



**TC05169**

**Appeal number: TC/2015/03253**

*Income Tax – PAYE – whether system operated correctly – Yes – Appeal  
conceded*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**WALKERS' BAGGAGE TRANSFER COMPANY LIMITED      Appellant**

**- and -**

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

**TRIBUNAL: JUDGE KENNETH MURE, QC  
MEMBER: ALBAN HOLDEN**

**Sitting in public at the Magistrates' Court, Carlisle on Friday 6 May 2016**

**Appellant:- Mrs J M Walker and Mr I S Walker, Directors**

**Respondents:- Mr Matthew Mason, Presenting Officer, HMRC**

## DECISION

5 1. This appeal related to the alleged failure of the appellant company to account for tax due under PAYE in relation to one of its employees for the Years to 5 April 2011, 5 April 2012 and 5 April 2013.

10 2. The business of the appellant is providing transport for the luggage of holiday-makers exploring on foot Hadrian's Wall and its near vicinity. It employs several drivers for this purpose. HMRC asserted that the appellant had not accounted for the PAYE properly due for one of its drivers, Mr Roger Thurstan. He was present in court and the appellant's directors proposed to call him as a witness. They complained that they had operated in PAYE correctly and had followed the directions issued to them by HMRC.

15 3. The appellant company had produced certain documentation in support of Mr Thurstan's Witness Statement. In particular a letter from HMRC dated 9 January 2015 to Mr Thurstan was produced. It indicates that – "I believe that your employer operated Pay As You Earn (PAYE) correctly using the information they had at the time. This means that I will not be asking your employer to pay the £727.80 tax due."

20 4. There was an obvious conflict between the terms of this letter and the stance of HMRC in their Statement of Case that further sums were due in terms of PAYE. We thought it appropriate to adjourn the hearing briefly, in particular to enable Mr Mason, the Presenting Officer for HMRC, to consider the implications of the letter and, as appropriate, seek further instructions.

25 5. When we resumed the hearing Mr Mason indicated that he was no longer resisting the appeal. We considered that this was the appropriate and fair course to adopt. Accordingly we allowed the appeal.

30 6. 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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**KENNETH MURE, QC  
TRIBUNAL JUDGE**

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**RELEASE DATE: 14 June 2016**