



TC03682

Appeal number: TC/2014/00820

Income Tax – late filing penalty – refusal by taxpayer to submit return using provisional figures – HMRC conducting an enquiry into previous years

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

PAUL COOMBS

Appellant

- and -

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

TRIBUNAL: JUDGE ALASTAIR J RANKIN

The Tribunal determined the appeal on 19 May 2014 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 6 February 2014 and HMRC's Statement of Case submitted on 25 March 2014 (with enclosures).

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DECISION

1. The Appellant is appealing against late filing penalties of £100.00 and £300.00
5 for the tax year 2011/12. As at 25 March 2014 the Appellant had still not submitted
his tax return for the year 2011/12.

2. The Appellant claims that he has an ongoing tax enquiry by HMRC which
began in January 2011. His tax returns for the year in dispute were in the possession
of his tax specialists. HMRC collected all his paperwork from his tax specialists on 16
10 July 2013 and since then HMRC has not indicated whether the records have been
examined. Therefore the submission of an accurate return for any more recent years
will not have been accurate as the records are not in his possession.

3. The Appellant states that he is more than willing and able to pay outstanding
tax. However any payment made before HMRC has informed him of its decision
15 regarding the outstanding returns may cause further complications and distress.

4. HMRC contends that the Appellant has effectively stated that he is not prepared
to file his 2011/12 tax return until he is certain about the correct tax liability for that
year. His refusal to comply either with the filing requirements in section 8 Taxes
Management Act 1970 or the advice given to him by HMRC concerning the use of
20 provisional figures means that his claim to have a reasonable excuse for late filing is
unsupported by the facts.

5. HMRC issued a full tax return to the Appellant on 6 April 2012. Both the tax
return and the Tax Guide issued with the return provide clear direction about the
Appellant's personal responsibilities as a taxpayer within the self-assessment system
25 and his legal obligations to submit a tax return by the prescribed date. Both the tax
return and Tax Guide caution that a series of late penalties will be charged should the
relevant deadline be missed.

6. The Appellant has not suggested he was ever in doubt about the filing date for
his 2011/12 return but states that he needs HMRC to supply information about his tax
30 liability before he submits his return. This is contrary to the way the self-assessment
system operates.

7. As the Appellant appears to have had access to his own records until they were
collected by HMRC on 16 July 2013 there does not appear to be any reason why he
could not have completed his 2011/12 tax return and submitted it before the filing
35 deadline of 31 January 2013.

8. Accordingly the appeal is dismissed and the penalties remain due for payment.

9. 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
40 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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**ALASTAIR J RANKIN
TRIBUNAL JUDGE**

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RELEASE DATE: 2 June 2014