



TC03809

Appeal number: TC/2014/01137

Income tax – extension of time – late appeal – application for leave to appeal out of time – penalty for inaccuracies in tax return – whether properly imposed

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

PAUL ANGHEL

Appellant

- and -

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

TRIBUNAL: JUDGE WDF COVERDALE

The Tribunal determined the appeal on 14.07.2014 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 16.02.2014 (with enclosure) and HMRC's Statement of Case submitted on 20.05.2014 (with enclosures).

DECISION

1. The Tribunal admits the late appeal. This is done, with some hesitation, on the
5 basis that there was ongoing correspondence between the Appellant and the
Respondent after the deadline for appealing (14.04.2013); also the Respondents
advised the Appellant, in a letter dated 20.09.2013, that the deadline for appealing
was 14.04.2014 (although the Appellant has subsequently acknowledged that this was
a typing error); the appeal relates to a penalty, the calculation of which may be
10 difficult for a lay person to understand. The Tribunal has, accordingly, thoroughly
scrutinised the material in this paper case including the Respondents' Document,
Legislation and Authorities Bundle.

2. The Tribunal decided that the penalty in the sum of £530.36 issued under
Schedule 24 Finance Act 2007 on 15.03.2013 in respect of inaccuracies in the
15 Appellant's 2009/2010 tax return, leading to additional tax due of £2,828.60, was
properly imposed.

3. The appeal is dismissed.

4. The Tribunal found that liability for the additional tax of £2,828.60 and interest
was not disputed by the Appellant and indeed he has made payments on account of
20 that liability. He has not appealed against that liability. He has not appealed against
the Closure Notice issued by the Respondents. In fact the Notice of Appeal is silent as
to the Grounds of Appeal.

5. The Tribunal further found that the inaccuracy contained in the Appellant's
2009/2010 tax return was caused by the Appellant's careless behaviour: he under
25 declared the amount received from his employment with Orchid Pubs Dining Ltd and
as a result the declared amount of tax deducted was also incorrect; he failed to provide
required receipts or documents to support the expenditure claimed; he failed to
explain how individual purchases were incurred wholly, exclusively and necessarily
in the performance of the duties of his employment; he failed to supply any records or
30 documents to support the expenditure claimed against his self employed income; he
did not attempt to explain the individual purchases of which some were clearly not
allowable as business expenditure.

6. In entering on his tax return the amount received from his employer in the year
ending 05.04.2010 the Appellant could, with ease, have checked his P60 or monthly
35 payslips. His lack of care resulted in incorrect figures being placed on his return. He
did not make proper use of information and documents he held and returned incorrect
figures for employment income and the tax which had been deducted.

7. The Appellant made claims for expenditure on his return but did not keep
receipts or documents in support of these claims or check whether the expenditure
40 was allowable. This was careless.

8. The Appellant has given contradictory accounts of the manner in which his return was completed: in a letter dated 26.08.2011 he said that he had “done my self assessment by myself”; in a letter dated 05.02.2014 he said that “I was not the person filing the Self assessment”. Whether he filed his self assessment return with or
5 without assistance it was his responsibility to take reasonable care to ensure the figures returned were correct and that he had the records available to support his figures should they be required.

9. The Tribunal further found that disclosure of the errors in the Appellant’s return was prompted: the Appellant did not tell the Respondents about the inaccuracies
10 before he had reason to believe the Respondents had discovered them, or were about to discover them, as a result of the enquiry that was being carried out.

10. The minimum penalty percentage for careless inaccuracy with a prompted disclosure is 15%; the maximum penalty percentage is 30%.

11. The Respondents have properly applied reductions to the penalty as follows:

- 15 1.) For telling the Respondents about the inaccuracies: 20% of a possible 30%.
- 2.) For helping the Respondents with quantification: 30% of a possible 40%.
- 3.) For giving the Respondents access to records: 25% of a possible 30%.

The total reduction is therefore 75% and the Tribunal confirms that this is the greatest
20 allowance that can be given to the Appellant in the circumstances of this case.

12. The difference between the minimum and maximum penalties is 15% (30 – 15). This is multiplied by the total reduction of 75% and the overall percentage reduction is, therefore, 11.25%. Deducting this from the maximum penalty that could be charged for being careless and prompted (30%) a penalty percentage of 18.75% of the
25 potential lost revenue is the result. 18.75% of £2,828.60 is £530.36, the correctly calculated penalty imposed upon the Appellant.

13. 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
30 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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**WDF COVERDALE
TRIBUNAL JUDGE**

RELEASE DATE: 17 July 2014

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