



TC06989

Appeal number: TC/2013/09241

Income tax - fixed and daily penalties for late filing of partnership tax return - Donaldson considered - appellant's accountant had difficulties obtaining authorisation code and utilising software to file electronic partnership return - late filing paper return - whether reasonable excuse - no - appeal dismissed

FIRST-TIER TRIBUNAL

TAX

GASWORKS (A PARTNERSHIP)

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 13 October 2013 and also HMRC's Statement of Case received by the Tribunal and Appellant on 25 July 2017 with enclosures. The Tribunal wrote to the Appellant stating that if it wished to reply to HMRC's Statement of Case it 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 Gasworks (a partnership), ('the appellant') against penalties totaling £1,300 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 the partnership self-assessment ('SA') tax return for the tax year ending 5 April 2012.
2. During the period 2011-12, the partners in Gasworks were Mr Mahood H Patel and Mr S Lambert. Mr Mahood H Patel was the representative partner.
3. 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.
4. The appellant's return was due, if filed electronically, no later than 31 January 2013. The partnership did not file its return until 27 August 2013. Penalties of £100, £300 and £900 were imposed, under (i), (ii) and (iii) above
5. The Appellant's appeal is against all penalties.
6. 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.
7. 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.
8. 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.

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

10. 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

11. 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

12. Under s 8(1D) TMA 1970 et seq., 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.

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

The background facts

14. The notice to file for the year ending 5 April 2012 was issued to the appellant on 6 April 2012. HMRC's computer records show the partnership address as 81 Stoughton Drive North, Leicestershire, LE5 5UD; this is the address all the notices would have been issued to automatically.

15. 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 27 August 2013.

16. 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.

17. 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.

18. 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.

19. On 10 October 2013, the appellant's agent, Chothia & Co, appealed to HMRC against the penalties on the grounds that the partnership tax return was filed on 26 January 2013 with the partners' tax returns.

20. HMRC rejected the appeal but offered a review.

21. Chothia & Co requested a review saying:

"I do think that you have view that the system only authorised me for online submission for partnership (Gasworks) on 12 June 2013 which is after the deadline.

We do not normally do the paper return if the client has registered on line though I did tried to print SA800 paper return on 26 January 2013 system was showing error and I could not print and send the paper return.

I had to fly to India on 27th from Manchester with Qatar Airways the flight was on 27th Sunday and due to Delhi on 28th January morning. Because of technical issue with flight we only flew on 28th January and arrived in Delhi on 29th January 2013. I have attached my passport photo copy for reference.

Can we request to remove the penalty?"

22. On 19 December 2013 following a review request, HMRC rejected the appeal and upheld their decision saying:

“Your partnership paper tax return was already late by 26 January 2013. You have been completing tax returns for a number of years and are aware of the filing dates and that if submitting a partnership tax return online you need to use commercial software. On reviewing your tax record, you previously had problems with the system also for year 2010-11.

Self-assessment places a greater degree of responsibility on customers for their own tax affairs. This includes ensuring that HMRC get payment of the correct amount of tax and National Insurance at the correct time. The tax guidance and HMRC website give plenty of warning about filing and payment deadlines. It is the customer’s responsibility to make sure they meet the deadlines. They cannot claim they had a reasonable excuse merely because they delegate the task to a third party and a third party failed to complete it. We expect the person to take reasonable care to ensure that they contact the third party promptly, that deadlines are set for the work required and to make regular checks.”

23. The appellant notified its appeal to the Tribunal. The appeal was dated 13 October 2013 but not received by the Tribunals Service until on or around 3 January 2014.

24. On 13 March 2014 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.

27. The appeal was relisted and HMRC’s statement of case was filed with the Tribunal on 24 July 2017.

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:

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

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

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

31. 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).

32. 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.

33. 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

34. 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.

35. 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.

36. The appellant's grounds of appeal are as set out in his Notice of Appeal to the Tribunal.

Appellant's case

37. The appellant's ground of appeal as stated in the Notice of Appeal are:

"If the system does not allow us to print off the form and we did not have authorisation code till 12 June 2013 for online submission we could not submit the partnership return when we did partners personal return on time - why should we not submit the partnership one."

HMRC's Case

38. In accordance with Paragraph 25(4) Schedule 55 FA 2009, an appeal under paragraph 20 in connection with a penalty payable by virtue of this paragraph may be brought only by the representative partner or a successor of the representative partner.

39. Mr Mahood Patel is the representative partner and therefore in accordance with Paragraph 25(5) Schedule 55 FA 2009, HMRC have treated this as an appeal against the determination of the penalties on all of the partners in respect of the failure.

40. The partnership has been in being since 6 April 2006, so Mr Mahood Patel should be aware of the filing date for a paper or internet return.

41. Partnerships have always had to use commercial software since the introduction of online filing for SA, this is not something new. The front page of the partnership return clearly states that if a taxpayer uses the internet he must use commercial party software.

42. Partnerships and individuals have a choice to file a paper return by 31 October or to file online by 31 January. The front of the partnership tax return shows that it can only be filed online using third party commercial software. The online guidance shows a list of commercial software suppliers who have products

that have been successfully tested with HMRC and it goes on to list the free online forms that HMRC provide and the SA800 Partnership Tax Return is not listed.

43. The online guidance also confirms that if a taxpayer wishes to send other tax returns online e.g. the Trust and Estate tax return, the partnership return or other supplementary pages, he will need to use commercial software.

44. The partners and partnership had been required to complete an annual tax return for several years and should have been aware of their obligations under SA. Filing the tax return and paying and tax due by the deadline forms part of their responsibility to meet these obligations.

45. 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.

46. If a business is run as a partnership, as well as filing partner's individual SA tax returns a partnership return must also be filed by the representative partner

47. 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.

48. HMRC's records show the partnership SA tax returns for 2007-08 to 2009-10 were all successfully filed online.

49. HMRC's records also show that the appellant had problems filing its 2010-11 partnership return electronically and filed a paper return for that year. An appeal was made against the late filing penalties for that year which was accepted on the grounds there was a problem with the online authorisation code. This should have alerted the appellant and its agent to any issues, and to ensure that for any future returns filed online the authorisation code was organised.

50. HMRC contend that, as the partnership return states "you will need to use commercial software which you may have to buy", there can be no misinterpretation that the partnership return can be filed online using free HMRC software.

51. The partnership SA return was due in paper format on or before the 31 October 2012 or in electronic format on or before 31 January 2013. As the paper return was not received until 27 August 2013, some 332 days late, the penalties have been charged in accordance with legislation.

52. HMRC have considered that the appellant's agent did not have the authorisation code until 12 June 2013 and that the system did not allow the agent to print off the form in January 2013. This does not amount to reasonable excuse for the appellant's failure to file the partnership return.

53. 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 its 2011-12 partnership tax return was filed by the legislative date and payment made on time.

Special Reduction

54. 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.

55. 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).

56. 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.

57. 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’.

58. HMRC submit that its decision not to reduce the penalties under paragraph 16 was not flawed but, if the Tribunal disagrees, HMRC further submit that there are no special circumstances which would require the Tribunal to reduce the penalties.

Proportionality

59. 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.

60. 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 it had done wrong and the statutory basis for the allegation against it. 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.

61. 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

62. 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.

63. 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).

64. 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.

65. The partnership has been in being since 6 April 2006 and so Mr Mahood Patel, the representative partner, would have been aware of the filing date for a paper or online return.

66. The appellant and its agent had successfully filed previous tax returns online and the partners would have been aware of online filing procedures and the need to file a partnership return.

67. HMRC sent a late filing penalty to the appellant on 12 February 2013 for £100. This would have acted as a prompt to the appellant that it had not filed the partnership return.

68. It appears that the appellant's agent attempted to print off and file a paper return on 27 January 2013, by which date a paper return would have already been late. No explanation has been offered for this. The agent also says he did not have an authorisation code until June 2013 which was the reason why the partnership return was not filed until 27 August 2013. Again no explanation has been offered for this.

69. As HMRC say, a partnership and individuals have a choice whether to file a paper return by 31 October or to file online by 31 January. The front of the partnership tax return shows that it can only be filed online using third party commercial software.

70. The online guidance shows a list of commercial software suppliers who have products that have been successfully tested with HMRC and it goes on to list the free online forms that HMRC provide; the SA800 Partnership Tax Return is not listed.

71. The appellant has not offered any explanation as to why the partnership return was not filed until 27 August 2013 or, in fact, the further delay in filing the return (in paper form) after receipt of the authorisation code.

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

73. The late filing penalties of £100, £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.

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

75. The appeal is therefore dismissed and late filing penalties totalling £1,300 are confirmed

76. 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