is limited evidence in the bundle concerning the interactions between the Appellant and HMRC between 30 January 2020 and 4 August 2020, when the appeal against the late filing penalty was made. In the documents bundle there is copy of HMRC’s SA Notes. These notes show a telephone call being made by the Appellant to HMRC on 3 April 2020, but that telephone call concerns the dispute between the Appellant and HMRC for earlier tax years. There is also a record of HMRC receiving an appeal on 20 April 2020 against an appeal by the Appellant, but again that seems to be the dispute for earlier years (that resulted in the 2020 appeal). The SA Notes provided do not go beyond 20 April 2020.

n) In the correspondence provided by HMRC in the documents bundle, there is a copy of a letter dated 21 April 2020 from HMRC to the Appellant, sent in response to a letter sent by the Appellant dated 20 February 2020 (there is no copy of the Appellant’s 20 February 2020 letter in the bundle). In their 21 April 2020 response, HMRC note that the Appellant considers the requirement to complete a Self Assessment tax return to be disproportionate to his liability to the HICBC but HMRC explain in response that the Appellant is unable to appeal against being required to file a tax return. I consider it unlikely that the Appellant would write to HMRC to object to the requirement to file a tax return if he had not, in fact, been required to file a tax return. The Appellant’s letter to HMRC is said to have been dated 20 February 2020. I consider, on the balance of probabilities, that by 20 February 2020, the Appellant had received the Notice to File issued on 30 January 2020, and it was his receipt of this

document that prompted him to write to HMRC on 20 February 2020 to object. In the circumstances the Appellant has not satisfied me that the tax return issued to him on 30 January 2020 was not received by him in the ordinary course of post. It follows that the Notice to File was deemed to have been received in the ordinary course of post, and therefore deemed to have been received at the Appellant's postal address in early February 2020.

o) HMRC's electronic SA Return Summary shows that HMRC received the Appellant's paper tax return on 20 August 2020. The copy of the Appellant's tax return provided in the bundle is signed but not dated. In the absence of any evidence from the Appellant showing an earlier filing date, I find that the Appellant's paper tax return for 2018/19 was received by HMRC on 20 August 2020.

p) On 8 October 2020, HMRC processed the tax return that had been filed by the Appellant. The tax calculation in the documents bundle, based upon the information provided by the Appellant in his tax return, demonstrates that the total income tax due from the Appellant for 2018/19 was £25,578.20. The Appellant had already had income tax of £24,581 deducted under PAYE, and so further tax in the sum of £997.20 was due from the Appellant for 2018/19.

q) On or about 13 October 2020, HMRC issued two late payment penalties to the Appellant, each in the amount of £49. The first penalty was issued because 30 days had passed after the deadline for payment of the outstanding income tax due for 2018/19, and the amount of £997.20 in tax was outstanding after those 30 days. The second penalty was issued because six months had passed after the deadline for the payment of the outstanding income tax due for 2018/19, and the amount of £997.20 in tax was outstanding after those six months. Each penalty was calculated as 5% of the outstanding tax, resulting in each penalty being in the sum of £49. I am satisfied that notice of these two penalties was posted to the Appellant at his postal address.

r) In the bundle there is a copy of a letter dated 11 November 2020 from HMRC to the Appellant, in response to the Appellant's letter of 3 November 2020 (this letter from the Appellant is also not in the bundle). In their letter of 11 November 2020, HMRC write:

You have stated in your letter that HMRC have acted unlawfully and undermined the authority of the Tribunal by issuing penalty notices. I must advise you that this is simply incorrect.

s) HMRC then explain that the 2020 appeal concerned the Appellant's appeal to the Tribunal against assessments and Failure to Notify penalties for the tax years 2012/13 to 2017/18, and that the penalties the Appellant had just received are for the year 2018/19. Given that the Appellant's letter of 3 November 2020 apparently refers to the receipt of penalty notices, and there is no suggestion by the Appellant in this appeal to the Tribunal that he did not receive notice of these two late payment penalties, I am satisfied that notice of the two late payment penalties was received by the Appellant in the ordinary course of post. In their letter of 11 November 2020, HMRC also warn that

the Appellant will be liable to a further penalty if 12 months pass without the Appellant paying the outstanding tax due from him for 2018/19.

t) At page 44 of the documents bundle is a HMRC statement showing six payments they have received from the Appellant, and the dates on which those payments were received. This HMRC statement shows that on 20 November 2020, HMRC received the sum of £997.20 from the Appellant. The other payments shown for November 2020 are a payment of £295.80 on 13 November 2020, and a payment of £217.83 on 27 November 2020.

u) On 23 December 2020, HMRC rejected the Appellant's appeal to them against the three penalties; HMRC provided their view of the matter. At the bottom of the first page of this letter, HMRC wrote:

Facts of the case

- HMRC issued you with a Notice to File for the tax year ending 5 April 2019 on 30 January 2020, with a deadline of 6 May 2020
- HMRC received your Self Assessment for the tax year ending 5 April 2019 on 20 August 2020. Due to the details declared on the Self Assessment return, a balancing payment was due for the tax year ending 5 April 2019, for the amount of £ 997.20 (non – inclusive of interest)
- At the date of this letter, no payment has been made towards the balancing payment for the tax year ending 5 April 2019.

v) On the second page of this letter, HMRC wrote:

However, it is noted you paid the outstanding amounts with your payment received 20 November 2020.

We appreciate the efforts you have made to make payment. If you have any further information for HMRC to consider regarding the penalties for the tax year ending 5 April 2019, please provide the information to the compliance centre using the contact details at the top of this letter.

w) It is clear that those two extracts cannot both be correct. I am satisfied that the Appellant did pay the remaining £997.20 tax due from him for 2018/19 on 20 November 2020. I conclude that the statement that the Appellant has not paid the balancing tax payment, that appears on page 1 of HMRC's 23 December letter, is incorrect, and I conclude that the statement that the Appellant paid the outstanding tax on 20 November 2020, that appears on page 2 of HMRC's 23 December letter, is correct.

x) On 5 January 2021, the Tribunal received the Appellant's appeal against the late filing penalty and two late payment penalties. The Appellant gave three grounds of appeal to the Tribunal:

- that HMRC had applied “late penalties for Self Assessment” before fully determining his tax liability for 2018/19.
- That he had paid the penalty amounts but HMRC stated he had not
- That the penalties should be rescinded as they were paid on 27 November 2020 yet on 23 December 2020, HMRC had stated that they had not received payment and thus HMRC’s data processing systems did not meet the requirements of the Fourth Data Protection Principle, the UK GDPR and Part 3 of the Data Protection Act 2018.

y) With his Notice of Appeal, the Appellant provided a document showing that he made a payment of £217.83 to HMRC on 27 November 2020. The Appellant also provided the first two pages of HMRC’s letter of 23 December 2020. The payment of £217.83 is also shown on HMRC’s payments statement (as found above).

z) In his Notice of Appeal, the Appellant’s desired outcome was expressed as follows:

I would like for the penalties to be rescinded and removed until HMRC can show me and the Tribunal that it has adequate and attestable system measures in place to accurately (and therefore legally) process personal data.

aa) On 19 January 2021, the Appellant’s appeal was allocated to the Paper category and was notified to HMRC. HMRC were directed to file a Statement of Case within 42 days, and both parties were required, within 14 days, to provide the other party with an email address to be used for these Tribunal proceedings. The Tribunal also directed both parties to use email for all communications with the Tribunal and with each other.

bb) On 9 February 2021, the Appellant informed the Tribunal that he was willing to use email for his correspondence with the Tribunal but he was unwilling to provide HMRC with his email address because he was concerned about falling victim to fraudulent attempts by third parties to imitate HMRC’s online correspondence. A copy of a letter in similar terms that he had sent to HMRC was attached. On 19 February 2021, HMRC emailed the Tribunal to say that the Appellant had not provided them with his email address and that they awaited further directions from the Tribunal. The Tribunal filed this correspondence from the parties but took no action in response at this point.

cc) HMRC filed their Statement of Case with the Tribunal on 2 March 2021. HMRC also explained that they could not email a copy to the Appellant as they did not have his email address. The earlier Tribunal direction that all correspondence must be by email prevented HMRC serving a copy by post.

dd) On 13 April 2021, the Tribunal issued the parties with formal Directions, again requiring both parties to provide the other with their email address, and directing the Appellant to provide HMRC with a copy of any other documents that he wished to rely upon and that had not already been provided in the bundle of documents sent by HMRC with their Statement of Case. The appeal was reallocated to the Basic category, and the



parties were notified of this reallocation. The Appellant responded to the Tribunal to say that he had not received HMRC's Statement of Case.

ee) On 16 April 2021, the Tribunal forwarded to the Appellant an electronic copy of the Statement of Case that had been filed by HMRC. The Appellant emailed the Tribunal on 19 April 2021 to say that HMRC had not issued their Statement of Case to him directly, and that he was concerned about where any paper documents had been sent as he had not received anything.

ff) On 21 April 2021, the Tribunal issued fresh directions, requiring HMRC to serve their Statement of Case by post by 7 May 2021, and requiring the Appellant to provide HMRC with a copy of any other documents that he wished to rely upon and that had not already been provided in the bundle of documents by 21 May 2021. Both parties were also required to provide their listing information by 21 May 2021 so that a telephone or video hearing could be arranged.

gg) By email to the Tribunal dated 29 April 2021, the Appellant confirmed he had received HMRC's Statement of Case and the bundle. The Appellant asked whether HMRC had sought an extension of time to file their Statement of Case, and stated that if there had not been such an extension, he considered that no valid Statement of Case had been received for him to answer. On 6 May 2021, the Appellant emailed the Tribunal to state that some of the images he had uploaded with his appeal did not appear in HMRC's bundle. The images said to be missing were the first and second pages of HMRC's letter of 23 December 2020. (I note that the whole of the letter of 23 December 2020 is in the Documents bundle, in the correspondence section.)

hh) On 10 May 2021, a letter dictated by Judge Cannon was sent to the parties. Judge Cannon confirmed that no Statement of Case was required for this appeal as it had been reallocated to the Basic category. Judge Cannon required both parties to continue complying with the Directions of 21 April 2021.

ii) Also on 10 May 2021, the Tribunal sent a second letter to the parties. In this letter the Appellant was informed that he should send HMRC a copy of any documents that were not in the bundle and which he wished to rely upon. The parties were informed that the Directions of 21 April 2021 remained in force.

jj) On 14 May 2021, the Appellant emailed the Tribunal with a copy of a document entitled "Appeal and Claim for dismissal of the Respondents Case". In that document the Appellant made a number of points, set out and considered below, and he asked in conclusion that that the Tribunal allow his appeal. The Appellant also asked that his appeal be decided "by correspondence" if that was possible as he worked full time.

kk) On 21 May 2021, HMRC provided their listing information.

ll) On 17 June 2021, the Tribunal sent a copy of the Appellant's "Appeal and Claim for dismissal of the Respondents Case", and asked them to provide any written representations they wished to make within 14 days. On 25 June 2021, HMRC provide their representations in response (also considered below).

mm) On 6 July 2021, the Appellant emailed the Tribunal. The Appellant reiterated that he would prefer the appeal to be decided by correspondence as he had no time in his diary to accommodate a hearing. The Appellant also made observations on HMRC's representations, and again asked for his appeal to be allowed.

nn) On 7 July 2021, HMRC confirmed that they had no objection to the appeal being decided on the papers.

### **Discussion and decision**

7. Having set out my findings of fact, I now consider how the relevant legislation should be applied to those facts. I remind myself that the Tax Chamber of the First-tier Tribunal has jurisdiction to determine whether the Appellant is liable to the penalties under appeal but does not have jurisdiction to investigate or decide whether HMRC (or any other organisation) meets data protection standards. If the Appellant has grounds for believing that that HMRC have breached data protection standards then he should file a complaint with the Information Commissioner's Office.

8. In an appeal against the imposition of a penalty, the onus of proof is first upon HMRC to satisfy the Tribunal that the penalty has been imposed in accordance with the relevant legislation.

9. If I am satisfied that HMRC have demonstrated that the penalties have been imposed in accordance with the legislation, the onus switches to the Appellant to demonstrate that he has a reasonable excuse for his default or that there is another reason why the penalties should not be imposed. The standard of proof in both cases is the civil standard of the balance of probabilities.

10. I look first at the one penalty issued for the late filing of the Appellant's 2018/19 tax return, and then at the two penalties issued for late payment of the remaining tax due for 2018/19.

#### Was the late filing penalty properly imposed?

11. Section 8 of Taxes Management Act 1970 ("TMA 1970") exhibited in the Authorities bundle) provides that any person who is issued with a Notice to File is required to file a tax return, and must do so by the statutory filing deadline. I have found that a full tax return for 2018/18, including a Notice to File, was issued to the Appellant, was posted to him at his home address, and that it was delivered in the ordinary course of post.

12. The deadline for filing a tax return is prescribed by Section 8 TMA 1970. The relevant parts of Section 8 provide:

(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.

13. In this case, the Notice to File for 2018/19 was given after 31 October 2019. Therefore Exception 2 applies (as set out in subsection (1G) of Section 8), and the deadline for the Appellant to file his tax return was 3 months from the date of the Notice to File. That deadline is the same whether the return was filed online or whether a paper return was filed. As the Notice to File was dated 30 January 2020, the statutory deadline for the Appellant to file his tax return was 30 April 2020.

14. I now consider whether the legislative conditions are made out for HMRC to impose the late filing penalty.

#### *Late filing penalty*

15. The relevant parts of Paragraphs 1 and 3 of Schedule 55 to FA 2009 provide as follows:

- 1.** (1) A penalty is payable by a person (“P”) where P fails to make or deliver a return ... on or before the filing date.
- (2) Paragraphs 2 to 13 set out—
  - (a) the circumstances in which a penalty is payable, and
  - (b) subject to paragraphs 14 to 17, the amount of the penalty.
- ...
- 3.** P is liable to a penalty under this paragraph of £100.

16. As set out above, the statutory filing date was 30 April 2020. I have found that HMRC received the Appellant’s tax return for 2018/19 on 20 August 2020. It follows that HMRC have satisfied the conditions of Sub-paragraph 3(1) of Schedule 55 to FA 2009, and that the Appellant is liable to the late filing penalty of £100 prescribed in Sub-paragraph 3(3).

#### *The two late payment penalties*

17. The starting point for consideration of these penalties is Section 59B of TMA 1970 (included in the Authorities bundle) which prescribes the dates by which tax due must be paid.

18. The relevant parts of Section 59B provide:

(3) In a case where the person

(a) gave the notice required by section 7 of this Act within six months from the end of the year of assessment, but

(b) was not given notice under section 8 or 8A of this Act until after the 31st October next following that year,

the difference shall be payable or repayable at the end of the period of three months beginning with the day on which the notice under section 8 or 8A was given.

(4) In any other case, the difference shall be payable or repayable on or before the 31st January next following the year of assessment.

19. Therefore, the deadline for the Appellant to pay the “difference” (the remaining tax due under his tax return) depends on whether he gave notice of his liability to the HICBC for 2018/19 to HMRC within six months of 2018/19, i.e., by 5 October 2019. If the Appellant did give such notice, then the statutory deadline for him to pay the £997.20 due under his personal tax return was 30 April 2020 (being three months from the date on which the tax return, containing the Notice to File, was issued to him). However, if the Appellant did not give HMRC notice of his liability to the HICBC for 2018/19 by 5 October 2019, then the statutory deadline for him to make payment of the tax due was 31 January 2020.

20. The onus is upon HMRC to demonstrate each aspect of the imposition of the penalty that is not explicitly conceded. Therefore, unless the Appellant had accepted the point in these proceedings, it was necessary for HMRC to demonstrate whether the Appellant had given them notice of his liability to the HICBC for 2018/19 by 5 October 2019.

21. Initially, HMRC’s position was unclear. (HMRC’s letter of 11 November 2020 is written on the basis that notice was given and that Subsection 59B(3) applies, resulting in a payment deadline of 20 April 2020. However, the Statement of Case is written on the basis that Subsection 59B(4) applies, resulting in a payment deadline of 31 January 2020. In their Statement of Case, HMRC refer to the Appellant not having given notice for any of the years up to 2017/18 and state that those years are being considered in a separate appeal. It is possible for a taxpayer who has not given notice for earlier years still to give notice of liability for a later year, but HMRC do not explain in their Statement of Case whether that happened with the Appellant for 2018/19.) However, in the document filed with the Tribunal on 14 May 2021, the Appellant stated that he had no awareness of the HICBC prior to receipt of HMRC’s letter dated 10 October 2019. Therefore, it must be the case that the Appellant did not give HMRC notice of his liability to the HICBC for 2018/19 by 5 October 2019.

22. Had the Appellant not made this concession, it would have been appropriate to assume – for the purposes of this appeal only – that the Appellant had given notice of his liability within time, so that the later of the two possible dates, 30 April 2020, would have been the payment deadline. As it is, I am satisfied that the Appellant did not give HMRC notice of his liability to the HICBC for 2018/19 by 5 October 2019. Therefore, the relevant deadline for payment is 31 January 2020, as prescribed by Subsection 59B(4) TMA 1970.

23. I have found that the Appellant paid the tax outstanding of £997.20 on 20 November 2020.

24. Paragraph 3 of Schedule 56 to FA 2009 applies to payments of tax falling within item 1 in the Table (contained in paragraph 1 of Schedule 56). Income tax payable under Section 59B is within item 1, and so, Paragraph 3 applies to the Appellant.

25. For the purposes of Paragraph 3, the “penalty date” is the date falling 30 days after the date specified in Section 59B as the date by which the tax must be paid. In this case, I have concluded that the date by which the tax must be paid was 31 January 2020. Therefore, the penalty date was 2 March 2020. (If I had concluded that the payment deadline was 30 April 2020, then the penalty date would have been 30 May 2020.)

26. Sub-paragraph 3(2) provides that there is liability to a penalty of 5% of the tax which remains unpaid. As none of the £997.20 due for 2018/19 had been paid by 2 March 2020, I am satisfied that £997.20 was outstanding on 2 March 2020. Five per cent of £997.20 is £49.86. Rounded down, this amounts to £49. I am satisfied that the Appellant is liable to the 30 days late payment penalty of £49.

27. Sub-paragraph 3(3) provides:

(3) If any amount of the tax is unpaid after the end of the period of 5 months beginning with the penalty date, P is liable to a penalty of 5% of that amount.

28. The date five months after 2 March 2020 is 2 August 2020. I am satisfied that £997.20 was outstanding on 2 August 2020, and that 5% of £997.20 is £4.86. (For completeness, I am also satisfied that £997.20 was still outstanding on 30 October 2020, being five months after 30 May 2020. Therefore, even if I had not taken into account the Appellant’s concession that he had not given HMRC notice of his liability for 2018/19, the Appellant would still be liable to both of the late payment penalties.)

29. Therefore, I am satisfied that HMRC have met the requirements of Schedule 56 and that the two late payment penalties of £49 were each imposed in accordance with the legislation.

Does the Appellant have a reasonable excuse?

30. As I am satisfied that all three of the penalties under appeal have been correctly imposed, the onus is upon the Appellant to establish that he had a reasonable excuse for

his delay in filing his 2018/19 tax return and/or for his delay in paying the £997.20 outstanding tax due under his tax return.

31. Looking first at the late filing penalty, Paragraph 23 of Schedule 55 to FA 2009 provides:

(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.

32. Paragraph 16 of Schedule 56 to FA 2009 applies to the late payment penalties, and it is in identical terms save that the “failure to make a return” set out above is changed to “failure to make a payment”.

33. The Appellant’s grounds of appeal to the Tribunal are set out in sub-paragraph x) of the findings of fact above.

*The Appellant’s first ground of appeal in his Notice of Appeal*

34. The Appellant’s first ground of appeal is that HMRC had applied the penalties before determining his tax liability for 2018/19. This ground can only apply to the late filing penalty as the late payment penalties were issued on 13 October 2020, which is after HMRC had received the Appellant’s 2018/19 tax return.

35. A late filing penalty is not calculated by reference to the amount of tax ultimately due for that tax year but by reference to the length of the delay in filing the tax return. If a taxpayer does not file a tax return that is due from him by the filing deadline then he becomes liable to a late filing penalty unless he has a reasonable excuse for his delay. That is the case even if no tax is due under the return that is ultimately filed. The fact that the late filing penalty was issued before HMRC had received the Appellant’s tax return does not invalidate the issue of the penalty.

36. I conclude that the Appellant is unsuccessful on this ground of appeal.

*The Appellant’s second ground of appeal in his Notice of Appeal*

37. The Appellant's second ground of appeal is that HMRC have denied that he paid the penalties due. This ground of appeal is based upon HMRC's letter of 23 December 2020 where HMRC (erroneously) stated on the first page that:

... no payment has been made towards the balancing payment for the tax year ending 5 April 2019.

38. In that letter, no reference was made to whether any of the penalties imposed for 2018/19 had been paid. HMRC's error concerned the Appellant's payment of the remaining tax due for 2018/19, and this error was corrected on the second page where HMRC accepted that the outstanding tax due for 2018/19 had been paid.

39. The two late payment penalties imposed by HMRC are imposed because the Appellant had not paid the outstanding tax due by the statutory payment deadline, rather than because he delayed in paying the penalties themselves. The date on which the two late payment penalties were paid is not relevant to the Appellant's liability to those two penalties. The only relevant payment date for the purposes of this appeal is the date on which the Appellant paid the remaining tax due for 2018/19.

40. I have found that the Appellant paid the £997.20 remaining tax due for 2018/19 on 20 November 2020. That was accepted by HMRC on the second page of the 23 December 2020 letter. The fact that HMRC mistakenly stated on the first page of that 23 December 2020, that they had not received payment of the remaining tax letter does not invalidate the issue of the penalties.

41. HMRC's error in the 23 December 2020 letter also cannot explain why the Appellant did not pay the outstanding tax that was due from him until 20 November 2020. In the period of delay, i.e., between 1 February and 19 November 2020, the Appellant could not possibly know that HMRC would make a mistake in a letter that was not written until 23 December 2020. Therefore, HMRC's subsequent mistake cannot form the basis of a reasonable excuse for the Appellant's delay in paying the tax due from him.

42. I conclude that the Appellant is unsuccessful on this ground of appeal.

*The Appellant's third ground of appeal in his Notice of Appeal*

43. The Appellant's final ground of appeal in his Notice of Appeal is that HMRC's data processing systems are inadequate. As noted above, the Tax Chamber of the First-tier Tribunal does not have jurisdiction to consider whether HMRC's data processing systems are adequate. Therefore, this is not a ground that can be considered.

44. Even if the Tribunal did have jurisdiction, it is also unclear how the Appellant's assertions about HMRC's data processing could provide him with a reasonable excuse for his failure to pay the outstanding tax due from him for 2018/19. That is because the Appellant could not have formed his view of HMRC's data processing system until he received HMRC's letter of 23 December 2020. However, the statutory deadline for the Appellant to pay the remaining tax due from him was 31 January 2020. The Appellant's beliefs about HMRC's data processing system (which are based upon the error in the

23 December 2020 letter and so cannot have been formed at an earlier date) cannot explain why the Appellant had not paid the tax of £997.20 by 31 January 2020, or why he did not pay the tax due from him throughout the period 1 February to 19 November 2020.

45. I conclude that the Appellant is unsuccessful on this ground of appeal.

The Appellant's "Appeal and Claim for Dismissal of the Respondents case"

46. In his 14 May 2021 document, entitled "Appeal and Claim for Dismissal of the Respondents Case", the Appellant has made a number of further submissions with regard to his appeal. I have treated these as additional grounds of appeal, and now consider those additional grounds.

*HMRC's letter of 11 November 2020 and whether there is a right of appeal*

47. In paragraphs 6 to 8 of his submissions, the Appellant argues that HMRC's letter of 11 November 2020 asserted that he did not have a right of appeal, but that this was contradicted by HMRC's letter of 23 December 2020. The Appellant sets out his protest at what he describes as "sharp practice" and "purposive falsehood".

48. I do not agree that HMRC's letter of 11 November 2020 is confusing. That letter concludes:

The penalty notices are required by law and have been issued in accordance with the law. While you suggest that this amounts to a criminal or vexatious action by HMRC, I must respectfully disagree. Similarly I must advise that your request that HMRC cease and desist in sending these notices is simply unenforceable. As already stated, should payment of your self-assessed liability not be made by 12 months after the statutory due date for payment, HMRC reserve the right to charge a penalty.

Likewise any collection action that HMRC engage in is fully enforceable under the law and not a matter over which the Tribunal has any jurisdiction.

I have referred your appeals the late filing and late payment penalties to the relevant team for consideration. They will issue a response in the near future considering whether you have a reasonable excuse for failing to submit your tax return and make payment of your self assessed tax liability on time. Should you disagree with whatever decision they make, you will have the right to request a statutory review or submit a further appeal to the Tribunal against the penalties.

49. I do not consider that the Appellant could reasonably have read that final paragraph quoted above, and in particular the final sentence, as HMRC suggesting that he had no right of appeal to the Tribunal against the 2018/19 penalties. Therefore, I do not consider that HMRC are guilty of either "purposive falsehood" or "sharp practice".

50. However, if the Appellant did misunderstand HMRC's letter of 11 November 2020, and believe that he had no right of appeal against the imposition of the penalties



for 2018/19, then such misapprehension would have been corrected by HMRC's letter of 23 December 2020. In this letter, HMRC rejected the Appellant's appeal to them against the penalties imposed for 2018/19, and explained that the Appellant could seek a review or appeal to the Tribunal. Indeed, the Appellant appears to agree that HMRC's letter of 23 December 2020 was very clear on this point as, at paragraph 12 of his submissions, he argues:

The reason the Appellant has reluctantly brought [the current appeal] before this Tribunal is because HMRC told the Appellant that in order for the matter to be considered by the Tribunal at all (...) a separate appeal here was an absolute requirement.

51. If, despite my conclusions, the Appellant still believes that HMRC's 11 November 2020 letter was confusing, then his remedy is to complain to HMRC about this letter as the Tribunal does not have jurisdiction to consider complaints about HMRC. I do not consider that the contents of HMRC's 11 November 2020 letter provides the Appellant with a reasonable excuse for his late filing of his 2018/19 tax return or for his late payment of the outstanding tax due for 2018/19.

*The Tribunal's consideration of this appeal will be "judicial theatre"*

52. In paragraph 7, the Appellant suggests that the Tribunal's consideration of his appeal may not be real and may be "judicial theatre".

53. There are certain matters that are outside this Tribunal's jurisdiction and cannot be considered; the Tax Chamber of the First-tier Tribunal is not omnipotent. But that does not make the Tribunal's determination of the issues it can consider any less real. I hope that the detail of this decision makes it clear to the Appellant that the Tribunal does not engage in pretence, and that his appeal has been fully considered.

*The implications of the Appellant's earlier appeal, and HMRC v Wilkes*

54. In paragraphs 9 to 14 of the Appellant's submissions, the Appellant considers the content of his 2020 appeal and he refers to the decisions in *HMRC v Wilkes* [2021] UKUT 150 and *Belloul v HMRC* [2020] UKFTT 312.

55. The 2020 appeal is currently stayed until 60 days following the final determination of *Wilkes*. *Wilkes* is (currently) at the Upper Tribunal level, and this Tribunal is bound by decisions of the Upper Tribunal (and the higher courts). The Upper Tribunal issued its decision in *Wilkes* on 30 June 2021. Therefore, if HMRC do not seek permission to appeal to the Court of Appeal against the Upper Tribunal decision, then the Upper Tribunal decision will become final 56 days later. If the Upper Tribunal decision becomes final then the Tribunal will begin to lift the stays in each of the appeals stayed behind *Wilkes*, including the 2020 appeal. At that stage the Tribunal will ask the parties how they wish to proceed and, following receipt of those responses, the Tribunal can progress these appeals.

56. The Appellant argues in his submissions that this current appeal should also be stayed behind *Wilkes* as it covers the same matters as the 2020 appeal. In his later email

of 6 July 2021, the Appellant argues that due to the decisions in *Wilkes* and *Belloul*, HMRC have no prospect of being successful in this current appeal.

57. I do not agree that this current appeal concerns any of the same issues as those raised in either *Wilkes* or *Belloul*.

58. The issue in *Wilkes* was whether HMRC were able to raise assessments under Section 29 TMA 1970 to recover the HICBC from Mr Wilkes. That issue is relevant to the 2020 appeal because the 2020 appeal included an appeal against Section 29 assessments for the years 2012/13 to 2017/8 which HMRC had raised to try to recover the HICBC. In *Wilkes* the Upper Tribunal decided that there is a flaw in the drafting of Section 29 that affects the assessments that can be raised.

59. However, this current appeal concerns the Appellant's appeal against a late filing penalty and two late payment penalties. Those penalties were not assessed using Section 29 TMA 1970 and so they are not affected by the Upper Tribunal decision in *Wilkes*. Therefore, it would not be appropriate to stay this current appeal behind *Wilkes*, as this appeal does not concern the same legislation or issues.

60. The issue in *Belloul* was whether a person who was ignorant of his liability to the HICBC had a reasonable excuse for failing to notify HMRC of that liability. Again, that is not relevant here as the penalties in dispute in this appeal are not imposed because the Appellant failed to notify a liability. The penalties that are the subject of this current appeal were imposed because the Appellant's tax return for 2018/19 was not filed by the filing deadline, and because the remaining tax that was due from the Appellant for 2018/19 was not paid by the payment deadline. The principles applied in *Belloul* are not relevant here. Additionally, the Tribunal is not bound to follow by earlier first instance decisions, and there are a number of first instance decisions that run contrary to *Belloul*.

*Do the penalties predate the Appellant's liability to file a tax return?*

61. In paragraphs 15 to 17 of his submissions the Appellant refers to receiving a letter from HMRC dated 10 October 2019, and being informed in that letter that he was liable to pay the HICBC. The Appellant suggests that this means that the penalties imposed for the tax year 2018/19 predate his liability to file a tax return.

62. I do not agree with the Appellant that the penalties for 2018/19 were imposed before he was liable to file a tax return for 2018/19.

63. I have found (above) that the Notice to File a tax return for 2018/19 was issued to the Appellant on 30 January 2020 and that it was received by him in the ordinary course of post. The Appellant's liability to file a tax return for 2018/19 arose from his receipt of the Notice to File in early February 2020. The late filing penalty for 2018/19 was issued on 23 July 2020, and the late payment penalties for 2018/19 were issued on 13 October 2020. All three of these penalties were issued several months after the Appellant's liability to file a tax return arose.

*Data errors made by HMRC*

64. In paragraphs 18 to 32 the Appellant has set out in great detail his concerns about HMRC's ability to process data, based upon HMRC's erroneous statement in their letter of 23 December 2020, that he had not paid the remaining tax due for 2018/19.

65. These submissions amplify the argument the Appellant made in his Notice of Appeal (set out above). In paragraph 22 of his submissions, the Appellant argues that he did not hear anything after HMRC's letter of 23 December 2020, and that if he had not appealed then it is possible that HMRC might never have acknowledged he had made payment. However, this argument does not stand up to scrutiny when it is borne in mind that there is no reference in this letter to whether the penalties had been paid, and that the Appellant's payment of the outstanding tax due for 2018/19 was acknowledged on the second page of HMRC's letter of 23 December 2020.

66. In paragraph 27 to 31, the Appellant suggests that HMRC's acknowledgment that he had paid an amount of £217.83 came only in their Statement of Case and that this is too late according to the fourth data protection principle. The Appellant suggests that he is content for the Tribunal to refer the matter to the Information Tribunal so that a full audit of HMRC's systems could be directed. I am not going to make such a referral but, as noted above, if the Appellant wishes to raise his concerns with the ICO, he is able to do so.

67. In paragraph 32 the Appellant reiterates that he is not willing to assume the risk of filing his tax return online. There is an option to file a paper tax return and the Appellant is entitled to make that choice. However, the deadline for the Appellant to file his tax return for 2018/19 was 30 April 2020, whether the return was filed electronically or by paper. The penalty for late filing has been imposed because the Appellant did not meet that filing deadline.

68. In paragraphs 33 to 40, the Appellant identifies various mistakes he considers have been made by HMRC during the course of this appeal. The Appellant has requested that HMRC be directed not to "ask taxpayers to forfeit the security of the personal data HMRC holds on them merely for their own convenience". This part of the Appellant's submissions appears to be based upon HMRC's statement that they could not email their Statement of Case to the Appellant on 2 March 2021. However, the Appellant's submissions on this point do not take into account the Tribunal's 19 January 2021 direction that both parties must send all their communications to the other party by email. Once the Tribunal realised the Appellant wanted HMRC to send communications to him by post, the Tribunal amended that direction, instead directing HMRC to send communications to the Appellant by post. HMRC then complied with that direction.

69. The Appellant has suggested that this is an example of HMRC unlawfully failing to comply with their data processing obligations. Again, I am not persuaded that the Appellant's suggestion stands up to detailed scrutiny but, as before, if the Appellant wishes to raise the matter with the ICO, he is able to do so.

*The Information Commissioner's Annual Report 2019/20*

70. In paragraph 41 of his submissions, the Appellant notes that the Information Commissioner's report for 2019/20 identified 26 separate failures by HMRC's information systems. In paragraph 43 of his submissions, the Appellant argues that if HMRC cannot process data correctly then they are not permitted to issue or collect penalties. Further submissions regarding HMRC's data processing are set out in paragraphs 42 and 44 to 46.

71. The Information Commissioners Report for 2019/20 was published on 20 July 2020, after the deadline for the Appellant to file his 2018/19 tax return and after the deadline for the Appellant to pay the outstanding tax for 2018/19. However, the Appellant did not raise concerns about HMRC's data processing until after he had received HMRC's letter of 23 December 2020. That letter, and presumably his concerns, therefore arose after the Appellant's 2018/19 tax return had belatedly been filed, and after the remaining tax had belatedly been paid.

72. I have set out (above) the parts of Schedule 55 and Schedule 56 that establish what HMRC need to demonstrate in order to issue a late filing penalty or a late payment penalty. I am satisfied that HMRC have demonstrated the conditions necessary to enable them to issue the penalties under appeal in these proceedings.

*The Appellant's conclusions, and his email of 6 July 2021*

73. In paragraph 47 of his submissions, the Appellant argues that if the Tribunal does not "penalise" HMRC by allowing his appeal then it is unlikely that HMRC will address their data failures. The Tribunal does not have general oversight over HMRC and it is not appropriate for the Tribunal to seek to penalise either party. The role of the Tribunal is to apply the relevant legislation in order to decide whether a person is liable to the tax and/or penalty that is under appeal. If the Appellant wishes to raise a complaint about HMRC's failure to address an issue then he should address his concerns to the Information Commissioner or to HMRC themselves.

74. In paragraph 48 of his submissions, the Appellant suggests it would be perverse for him to be liable to a penalty prior to being notified of his liability. The Appellant states that he was notified of his HICBC liability on receipt of a letter dated 10 October 2019.

75. As set out above, the penalties under appeal in this appeal were imposed because the Appellant had not filed his tax return for 2018/19 by the statutory filing deadline of 30 April 2020, and because he had not paid the tax due for 2018/19 by the statutory payment deadline of 31 January 2020. The 10 October 2019 notification to which the Appellant refers predates both of these deadlines.

76. In paragraph 49 of his submissions, the Appellant asks what lessons can be learned by other taxpayers if his appeal is dismissed. The Appellant notes that HMRC do not suggest a way that taxpayers can avoid late filing penalties. As set out above, a taxpayer's liability to file a tax return for a specific tax year arises from his receipt of the Notice to File for that tax year. The filing deadline is specified on the front page of

the Notice to File. Therefore, taxpayers are able to avoid late filing penalties by filing their tax returns by the statutory filing deadline.

77. The Appellant also suggests that a taxpayer would be required to know what was in HMRC's vaults in order to avoid a late filing penalty. I do not agree that is the case. Here, the Appellant either knew or was able to ascertain the amount of his employment income for 2018/19 and the amount of Child Benefit claimed by his household in 2018/19. This was the only information the Appellant needed to fill in his tax return for 2018/19. The Appellant had three months to file his 2018/19 tax return but he did not meet this statutory deadline. It was the Appellant's delay that caused the late filing penalty to be imposed, not the Appellant's lack of knowledge.

*The Appellant's response to HMRC's written representations*

78. Finally, in his email of 6 July 2021, the Appellant suggests that HMRC should be directed to respond only to the matters under appeal and should not engage in hypothetical debate. This submission is a response to HMRC's representations of 25 June 2021. In those written submissions, HMRC have treated the Appellant's 14 May 2021 submissions as including an application to bar them from the proceedings, and they have responded accordingly.

79. As noted above, the Appellant's 14 May 2021 submissions are entitled "Appeal and Claim for Dismissal of the Respondents Case". As the Appellant has made clear, he is not a tax expert and he is not well versed in Tribunal procedure. HMRC's Statement of Case concluded with a request that the "appeal be dismissed". I do not understand the Appellant is doing any more than reflecting that wording when he entitles his submissions in response with a request that HMRC's case be dismissed. I do not consider that the Appellant's 14 May 2021 submissions include an application to bar HMRC from taking further part in the proceedings. (If I had considered that there was such an application then, as HMRC have not failed to co-operate with the Tribunal in this appeal, and as it is not the case that HMRC have no reasonable prospect of being successful in this appeal, there is no basis for barring HMRC from taking further part in these proceedings.)

80. In his 6 July 2021 email the Appellant describes HMRC as having "chosen to debate the semantics of FTTT rules". While I do not agree with the Appellant that HMRC had made their 25 June 2021 representations solely "to indulge their intellectual curiosity", as the Appellant alleges, I understand why he should be confused by HMRC's approach.

81. Having considered the Appellant's 14 May 2021 further submissions and his 6 July 2021 response, I conclude that the Appellant does not have a reasonable excuse for his failure to file his tax return for 2018/19 by the filing deadline, or for his failure to pay the outstanding tax for 2018/19 by the payment deadline.

Special circumstances

82. The Tribunal has the ability to reduce the penalties imposed in certain, very limited, circumstances: it can do so only if there are errors of law (as understood in a

judicial review sense) in the way that HMRC have approached the question of whether there should be a reduction in the penalties imposed upon the Appellant because of special circumstances. I have considered whether there are flaws in the way in which HMRC, in their Statement of Case, have approached the question of whether there are exceptional circumstances which would make it right for the penalties to be reduced. I have concluded that there are no flaws, and so I do not have jurisdiction to re-make this decision.

### **Conclusion**

83. Therefore:

- The Appellant's appeal against the penalty of £100 for the late filing of his tax return for 2018/19 is dismissed;
- The Appellant's appeal against the penalty of £49 for the 30 days late payment of the tax due for 2018/19 is dismissed; and
- The Appellant's appeal against the penalty of £49 for the six months late payment of the tax due for 2018/19 is dismissed.

84. 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.

**JANE BAILEY  
TRIBUNAL JUDGE**

**RELEASE DATE: 14 SEPTEMBER 2021**