



**TC03213**

**Appeal number: TC/2013/03599**

*COMPANY TAX – late filing penalties – annual return – reasonable  
excuse – third party responsibility – indisposition – appeal dismissed*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**SHARING THE TRUTH LIMITED**

**Appellant**

**- and -**

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

**Respondents**

**TRIBUNAL: JUDGE RICHARD J MANUELL**

**The Tribunal determined the appeal on 24 September 2013 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 19 May 2013 and HMRC's Statement of Case dated 26 June 2013 (with bundle of documents).**

## DECISION

1. This determination has been prepared following the Appellant's request for full findings following the promulgation of the standard short form determination usual in default paper appeals. In reality having heard no live evidence from either side there is little which the Tribunal can usefully add, nevertheless a full decision is required to enable a Notice of Appeal to be considered. It should however be noted that no supporting evidence for any of the Appellant's contentions discussed below was produced for the Tribunal to consider. It was the Appellant's responsibility to produce such evidence.

2. The Tribunal decided that the Appellant had shown no reasonable excuse for the late filing of its Company Tax return for the period ending 30 November 2010, which was due by 30 November 2011. The return was not filed until 15 September 2012. The ultimate flat rate penalty imposed was £200.

3. The Appellant admits the late filing but in summary contends that this was because of circumstances beyond its control, namely illness/misconduct by the Appellant's accountant. The Appellant requested that the penalty be removed.

4. As HMRC point out, the CT return was very late. The Appellant proceeded on an assumption rather than on proof that the return had been filed.

5. A detailed summary of the relevant legislation with full extracts was provided to the Appellant by HMRC with the Statement of Case dated 26 June 2013 served on the Appellant and copied to the Tribunal. There was no dispute about the law and it will not assist the Appellant if the Tribunal were to set out the relevant legislation again in any detail here. The key element is schedule 18 of the Finance Act 1998, Parts I & II, where the duty to file a return, the filing dates applicable and the penalties are set out.

6. Section 118(2) of the Taxes Management Act 1970 in summary states that for the purposes of that Act, where a person had a reasonable excuse for not doing anything required to be done he shall be deemed not to have failed to do it unless the excuse ceased and, after the excuse ceased, he did it without unreasonable delay. It should be noted that there is no relevant statutory definition of "reasonable excuse". The Appellant brought no cases to the Tribunal's attention.

7. The Tribunal agrees with HMRC's submission in the present appeal. While the situation is regrettable, the fact is that the directors of the Appellant had no copy of the completed return and no evidence that the CT return had been completed correctly and filed by the due date. It is not easy to see how the directors could have remained unaware of their accountant's pregnancy and the possible disruption that might be caused. The Tribunal finds that the explanation provided, reliance on a third party who failed to perform, is not a reasonable excuse, i.e., in simple but unrestricted terms, something unforeseeable, unexpected and beyond the Appellant's control.

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 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.

**RICHARD J MANUELL**  
**TRIBUNAL JUDGE**

**RELEASE DATE: 7 January 2014**