



TC02226

Appeal number: TC/2012/04561

Company Return – penalty for late return – reasonable excuse - no

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

BUSINESS WOMENS COACHING LIMITED **Appellant**

- and -

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

**TRIBUNAL: JUDGE ALISON MCKENNA
SONIA GABLE**

Sitting in public at Bedford Square on 16 August 2012

The Appellant wrote to the Tribunal to say it would not be sending a representative to the hearing.

Susan Crane of HMRC for the Respondents.

DECISION

1. The Tribunal was satisfied that the Appellant had been notified of today's
5 hearing and decided, pursuant to rule 33 of The Tribunal Procedure (First-tier
Tribunal) (Tax Chamber) Rules 2009, that it was in the interests of justice to proceed
with the hearing in the Appellant's absence.

2. This case concerns an appeal against a fixed penalty of £100 imposed on the
Appellant company in respect of its failure to submit its company tax return by the
10 filing date.

3. The return was due by 31 December 2010 but it was received on 11 February
2011. HMRC's records show that a previous return had been received and rejected by
HMRC on 9 December 2010. This was because the directors report was missing.
HMRC submitted that the Appellant could have submitted a valid return prior to the
15 filing date but delayed until February the following year without a reasonable excuse.

4. The Appellant's grounds of appeal state that the company thought it had made a
valid return in time; that no tax was payable; that abbreviated accounts had been
accepted for other companies; that there had been a change of custom and practice;
and that the penalty system was cash generating for HMRC and unfair. In a letter to
20 the Tribunal on the company's behalf, Mr David Taylor, Director and Company
Secretary, also submitted that he had appealed to see if the Revenue would pursue the
company for such a small amount of money.

5. At the hearing we asked Ms Crane if there had been a change of custom and
practice so that previously accepted abbreviated accounts were no longer acceptable.
25 She said that this was not the case and referred us to the notes sent out with the Notice
to deliver the return, which make it clear that if company law requires a directors'
report then one must also be filed with the return.

6. Paragraph 17(2)(a) of Schedule 18 to the Finance Act 1998 provides that a
company which is required to deliver a company tax return and fails to do so by the
30 filing date is liable to a flat-rate penalty of £100 if the return is delivered within 3
months of the filing date. An appeal against the imposition of a penalty may succeed
where the Tribunal is satisfied that there was a reasonable excuse for the late filing of
the return. A reasonable excuse is generally interpreted to mean one involving
circumstances outside the tax payer's control.

7. We are satisfied that the return was made late in this case. The Appellant has
35 not advanced a reasonable excuse for the late return and in the circumstances we
uphold the penalty and dismiss this appeal.

8. 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
40 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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**ALISON MCKENNA
TRIBUNAL JUDGE**

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RELEASE DATE: 29 August 2012