



**TC06478**

**Appeal number: TC/2015/03212**

*Income tax - Schedule 55 Finance Act 2009 - fixed and daily penalties for failure to file self-assessment returns on time - Appellant's PAYE annual income exceeded £100,000 - unaware he was obliged to file returns - whether reasonable excuse - no - appeal dismissed*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**ROBERT LOCKWOOD**

**Appellant**

**- and -**

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

**TRIBUNAL: JUDGE MICHAEL CONNELL  
MEMBER HELEN MYERSCOUGH**

**Sitting in public at Tax Appeals Tribunal, Taylor House, Rosebery Avenue,  
London on 15 January 2018**

**The Appellant did not attend and was not represented**

**Mr David Miles, Officer of HMRC, for the Respondents**

## DECISION

1. This is an appeal by Mr Robert Lockwood ('the Appellant') against penalties totalling £3,300 imposed by the Respondents ('HMRC') under Paragraphs 3,4, 5 and 6 of Schedule 55 Finance Act 2009, for his failure to file self-assessment tax returns on time, for the tax years ending 5 April 2012, 5 April 2013 and 5 April 2014.

2. The Appellant also appeals penalties totalling £412 imposed under Paragraph 3(2) of Schedule 56 Finance Act ('FA') 2009 for his failure to pay tax on time in respect of his personal self-assessment liability for the years ending 5 April 2013 and 5 April 2014.

3. The Appellant did not attend the hearing. The Tribunal was satisfied that the Appellant had been given notice of the time, date and venue of the appeal hearing and that it was in the interests of justice to proceed.

### 15 **Background**

4. The Appellant had been within the Self-Assessment ('SA') regime since the 1996-97 tax year.

5. The Appellant's 2011-12 SA return was issued on 6 April 2012. If filed in paper form, the return was due by 31 October in that tax year. If filed electronically, the return was due no later than 31 January in the year following.

6. The Appellant's 2012-13 return was issued on 20 June 2013. If filed in paper form, the return was due by 31 October in that tax year. If filed electronically, the return was due no later than 31 January in the year following.

7. The Appellant's 2013-14 return was issued on 21 August 2014. If filed in paper form, the return was due by 28 November in that tax year. If filed electronically, the return was due no later than 31 January in the year following.

8. The Appellant failed to file returns on time for each of the three years under 2011-12 to 2013-14.

9. A late filing penalty is chargeable where a taxpayer is late in filing their Individual Tax return. The 'penalty date' is defined at Paragraph 1(4) Schedule 55 FA 2009 and is the date after the filing date.

10. Penalties of £1,200 had been imposed on the Appellant for the late filing of his return for the year 2010-11 but were cancelled by HMRC when they were informed that the Appellant had ceased self-employment and had no self-employed income for that year. On 2 March 2012 HMRC informed the Appellant that he did not need to file a tax return for the years ended 5 April 2012 and 2013, unless his circumstances changed. In their letter, HMRC specifically pointed out that a change of

circumstances would include the Appellant earning more than £100,000 from all sources in the tax year.

11. The penalties for late filing of a return can be summarised as follows:

- 5 i. A penalty of £100 is imposed under Paragraph 3 of Schedule 55 FA 2009 for the late filing of the Individual Tax Return.
- ii. If after a period of 3 months beginning with the penalty date the return remains outstanding, daily penalties of £10 per day up to a total of £900 are imposed under Paragraph 4 of Schedule 55 FA 2009.
- 10 iii. If after a period of 6 months beginning with the penalty date the return remains outstanding, a penalty of £300 is imposed under Paragraph 5 of Schedule 55 FA 2009.
- iv. If after a period of 12 months beginning with the penalty date the return remains outstanding, a penalty £300 is imposed under Paragraph 6 of Schedule 55 FA 2009.

15 12. In summary, penalties of £100, £900, £300 and £300 were imposed, under (i), (ii), (iii) and (iv) above, for years 2011-12 and 2012-13. A penalty of £100 was imposed for the year 2013-14.

13. The Appellant was issued with a £100 late filing notice on 21 March 2013, in respect of the late 2011-12 return. This would have also advised the Appellant that if  
20 the delay continued and his return was more than three months late, HMRC would begin charging him a penalty of £10 for each day it remained outstanding for a maximum of 90 days.

14. As the Appellant's 2011-12 return had not been filed after a period of 3 months beginning with the penalty date, daily penalties of £10 per day were imposed, and on  
25 20 September 2013 a notice of daily penalties totalling £900 was issued to the Appellant. A six month late filing penalty of £300 was also imposed on the same date.

15. As the Appellant's 2011-12 return had not been filed after a period of 12 months beginning with the penalty date, a fixed penalty of £300 was imposed on 2 April 2014.

30 16. As the Appellant's 2012-13 return had not been filed after a period of 30 days beginning with the penalty date, a fixed penalty of £100 was imposed on 27 March 2014.

17. A 60 day daily penalty reminder was issued to the Appellant in July 2014.

35 18. As the Appellant's 2012-13 return had not been filed after a period of 3 months beginning with the penalty date, daily penalties of £10 per day were imposed and on 24 September 2014 a notice of daily penalties totalling £900 was issued to the Appellant. A six month late filing penalty of £300 was issued on the same date.

19. On 6 October 2014, the Appellant wrote to HMRC asking to discuss his account in order to 'consolidate any outstanding monies'. He said that he had been on PAYE for approximately nine years and had been told by HMRC in March 2012 that he did not need to complete a SA tax return. The first he knew that he was required to file returns for 2011 and 2012 was when he received penalties. He said that his basic salary was not over £100,000 for either of those periods but he had in any event filed returns in February 2013. Since then his PAYE code had changed and additional tax deducted at source. He said that he had queried the need for a 2013 SA return and was told that if he needed to file a return he would be advised accordingly. He said that he would have dealt with matters sooner, but there had been "problems at work between December 2013 and March 2014".

20. Following a reminder by the Appellant on 5 January 2015, HMRC replied on 9 March 2015, enclosing a full statement of account and saying that they had been informed by the Appellant's employers that, contrary to the Appellant's assertions, his salary was in fact over £100,000 in 2011-12 and 2012-13. HMRC said that they would treat his letter as an appeal against the late filing penalties for those years (although at that stage, the Appellant had not filed his 2012-13 return).

21. HMRC added that the Appellant's return for 2011-12 was sent back to him on 23 January 2013 as it was incomplete, and as of the date of HMRC's letter, had not been resubmitted.

22. In their letter of 9 March 2015 HMRC also advised that a full tax return for 2012-13 had been issued to the Appellant on 20 June 2013, but had not been filed.

23. HMRC also advised that a notice requesting the Appellant to file his 2013-14 SA return online was issued to him on 21 August 2014, but had also not been filed.

24. In a second letter also of 9 March 2015, HMRC responded to the Appellant's appeals saying that the appeals were out of time, having been submitted after the 30 day time limit within which a taxpayer must appeal a penalty. In addition the Appellant had not shown a reasonable excuse for the late filing of his 2011-12 and 2012-13 returns. HMRC explained that they were however unable to finalise their decision with regard to the Appellant's appeal, because they were awaiting a decision of the Upper Tribunal in the case of *Donaldson*, the outcome of which may have had a bearing on the daily penalties that had been charged.

25. As the Appellant's 2013-14 return had not been filed after a period of 30 days beginning with the penalty date, a fixed penalty of £100 was imposed on 27 March 2015.

26. On 31 March 2015, the Appellant replied. He repeated his assertion that he had received a letter from HMRC in March 2012 stating that he did not need to submit a SA return but that he had in any event filed his 2011-12 return. Because his tax code had changed shortly after that, he presumed that HMRC had received his return. He had also made telephone calls to HMRC asking for statements. He said that he had also submitted his 2012-13 and 2013-14 returns, but then appeared to contradict this

when he went on to say "the above returns will be completed online, as the most expedient way to reissue".

27. As the Appellant's 2012-13 return had not been filed after a period of 12 months beginning with the penalty date, a fixed penalty of £300 was imposed on 2 April 2015.

28. On 13 May 2015, the Appellant lodged an appeal with H M Courts & Tribunals Service. In his grounds of appeal the Appellant said that he had filed the returns which HMRC claimed to be outstanding, and explained why he believed HMRC had received them. He said that he fully acknowledged that fines were due but not in the amounts levied. All he wanted was the opportunity of "sitting down with HMRC, to go through" his account and the penalties, which he believed were incorrect, so that he could come to an agreement.

29. The Appellant's outstanding returns were finally received by HMRC in September 2015.

30. In respect of the 2012-13 year, 30 day, 6 month and 12 month late payment penalties, each of £46, were imposed on 21 January 2016.

31. In respect of the 2013-14 year, 30 day, 6 month and 12 month late payment penalties, each of £58, were imposed on 21 January 2016.

32. In respect of the 2014-15 year, 30 day and 6 month late payment penalties, each of £50, were imposed on 15 March 2016.

33. As referred to above, daily penalties had been the subject of appeal in the case of *Donaldson v Commissioners for Her Majesty's Revenue and Customs* [2016] EWCA Civ. 761 (the "*Donaldson*" case). Mr Donaldson challenged aspects of HMRC's standard approach to these penalties and at the date of the Appellant's Notice of Appeal, *Donaldson* was due to be heard by the Court of Appeal.

34. Because the outcome of the *Donaldson* appeal was relevant to the Appellant's appeal against daily penalties, the First-tier Tribunal directed on 21 May 2015 that the appeal should be stood over until the *Donaldson* appeal was determined.

35. The Court of Appeal decision in *Donaldson* was that HMRC had satisfied the requirements of paragraph 4(1)(b) and 4(1)(c) of Schedule 55, and despite the omission in the notice of assessment of the correct period for which daily penalties had been assessed, the omission did not affect the validity of the notice.

36. On 15 December 2017, the Appellant was advised that the Court of Appeal's decision in the *Donaldson* case had been released and that accordingly the Appellant's case was to be listed. A notice of hearing at 10.30am, Taylor House, Rosebery Avenue, London was issued to the Appellant on 15 January 2018.

37. On 18 December 2017 the Appellant asked for a postponement until March 2019 saying that he had "extensive commitments until then".

38. The Tribunal Service replied asking for further details as to why the Appellant would be unavailable to attend the 15 January 2018 hearing and evidence in support of his application, in order that the Tribunal could consider his postponement request.

39. The Appellant did not respond.

5 *Filing date and Penalty date*

*Reasonable excuse*

40. Paragraph 23 of Schedule 55 FA 2009, provides that a penalty does not arise in relation to a failure to make a return if the person satisfies HMRC (or on appeal, a Tribunal) that they had a reasonable excuse for the failure and they put right the failure without unreasonable delay after the excuse ceased.

41. The law specifies two situations that are not reasonable excuse:

(a) An insufficiency of funds, unless attributable to events outside the Appellant's control and

(b) Reliance on another person to do anything, unless the person took reasonable care to avoid the failure.

42. There is no statutory definition of 'reasonable excuse'. Whether or not a person had a reasonable excuse is an objective test and "is a matter to be considered in the light of all the circumstances of the particular case" (*Rowland V HMRC* (2006) STC (SCD) 536 at paragraph 18).

43. The actions of the taxpayer should be considered from the perspective of a prudent person, exercising reasonable foresight and due diligence, having proper regard for their responsibilities under the Tax Acts. The decision depends upon the particular circumstances in which the failure occurred and the particular circumstances and abilities of the person who failed to file their return on time. The test is to determine what a reasonable taxpayer, in the position of the taxpayer, would have done in those circumstances and by reference to that test, to determine whether the conduct of the taxpayer can be regarded as conforming to that standard.

*Relevant statutory provisions*

**Taxes Management Act 1970**

44. Section 8 - Personal return- provides as follows:

(1) For the purpose of establishing the amounts in which a person is chargeable to income tax and capital gains tax for a year of assessment, [and the amount payable by him by way of income tax for that year,] he may be required by a notice given to him by an officer of the Board-

a) to make and deliver to the officer, on or before the day mentioned in subsection (1A) below, a return containing such information as may, reasonably be required in pursuance of the notice, and

5 b) to deliver with the return such accounts, statements and documents, relating to information contained in the return, as may reasonably be so required.

(1A) The day referred to in subsection (1) above is-

(a) the 31st January next following the year of assessment, or

10 (b) where the notice under the section is given after the 31st October next following the year, the last [day of the period of three months beginning with the day on which the notice is given]

(1AA) For the purposes of subsection (1) above-

(a) the amounts in which a person is chargeable to income tax and capital gains tax are net amounts, that is to say, amounts which take into account any relief or allowance a claim for which is included in the return; and

15 (b) the amount payable by a person by way of income tax is the difference between the amount in which he is chargeable to income tax and the aggregate amount of any income tax deducted at source and any tax credits to which [section 397(1) [or [397A(1)] of ITTOIA 2005] applies.]

20 (1B) In the case of a person who carries on a trade, profession, or business in partnership with one or more other persons, a return under the section shall include each amount which, in any relevant statement, is stated to be equal to his share of any income, [loss, tax, credit] or charge for the period in respect of which the statement is made.

25 (1C) In subsection (1B) above "relevant statement" means a statement which, as respects the partnership, falls to be made under section 12AB of the Act for a period which includes, or includes any part of, the year of assessment or its basis period.

(1D) A return under the section for a year of assessment (Year 1) must be delivered-

(a) in the case of a non-electronic return, on or before 31st October in Year 2, and

30 (b) in the case of an electronic return, on or before 31st January in Year 2.

(1E) But subsection (1D) is subject to the following two exceptions.

(1F) Exception 1 is that if a notice in respect of Year 1 is given after 31st July in Year 2 (but on or before 31st October), a return must be delivered-

35 (a) during the period of 3 months beginning with the date of the notice (for a non-electronic return), or

(b) on or before 31st January (for an electronic return).

(1G) Exception 2 is that if a notice in respect of Year 1 is given after 31st October in Year 2, a return (whether electronic or not) must be delivered during the period of 3 months beginning with the date of the notice.

(1H) The Commissioners-

- 5 (a) shall prescribe what constitutes an electronic return, and  
(b) may make different provision for different cases or circumstances.

(2) Every return under the section shall include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete.

10 (3) A notice under the section may require different information, accounts and statements for different periods or in relation to different descriptions of source of income.

(4) Notices under the section may require different information, accounts and statements in relation to different descriptions of person.

15 (4A) Subsection (4B) applies if a notice under the section is given to a person within section 8ZA of the Act (certain persons employed etc. by person not resident in United Kingdom who perform their duties for UK clients).

(4B) The notice may require a return of the person's income to include particulars of any general earnings (see section 7(3) of ITEPA 2003) paid to the person.

20 (5) In the section and sections 8A, 9 and 12AA of the Act, any reference to income tax deducted at source is a reference to income tax deducted or treated as deducted from any income or treated as paid on any income.

#### **Schedule 55 Finance Act 2009:**

45. The penalties at issue in the appeal are imposed by Schedule 55 FA 2009.

25 46. Paragraph 1 (4) states that the 'penalty date' is the date after the 'filing date'.

47. Paragraph 3 of Schedule 55 imposes a fixed £100 penalty if a self-assessment return is submitted late.

48. Paragraph 4 of Schedule 55 provides for daily penalties to accrue where a return is more than three months late as follows:

30 (1) P is liable to a penalty under the paragraph if (and only if)-

- (a) P's failure continues after the end of the period of 3 months beginning with the penalty date,  
(b) HMRC decide that such a penalty should be payable, and  
35 (c) HMRC give notice to P specifying the date from which the penalty is payable.



- (2) The penalty under the paragraph is £10 for each day that the failure continues during the period of 90 days beginning with the date specified in the notice given under sub-paragraph (1)(c).
- 5 (3) The date specified in the notice under sub-paragraph (1)(c)-  
(a) may be earlier than the date on which the notice is given, but  
(b) may not be earlier than the end of the period mentioned in sub-paragraph (1)(a).

10 49. Paragraph 5 of Schedule 55 provides for further penalties to accrue when a return is more than 6 months late as follows:

- (1) P is liable to a penalty under the paragraph if (and only if) P's failure continues after the end of the period of 6 months beginning with the penalty date.
- 15 (2) The penalty under the paragraph is the greater of-  
(a) 5% of any liability to tax which would have been shown in the return in question, and  
(b) £300.

20 50. Paragraph 23 of Schedule 55 contains a defence of 'reasonable excuse' as follows:

- (1) Liability to a penalty under any paragraph of the Schedule does not arise in relation to a failure to make a return if P satisfies HMRC or (on appeal) the First-tier Tribunal or Upper Tribunal that there is a reasonable excuse for the failure.
- 25 (2) For the purposes of sub-paragraph (1)-  
(a) an insufficiency of funds is not a reasonable excuse, unless attributable to events outside P's control,  
(b) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure, and  
30 (c) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

35 51. Paragraph 16 of Schedule 55 gives HMRC power to reduce penalties owing to the presence of 'special circumstances' as follows:

- (1) If HMRC think it right because of special circumstances, they may reduce a penalty under any paragraph of the Schedule.
- 40 (2) In sub-paragraph (1) 'special circumstances' does not include-  
(a) ability to pay, or  
(b) the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another.
- 45 (3) In sub-paragraph (1) the reference to reducing a penalty includes a reference to-  
(a) staying a penalty, and  
(b) agreeing a compromise in relation to proceedings for a penalty.

52. Paragraph 20 of Schedule 55 gives a taxpayer a right of appeal to the Tribunal and paragraph 22 of Schedule 55 sets out the scope of the Tribunal's jurisdiction on such an appeal. In particular, the Tribunal has only a limited jurisdiction on the question of 'special circumstances' as set out below:

- 5 (1) On an appeal under paragraph 20(1) that is notified to the tribunal, the tribunal may affirm or cancel HMRC's decision.
- (2) On an appeal under paragraph 20(2) that is notified to the tribunal, the tribunal may-
- 10 (a) affirm HMRC's decision, or
- (b) substitute for HMRC's decision another decision that HMRC had power to make.
- (3) If the tribunal substitutes its decision for HMRC's, the tribunal may rely on paragraph 16-
- 15 (a) to the same extent as HMRC (which may mean applying the same percentage reduction as HMRC to a different starting point), or
- (b) to a different extent, but only if the tribunal thinks that HMRC's decision in respect of the application of paragraph 16 was flawed.
- (4) In sub-paragraph (3)(b) "flawed" means flawed when considered in the light of the principles applicable in proceedings for judicial review.
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### **The Appellant's case**

53. The Appellant's grounds of appeal are set out in his Notice of Appeal, as referred to above.

### **HMRC's case**

25 54. HMRC accepts that the onus rests with it to demonstrate that the 2011-12, 2012-13 and 2013-14 tax returns were issued to the Appellant and that the Appellant had failed to submit the returns on time.

55. Individual tax returns for the years 2011-12, 2012-13 and 2013-14 were correctly issued to the Appellant and as such he was legally bound to complete and file the returns by the legislative deadline for each year.

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56. The evidential burden then shifts to the Appellant to show that he has a reasonable excuse for any such failure and that that reasonable excuse lasted for the entire period of the failure. However, the Appellant, in his Notice of Appeal, accepts that the returns were not filed on time; he only disputes the amount of the penalties.

35 He does not explain why he no longer asserts, as he did in correspondence with HMRC, that he has a reasonable excuse for the late filing of his returns, and therefore HMRC have considered the grounds of appeal he put to HMRC for late filing.

57. Reasonable excuse was considered in the case *The Clean Car Company Ltd v The Commissioners of Customs & Excise* by the Tribunal Chairman Judge Medd:

40 "It has been said before in cases arising from default surcharges that the test of whether or not there is a reasonable excuse is an objective one. In my judgment it is an objective test in this sense. One must ask oneself: was what the taxpayer did a

reasonable thing for a responsible trader conscious of and intending to comply with his obligations regarding tax, but having the experience and other relevant attributes of the taxpayer and placed in the situation that the taxpayer found himself at the relevant time, a reasonable thing to do?" [Page 128 3rd line et seq.].

5 58. A reasonable excuse has to be something that stops a person from meeting a tax obligation on time despite them having taken reasonable care to meet that obligation. HMRC's view is that the test is to consider what a reasonable person, who wanted to comply with their tax obligations, would have done in the same circumstances and decide if the actions of that person met that standard. If there is a reasonable excuse it  
10 must exist throughout the failure period.

59. The Appellant has not provided a reasonable excuse for his failure to file his individual tax returns for the years 2011-12, 2012-13 and 2013-14 on time and that the penalties have been correctly charged in accordance with the legislation.

#### *Special Reduction*

15 60. Paragraph 16(1) of Schedule 55 allows HMRC to reduce a penalty if they think it is right because of special circumstances. "Special circumstances" is undefined save that, under paragraph 16(2), it does not include ability to pay, or the fact that a potential loss of revenue from one taxpayer is balanced by a potential overpayment by another.

20 61. "Special" has been held to mean 'exceptional, abnormal or unusual' (*Crabtree v Hinchcliffe* [1971] 3 All ER 967), or 'something out of the ordinary run of events' (*Clarks of Hove Ltd v Bakers' Union* [1979] 1 All ER 152). The special circumstances must also apply to the particular individual and not be general circumstances that apply to many taxpayers by virtue of the penalty legislation (*David Collis* [2011]  
25 UKFTT 588 (TC), paragraph 40).

62. Where a person appeals against the amount of a penalty, paragraph 22(2) and (3) of Schedule 55, FA 2009 provide the Tribunal with the power to substitute HMRC's decision with another decision that HMRC had the power to make. The Tribunal may rely on paragraph 16 (Special Reduction) but only if they think  
30 HMRC's decision was "flawed when considered in the light of the principles applicable in proceedings for judicial review".

63. HMRC have considered the Appellant's grounds of appeal but his circumstances do not amount to special circumstances which would merit a reduction of the penalties.

35 64. Accordingly, HMRC's decision not to reduce the penalties under paragraph 16 was not flawed. There are no special circumstances which would require the Tribunal to reduce the penalties.

## Conclusion

5 65. When a person appeals against a penalty they are required to have a reasonable excuse which existed for the whole period of the default. Whether there was a reasonable excuse, which lasted for the entire period of default, is a matter to be considered in the light of all the circumstances of the particular case. In this matter SA returns for three years were filed late.

66. A reasonable excuse is normally an unexpected or unusual event, either unforeseeable or beyond the person's control, which prevents him or her from complying with an obligation which otherwise they would have complied with.

10 67. The Appellant now appears to accept that he earned more than £100,000 from all sources in the tax years under appeal, and no longer appeals the fact that the penalties were correctly levied. He was informed by HMRC in their letter of 2 March 2012 that if his income exceeded £100,000 he had to file SA returns.

15 68. HMRC first sent a late filing penalty to the Appellant in respect of his late 2011-12 return on 21 March 2013 for £100. This should have acted as a prompt to him that a return was due and had not been submitted. If he had any doubts about his obligation to file a return he could have raised these with HMRC who would have advised him accordingly.

20 69. The £100 penalty notice would have also advised the Appellant that if his return was more than three months late, HMRC would begin charging him a penalty of £10 for each day it remained outstanding for a maximum of 90 days.

70. In the event, HMRC did not issue the 90 day penalty notice, nor the 6 month late filing penalty until 20 September 2013. The 12 month late filing penalty followed on 3 April 2014.

25 71. In the meantime the Appellant would have received a notice to file his SA return for 2012-13, on or around 21 June 2013.

72. Penalties for the late filing of the Appellant's 2013-14 return were issued on 27 March, 24 September 2014 and 2 April 2015.

30 73. The Appellant would therefore have been aware that his returns were overdue and that penalties had been imposed and would continue to be imposed until his returns were filed. The Appellant did not file his 2011-12 and 2012-13 returns until February 2015 which were respectively 24 months and 12 months late. His 2013-14 return was also late and a £100 penalty had been issued on 27 March 2015.

35 74. Although the Appellant filed his return for 2011-12, it was sent back to him as incomplete, and then re-filed and received by HMRC together with the 2012-13 and 2013-14 returns in September 2015.

75. It is clear that no reasonable excuse has been shown for the Appellant's failure to file his tax returns on time.

76. The Appellant says that he disputes the amount of the penalties. The penalties are however prescribed by statute, as set out in paragraph 11 above. Neither HMRC nor this Tribunal has any power to vary the penalties.

5 77. The late filing penalties have therefore been charged in accordance with legislation.

78. The Tribunal concurs with HMRC's conclusions and finds that there are no special circumstances which would allow the penalties to be reduced under Special Reduction regulations.

10 79. With regard to the late payment penalties, the Appellant does not address these in his Notice of Appeal. The penalties have been calculated as prescribed by statute at 5% of tax paid late and in the absence of any reasonable excuse have been correctly imposed.

80. The appeal is therefore dismissed and the late filing and late payment penalties confirmed.

15 81. 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  
20 "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

25 **MICHAEL CONNELL**  
**TRIBUNAL JUDGE**

**RELEASE DATE: 1 May 2018**