



TC06988

Appeal number: TC/2013/09473

Income tax - fixed and daily penalties for late filing of self-assessment return - Donaldson considered - appellant's accountant failed to file appellant's return - whether reasonable excuse - no - appeal dismissed

FIRST-TIER TRIBUNAL

TAX

MALCOLM STRONGETHARM

Appellant

- and -

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

Respondents

TRIBUNAL: JUDGE MICHAEL CONNELL

The Tribunal determined the appeal on 29 January 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 10 December 2013, and HMRC's Statement of Case received by the Tribunal and Appellant on 23 March 2017 with enclosures. The Tribunal wrote to the Appellant stating that if he wished to reply to HMRC's Statement of Case he should have done so within 30 days of receiving a copy from HMRC. The Appellant did not respond

DECISION

1. This is an appeal by Mr Malcolm Strongetharm ('the Appellant') against penalties totaling £1,200 imposed by the Respondents ('HMRC') under Paragraphs 3, 4 and 5 of Schedule 55 Finance Act 2009 for the late filing by the appellant of his self-assessment ('SA') tax return for the tax year ending 5 April 2012.
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. The appellant's return was due, if filed electronically, no later than 31 January 2013. He did not file his return until 1 October 2013. Penalties of £100, £300 and £900 were imposed, under (i), (ii) and (iii) above
4. The appellant's appeal is against all penalties.
5. Daily penalties have been the subject of appeal in the case of *Donaldson v Commissioners for Her Majesty's Revenue and Customs* [2016] EWCA Civ. 761 (the "Donaldson case"). Mr Donaldson challenged aspects of HMRC's standard approach to these penalties.
6. Because the outcome of the *Donaldson* appeal was relevant to the appellant's appeal against daily penalties, the First-tier Tribunal directed that the appeal should be stood over until the *Donaldson* appeal was determined.
7. The three issues before the Court of Appeal in respect of daily penalties were:
 - a) whether HMRC had made a decision required by paragraph 4(1)(b) of Schedule 55 FA 2009 to charge daily penalties;
 - b) whether HMRC had given notice required under paragraph 4(1)(c) of Schedule 55 FA 2009, specifying the date from which the daily penalties were payable;

- c) whether HMRC had specified the period in respect of which the daily penalties were assessed in the notice of assessment, required under paragraph 18 of Schedule 55 FA 2009.

8. Although only issue (b) was before the Upper Tribunal, Mr Donaldson was given permission to raise the two further points (a) and (c).

9. The Court of Appeal decided that:

- a. Parliament had not intended that HMRC should only be able to exercise discretion under para 4(1)(b) on an individual taxpayer-by-taxpayer basis. The policy decision taken by HMRC in June 2010 that all taxpayers who were at least three months late in filing their returns would be liable to a daily penalty, satisfied the requirements of para 4(1)(b).
- b. HMRC had given notice under paragraph 4(1)(c) specifying the date from which the penalty was payable in the SA reminder and SA326 Notice. Both notices stated in terms that Mr Donaldson would be liable to a £10 daily penalty if his return was more than three months late and specified the date from which they were payable depending on whether the person filed an electronic or paper return. The notice could be given in advance of any default.
- c. HMRC's notice of assessment under paragraph 18 did not specify the period for which the daily penalties had been assessed. The notice should have specified the period over which the penalty had been incurred and should also have specified the three month period for which the penalty had been charged, or at least state the date when the penalties started. However the Court decided the omission fell within the scope of s 114(1) TMA 1970 and thus did not affect the validity of the notice of assessment. The Court's view was that Mr Donaldson was not misled or confused by the omission and the period of assessment could be worked out without difficulty.

How the Court of Appeal decision affects this appeal

10. HMRC submit that following the Court of Appeal decision the Tribunal should find that in the present appeal, HMRC have satisfied the requirements of paragraph 4(1)(b) and 4(1)(c) and despite the omission of the correct period for which daily penalties had been assessed, in the notice of assessment under paragraph 18, the omission does not affect the validity of the notice.

Filing date and Penalty date

11. Under s 8(1D) TMA 1970 et seq. which states that for the year ended 5 April 2012 a non-electronic return must be filed by 31 October 2012 and an electronic

return by 31 January 2013. The ‘penalty date’ is defined at Paragraph 1(4) Schedule 55 FA 2009 and is the date after the filing date.

12. A late filing penalty is chargeable where a taxpayer is late in filing their Individual Tax return.

The background facts

13. The notice to file for the year ending 5 April 2012 was issued to the Appellant on 6 April 2012.

14. The filing date was 31 October 2012 for a non-electronic return or 31 January 2013 for an electronic return. The appellant’s non-electronic return for the year ending 5 April 2012 was received by HMRC on 1 October 2013.

15. As the return was not received by the filing date, HMRC issued a notice of penalty assessment on or around 12 February 2013 in the amount of £100.

16. 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 2013 in the amount of £900, calculated at £10 per day for 90 days.

17. As the return had still not been received 6 months after the penalty date, HMRC issued a notice of penalty assessment on or around 14 August 2013 in the amount of £300.

18. On 1 October 2013, the appellant appealed to HMRC against the penalties on the grounds that he had provided his former accountant with his books and records but the accountant had failed to file the appellant’s return.

19. The Appellant’s new accountants lodged an appeal with HMRC on 1 October 2013 saying:

“We were very recently approached by Mr Strongtharm who was extremely concerned that his former accountant (Messrs SJRBS, 44 Moscow Road East, Edgeley, Stockport SK3 9QL) had become unresponsive to his requests to attend to his tax return. Additionally he had provided all his records to his former accountant and he has been unable to recover same despite his many endeavours as they appear to have simply “vanished”.

Ultimately, following yourselves issuing penalties, it became clear to Mr Strongtharm that his former accountant had not attended to his tax return(s) and he therefore instructed us to look into the matter for him.

Accordingly, we have submitted his 2011-12 tax return based on estimates based on his previous return(s) as the paperwork is not available as it cannot be recovered from his former accountant (perhaps your own records will be able to determine why his former accountant vanished?

We would be grateful if you would consider this as an appeal against the penalties and interest accrued as Mr Strongtharm had provided his accountant with his

paperwork and instructions in a timely manner and then was unable to re-gain contact despite his best endeavours.”

20. HMRC rejected the appeal on the basis that the 30 day deadline for appealing penalties had passed.

21. On 31 October 2013 Denbighshire Citizens Advice Bureau for Mr Strongetharm requested a review of HMRC’s decision, saying:

“Our client informs us that he is facing late return penalties for his tax returns and has appealed them. You wrote to him on the 17 October 2013 informing him that as his appeal was outside time limits it would not be considered.

Our client has approached us regarding the circumstances of his situation. Mr Strongetharm informs us that he used his accountant Mr S J Rush for 9 years without issue. In January 2012 our client informs us that he had a penalty for £100. Our client approached his accountant and states that he was informed that everything was in hand [that the accountant was in touch with you and that our client could ignore the penalty letter as it was automatically generated]. As this business relationship had been developed with trust over 9 years our client had no reason to doubt him.

It was at this time our client discovered that his accountant’s son was gravely ill but his accountant insisted that he had everything in hand. From January to August our client continued to receive penalty letters from you each time being informed by his accountant to ignore them. At the end of August our client received a letter relating to a £900 charge and this time was unable to contact his accountant as his numbers were disconnected. Our client contacted you and was informed that the £900 penalty was suspended pending a conclusion to an appeal to a tribunal decision, (TC/2012/8431 and TC/2012/9096). Our client has employed a new accountant who wrote to you on his behalf resulting in the decision dated 17 October 2013.

We feel that given the apparent level of implied trust generated in the working relationship of our client with his accountant that was developed over a prolonged period and that it was this trust which led to the delay in our client appealing the penalties. It is also this level of trust that led to the penalty being created in the first place.”

22. On 12 November 2013 HMRC rejected the appeal as out of time.

23. On 10 December 2013 the appellant notified his appeal to the Tribunal, giving his grounds as:

- His accountant told him not to worry about anything or any penalty charges as he (accountant) had been in touch with Inland Revenue and it would all be sorted very soon.
- His accountant told him he would appeal the penalties and pay them himself if need be as it was not his fault as he had paid him to do the work but realises the stress his accountant has been under because of his son (being ill).
- His accountant should have upheld his word as he did constantly chase him and he had his paperwork.

24. On 13 December 2013 the First-tier Tribunal directed that the appeal should be stood over until the *Donaldson* case was finalised.

25. The stay lasted for several years, as the Tribunal's decision was appealed to the Upper Tribunal, and then to the Court of Appeal. In July 2016 the Court of Appeal released its decision (*Donaldson* [2016] EWCA Civ 761).

26. The Court of Appeal's decision became final when the Supreme Court refused permission for leave to appeal on 21 December 2016. Thereafter, HMRC have been asked to provide statements of case on the many appeals stayed behind *Donaldson* in order that they could be resolved.

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:

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

28. Paragraph 1 (4) states that the ‘penalty date’ is the date after the ‘filing date’

29. Paragraph 3 of Schedule 55 imposes a fixed £100 penalty if a SA return is submitted late.

30. 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).

31. 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.

32. 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

33. 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.

34. 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

35. The appellant’s grounds of appeal are as set out in his Notice of Appeal to the Tribunal (and earlier correspondence from his agents).

HMRC’s Case

36. Late filing penalties for the year ended 5 April 2012 are due in accordance with Schedule 55 FA 2009, even if a customer has no tax to pay, has already paid all the tax due or is due a refund.

37. 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 2011-12 notice to file issued to the appellant on 6 April 2012.

38. This appeal is not concerned with specialist or obscure areas of tax law. It is concerned with the ordinary every day responsibilities of the appellant to ensure his 2011-12 tax return was filed by the legislative date and payment made on time.

39. Self-assessment places a greater degree of responsibility on customers for their own tax affairs. This includes ensuring that HMRC receive payment of the correct amount of tax and National Insurance at the correct time. The tax guidance and HMRC's website give plenty of warning about filing and payment deadlines. It is the customer's responsibility to make sure they meet the deadlines.

40. The appellant has been making SA tax returns for many years. Therefore, HMRC consider him to be experienced with the SA system including the due dates for paper and online returns.

41. No evidence has been presented by the appellant which demonstrates the argument that he had regularly chased his former agent, with regard to filing the 2011-2012 return. It would also be the appellant's choice whether or not to accept the assurances of his former agent, given that penalty notices were issued.

42. The appellant could have submitted his tax return at any time after the return was issued, using estimated or provisional figures if necessary. This information was included within the notes accompanying the 2011-12 tax return issued to the appellant. The information is also widely within the public domain on HMRC's website.

43. In December 2012 HMRC issued a reminder to file the tax return and pay any tax due by 31 January.

44. HMRC's records show that the £100 and £300 late filing penalties were paid on 28 November 2013.

45. HMRC accept that the appellant relied on his agent to file his tax return but this does not amount to a reasonable excuse.

46. 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.

Special Reduction

47. 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.

48. 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).

49. HMRC have considered the appellant’s arguments and submit 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.

50. 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’.

51. 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.

Proportionality

52. HMRC submits that the penalties under appeal are not criminal in nature for the purpose of Article 6 ECHR:

- The “offence” is merely administrative (i.e. the failure to file a return on time).
- The nature of the offence requires no proof of qualitative misconduct. All that is required is for a return to be filed after the proper filing date.
- The penalties are simply an administrative means of securing the production of timely returns. Their aim is to encourage compliance, not punish defaults.

53. In any event, even though HMRC do not accept that Article 6 rights are engaged in respect of these penalties, HMRC contend that it has fully complied with the requirements of Article 6, in particular the Appellant was told what he had done wrong and the statutory basis for the allegation against him. There could not therefore be any reasonable doubt about the “nature and cause of the accusation” against the person. Likewise, the person was made fully aware of their right to a statutory review or to appeal to an independent Tribunal.

54. HMRC also submit that the penalties are not disproportionate and the penalty regime is proportionate to its aim. In order for a national measure to be considered disproportionate, it must be “not merely harsh but plainly unfair” (see *International Transport Roth GmbH v SSHD* [2002] EWCA Civ 158). HMRC contend that the penalties imposed here are not ‘plainly unfair’ and fall within the wide margin of appreciation in framing and implementing taxation policies (*Bysermaw* at para.71). Moreover, the regime includes provisions for ‘reasonable excuse’ and ‘special circumstances’ which allow mitigation in appropriate cases.

Conclusion

55. 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.

56. 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).

57. 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.

58. If there is a reasonable excuse it must exist throughout the failure period.

59. The appellant had successfully filed previous tax returns online and should have been aware of the online filing procedures. He had also defaulted many times in earlier years and therefore would also have been aware of the penalty regime.

60. HMRC sent a late filing penalty to the appellant on 12 February 2012 for £100. This would have acted as a prompt to him that he had not filed his return. As HMRC say, the appellant has not provided any evidence that he ‘chased’ his accountant or instructed a new accountant with reasonable expedition. By then, £100, £900 and £300 penalties had already been issued.

61. Paragraph 23(1)(b) and (c) of Schedule 55 FA 2009 state that

“where a taxpayer relies on any other person to do anything that is not a reasonable excuse unless the taxpayer took reasonable care to avoid the failure and where the taxpayer had a reasonable excuse for the failure but the excuse has ceased the

taxpayer is treated as having continued to have the excuse if the failure was remedied without unreasonable delay after the excuse ceased.”

62. I acknowledge that the appellant relied on his former accountant and indeed may have been misled by the accountant’s assurances that everything was in order and/or that the accountant would pay any fines for late filing. However, I do not consider it was reasonable for the appellant to leave it until 1 October 2013 before appointing his new accountants in order to arrange the filing of his outstanding return.

63. The appellant has nonetheless shown a reasonable excuse for the £100 penalty. He could not on 31 January 2013, have known or have any reason to suspect that his return had not been filed on time. However, having received the penalty on 12 February 2013, the obligation was clearly upon him to file the outstanding return, if necessary by instructing new accountants. He relied upon his former accountant’s assurances and to that extent any recourse is against his former accountant.

64. Any excuse the appellant may have had up until 12 February 13 did not subsist throughout the remaining period of default, that is until 1 October 2013, and therefore does not amount to a reasonable excuse.

65. The late filing penalties of £900 and £300 have therefore been charged in accordance with legislation and there is no reasonable excuse for the appellant’s failure to file his tax return on time, nor by the date the penalties arose. I note that the appellant has already paid the sum of £400 in partial satisfaction of the penalties.

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

67. The appeal is therefore dismissed and late filing penalties confirmed, save for the £100 penalty.

68. 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: 16 FEBRUARY 2019