



TC03683

Appeal number: TC/2014/00682

Employer's Annual Return – late submission of return – appeal lodged over four years later – no reasonable excuse – struck out

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

COUNTRY LIFE SERVICES LTD

Appellant

- and -

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

TRIBUNAL: JUDGE ALASTAIR J RANKIN

The Tribunal determined the appeal on 19 May 2014 without a hearing under the provisions of Rule 26 of the Tribunal Procedure (First-tier Tribunal)(Tax Chamber) Rules 2009 (default paper cases) having first read the Notice of Appeal dated 29 January 2014 and HMRC's Statement of Case submitted on 14 March 2014 (with enclosures).

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DECISION

5 1. The Appellant company is appealing against penalties of £200.00 imposed under section 98A (2) and (3) of Taxes Management Act 1970 (the 1970 Act) for the late filing of the Employer's Annual Return (Form P35) for the tax year 2008/9.

2. The Appellant company contends that at the date of submission of Form P35 it did not employ any staff and that HMRC were notified at the time.

10 3. HMRC contends that an electronic reminder was sent to the Appellant company on 6 February 2009. The due filing date was 19 May 2009 but the return was not filed until 1 July 2009. A late filing penalty notice was sent to the Appellant company on 6 July 2009 calculated on the basis of £100.00 for each month or part month the return was late.

15 4. The penalty notice clearly stated that the Appellant company had 30 days in which to write to HMRC stating the grounds for the appeal. The Appellant company took no action until it wrote a letter to HMRC, received on 30 December 2013 advising that their accountants processed all PAYE end of year payment at that time, that the return was processed by the accountants and asking for the removal of the penalty.

20 5. By letter dated 7 January 2014 HMRC rejected the request as the Appellant company had not put forward a reasonable excuse for not appealing within the time limit nor had it appealed as soon as it could after the excuse ended.

25 6. The Appellant company included in its Notice of Appeal a ground that the penalty was issued nearly four years ago and has only just been presented. It contends that it cannot be the case for a penalty to be issued and never chased up. If so why has it taken 4 years to chase it?

30 7. The Tribunal is satisfied that the penalty notice was issued on 6 July 2009 and that no appeal was sent by the Appellant company until December 2013. The Appellant company has primary responsibility for ensuring that its tax affairs are in order and all filing deadlines are met. It cannot pass this responsibility to its accountants.

8. Accordingly the Tribunal refuses to allow a late appeal and determines that the appeal should be struck out. The penalty of £200.00 remains due for payment by the Appellant company.

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

“Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)”
which accompanies and forms part of this decision notice.

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ALASTAIR J RANKIN
TRIBUNAL JUDGE

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RELEASE DATE: 2 June 2014