

[2011] UKFTT 617 (TC)



TC01459

Appeal number TC/2011/04154

Appeal against VAT default surcharge – Appellant had installed new accounting system and first attempt to file the VAT return – correcting the error took longer than anticipated but Appellant did not contact HMRC – appeal dismissed – Appellant had no reasonable excuse

FIRST-TIER TRIBUNAL

TAX

TLC INCENTIVES LTD

Appellant

- and -

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

Respondents

**TRIBUNAL: S.M.G.RADFORD (TRIBUNAL JUDGE)
H.FOLORUNSO**

Sitting in public at 45 Bedford Square, London WC1 on 11 August 2011

Mr Markham for the Appellant

Mr P.Rowe for the Respondents

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DECISION

1. This is an appeal against the VAT default surcharge of £3,172.91 imposed for the late payment of the VAT for the VAT period 01/11.

5 **Background and facts**

2. Mr Markham, a director of the Appellant and company secretary for the group to which the Appellant belonged acknowledged that the tax was paid late but this was as a result of their new accounting system taking longer to implement than was anticipated.

10 3. He stated that there were now ten companies in the group and as the business grew so did the group need a more sophisticated system. The group had expected to receive a finished product but instead Touchstone, their supplier interviewed everyone and then told them that the product the group had originally intended to install was not suitable.

15 4. The product recommended took 130 days to set up and at the end of December training of the staff in the new system commenced. All the books needed to be closed off and the information needed to be imported from the old system to the new system.

20 5. This process took up until the third week of February when the Appellant ran the VAT return. Unfortunately the result was inaccurate and so the financial director decided that rather than file an incorrect return he wanted the ledgers to be fully reconciled to the old system and so he redid the importation of data from the old system using a different process which was successful.

6. By the time the problem was reconciled it was the end of March when the VAT return was filed and the payment was then made straightaway.

25 **HMRC's Submissions**

7. HMRC submitted that if there was any difficulty with making the VAT return then the Appellant should have contacted their local VAT office or the National Advice Service. However no contact was made with HMRC until the Debt Management Unit started to chase the VAT payable.

30 8. HMRC further submitted that the Appellant could have lessened the amount of surcharge imposed by making a payment on account.

9. Additionally HMRC could have authorised an estimated return which would have been corrected on the next return without the Appellant incurring any penalty.

Appellant's Submissions

35 10. Mr Markham submitted that as different amounts were payable over the quarters the Appellant did not know how much to pay.

11. Unfortunately the financial director has since left the Appellant but one of the problems was that the VAT return straddled the transition to the new system. Two months were covered by the old system and one month was covered by the new system.

5 **Findings**

12. Whilst the Tribunal had every sympathy with the Appellant's computer problems we found that the Appellant had no reasonable excuse for the late submission of the VAT return.

10 13. The Tribunal noted that this was the Appellant's third default which meant that the surcharge was at five percent.

14. As soon as it was realised that the VAT return produced by the new system was inaccurate the Appellant could have contacted HMRC right away to inform HMRC of the problem and either authorised an estimated return or paid an amount on account.

Decision

15 15. The appeal is dismissed.

16. 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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TRIBUNAL JUDGE
RELEASE DATE: 7 September 2011

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