



TC07040

Appeal number: TC/2017/02974

Income tax - fixed and daily penalties for late filing of partnership tax return - partners unaware they were required to file a partnership return - whether reasonable excuse - no - appeal dismissed

FIRST-TIER TRIBUNAL

TAX

JASON BOYD T/A PIXELBOX DESIGN

Appellant

- and -

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

Respondents

TRIBUNAL: JUDGE MICHAEL CONNELL

The Tribunal determined the appeal on 8 February 2019 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 5 April 2017 and also HMRC's Statement of Case received by the Tribunal and Appellant on 5 June 2017 with enclosures. The Tribunal wrote to the Appellant stating that if it wished to reply to HMRC's Statement of Case it should do so within 30 days of receiving a copy from HMRC. The Appellant acknowledged this but did not provide any further submissions.

DECISION

1. This is an appeal by Jason Boyd as representative partner of Pixelbox Design (a partnership), ('the appellant') against penalties totaling £100 imposed by the Respondents ('HMRC') under Paragraph 3 of Schedule 55 Finance Act 2009 for the late filing by the appellant of the partnership self-assessment ('SA') tax return for the tax year ending 5 April 2013.
2. During the period 2012-13, the partners in Pixelbox design were Mr Jason Boyd and Mrs S H Boyd. The appellant was the representative partner.
3. The penalties for late filing of a return can be summarised as follows:
 - i. A penalty of £100 is imposed under Paragraph 3 of Schedule 55 Finance Act ('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 at £10 per day up to a total of £900 are imposed under Paragraph 4 of Schedule 55 FA 2009.
 - 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 of £300 is imposed under Paragraph 6 of Schedule 55 FA 2009.
4. The appellant's return was due, if filed in paper form, no later than 31 October 2013 and if filed electronically, no later than 31 January 2014. The partnership filed a paper return on 17 March 2014. Penalties of £100, and £450 were imposed, under (i), and (ii) above
5. The appellant's appeal is against the £100 penalty. The appellant appealed the £100 penalty to HMRC before the daily penalties had been issued, but did not separately appeal the daily penalties after they had been issued.
6. Daily penalties have 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.
7. Because the outcome of the *Donaldson* appeal may have been relevant to any appeal made by the appellant against the daily penalties, HMRC postponed collection of the penalties until the *Donaldson* appeal was determined.
8. The three issues before the Court of Appeal in respect of daily penalties were:

- a) whether HMRC had made a decision required by paragraph 4(1)(b) of Schedule 55 FA 2009 to charge daily penalties;
- b) whether HMRC had given notice required under paragraph 4(1)(c) of Schedule 55 FA 2009, specifying the date from which the daily penalties were payable;
- c) whether HMRC had specified the period in respect of which the daily penalties were assessed in the notice of assessment, required under paragraph 18 of Schedule 55 FA 2009.

9. Although only issue (b) was before the Upper Tribunal, Mr Donaldson was given permission to raise the two further points (a) and (c).

10. The Court of Appeal decided that:

- a. Parliament had not intended that HMRC should only be able to exercise discretion under para 4(1)(b) on an individual taxpayer-by-taxpayer basis. The policy decision taken by HMRC in June 2010 that all taxpayers who were at least three months late in filing their returns would be liable to a daily penalty, satisfied the requirements of para 4(1)(b).
- b. HMRC had given notice under paragraph 4(1)(c) specifying the date from which the penalty was payable in the SA reminder and SA326 Notice. Both notices stated in terms that Mr Donaldson would be liable to a £10 daily penalty if his return was more than three months late and specified the date from which they were payable depending on whether the person filed an electronic or paper return. The notice could be given in advance of any default.
- c. HMRC's notice of assessment under paragraph 18 did not specify the period for which the daily penalties had been assessed. The notice should have specified the period over which the penalty had been incurred and should also have specified the three month period for which the penalty had been charged, or at least state the date when the penalties started. However the Court decided the omission fell within the scope of s 114(1) TMA 1970 and thus did not affect the validity of the notice of assessment. The Court's view was that Mr. Donaldson was not misled or confused by the omission and the period of assessment could be worked out without difficulty.

How the Court of Appeal decision affects this appeal

11. HMRC submit that following the Court of Appeal decision, the Tribunal should find that in the present appeal, HMRC have satisfied the requirements of paragraph 4(1)(b) and 4(1)(c) and despite the omission of the correct period for which daily penalties had been assessed, in the notice of assessment under paragraph 18, the omission does not affect the validity of the notice.

Filing date and Penalty date

12. Under s 8(1D) TMA 1970 et seq., a non-electronic return must be filed by 31 October after the relevant tax year or an electronic return by 31 January in the following year. The 'penalty date' is defined at Paragraph 1(4) Schedule 55 FA 2009 and is the date after the filing date.

13. A late filing penalty is chargeable where a taxpayer is late in filing their tax return.

The background facts

14. The notice to file for the year ending 5 April 2013 was issued to the appellant partnership on 6 April 2013.

15. The filing date was 31 October 2013 for a non-electronic return or 31 January 2014 for an electronic return. The appellant's non-electronic return for the year ending 5 April 2013 was received by HMRC on 17 March 2014.

16. As the return was not received by the filing date, HMRC issued a notice of penalty assessment on or around 18 February 2014 in the amount of £100.

17. As the return had still not been received 3 months after the penalty date, HMRC issued a notice of daily penalty assessment to each partner on or around 15 April 2014 in the amount of £450, calculated at £10 per day for 45 days.

18. On 9 March 2014, the appellant appealed to HMRC against the penalties on the grounds:

“We had no idea we had to do a return to the partnership which had ceased to exist and we had also filled out and submitted personal returns for this period. We assumed that this was all that was required.”

19. On 14 April 2014 HMRC rejected the appeal but offered a review.

20. On 26 April 2014 the appellant requested a review saying:

- Being completely new to running our own business and the associated paperwork we were totally unaware that a new partnership which was making no profit was required to fill out a self-assessment form.
- Considering that both partners had completed and returned self-assessment forms.
- Regardless of the outcome of this review we are currently living on benefits and are totally unable to pay overinflated and trumped bureaucratic charges.

21. On 7 August 2014, HMRC rejected the appeal and upheld their decision. Collection of the penalties was postponed pending determination of the *Donaldson* decision.

22. The *Donaldson* appeal lasted for several years, as the Tribunal's decision was appealed to the Upper Tribunal, and then to the Court of Appeal. In July 2016 the Court of Appeal released its decision (*Donaldson* [2016] EWCA Civ 761).

23. The Court of Appeal's decision became final when the Supreme Court refused permission for leave to appeal on 21 December 2016. Thereafter, HMRC have been asked to provide statements of case on the many appeals stayed behind *Donaldson* or where collection of penalties had been postponed in order that they could be resolved.

24. On 5 April 2017 the appellant notified its appeal to the Tribunal. There is no indication in the appeal bundle as to what prompted the appellant's appeal but it is assumed that this followed notification from HMRC that it intended to collect the penalties issued.

25. The appellant's appeal was relisted and HMRC's statement of case was filed with the Tribunal on 5 June 2017.

Relevant statutory provisions

Taxes Management Act 1970

26. Relevant statutory provisions.

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
- 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
- (b) where the notice under this 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

(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.]

(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 this 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.

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

(1D) A return under this 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

(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-

(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-

(a) shall prescribe what constitutes an electronic return, and

(b) may make different provision for different cases or circumstances.

(2) Every return under this 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.

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

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

(4A) Subsection (4B) applies if a notice under this section is given to a person within section 8ZA of this 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.

(5) In this section and sections 8A, 9 and 12AA of this 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:

27. The penalties at issue in this appeal are imposed by Schedule 55 FA 2009.

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

Paragraph 3 of Schedule 55 imposes a fixed £100 penalty if a SA return is submitted late.

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

- (1) P is liable to a penalty under this 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
 - (c) HMRC give notice to P specifying the date from which the penalty is payable.
- (2) The penalty under this 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).
- (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).

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 this paragraph if (and only if) P's failure continues after the end of the period of 6 months beginning with the penalty date.
- (2) The penalty under this 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.

Paragraph 23 of Schedule 55 contains a defence of "reasonable excuse" as follows:

- (1) Liability to a penalty under any paragraph of this 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.

- (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
 - (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

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 para-graph of this Schedule.
- (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.
- (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.

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:

- (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--
 - (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--
 - (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.

The appellant’s grounds of appeal are as set out in its Notice of Appeal to the Tribunal.

Appellant's case

28. The appellant's ground of appeal as stated in the Notice of Appeal are:

"In 2014, my then wife and I were trying to get a new business off the ground operating as a partnership.

We were both very inexperienced and lacking knowledge of tax accounting but as the business was not making money we were unable to employ the services of an accountant so we tried to keep abreast of our responsibilities.

We had both completed and filed self-assessment returns as required and we were totally unaware that the partnership was also required to submit a self-assessment return and had never considered the partnership to be a "self".

Out of the blue, we received a letter from HMRC advising that we had both been fined for not filing this partnership self-assessment return.

I made several attempts at explaining the situation to HMRC and asking them to be reasonable in the circumstances and went through their internal appeal process but they refused to even consider the situation insisting that the fines were appropriate and our reasons were not acceptable."

HMRC's Case

29. In accordance with Paragraph 25(4) Schedule 55 FA 2009, an appeal under paragraph 20 in connection with a penalty payable by virtue of this paragraph may be brought only by the representative partner or a successor of the representative partner.

30. Mr Jason Boyd is the representative partner and therefore in accordance with Paragraph 25(5) Schedule 55 FA 2009, HMRC have treated this as an appeal against the determination of the penalties on all of the partners in respect of the failure.

31. On 31 October 2012 HMRC processed form SA400 submitted by Mr and Mrs Boyd notifying HMRC that they had commenced trading on 8 October 2012 as Pixelbox Design, a partnership working in Web Design & Development. HMRC sent Pixelbox Design a letter telling them the partnership's Unique Taxpayer Reference (UTR).

32. Forms SA400 are available on HMRC's website at Gov.UK under the section "Self-Assessment: register - a partnership for Self-Assessment (SA1100)". HMRC's guidance states that customers can use the online forms service or the postal forms to register a new partnership for Self-Assessment.

33. Under the section headed "Details", HMRC's guidance states "Use the SA400 to register a new partnership for Self-Assessment. The partner nominated by the partnership to receive and submit partnership returns must sign the form".

34. On form SA400, the section headed “Who should complete this form” it states that this form must be completed by the nominated partner. This is the partner who has been nominated by the partnership to receive and submit the partnership returns.

35. HMRC’s website guidance under “Set up a business partnership/Register the partnership” states “You must register your partnership for Self-Assessment with HMRC if you're the ‘nominated partner’. This means you're responsible for sending the partnership tax return. All partners also need to send their own tax returns as individuals”.

36. HMRC held an individual SA record for Mr Boyd as he had commenced self-employment as a sole trader in Web Development on 18 February 2011. On 31 October 2012 Mr Boyd submitted form SA401 to register as a partner for SA. HMRC updated Mr Boyd’s individual record and linked it to the partnership record

37. Mrs Boyd also submitted form SA401 and from this HMRC set up a SA record for her on 31 October 2012 as she would now be required to submit an individual SA return. This record was also linked to the partnership record.

38. There is no partnership liability in SA, but there is a partnership return to allow partnership matters to be dealt with centrally. Individual partners are required to include their share of any partnership profits in their own returns. The share of profits they enter in their own returns must correspond with the allocations shown in the partnership return. The comparison is carried out automatically except for accounting periods or trades not captured. Although partners are individually responsible for the tax due on their share of partnership profits all matters relating to the calculation of those profits, and to the allocation of profits between partners, is dealt with through the partnership return.

39. In his appeal to the Tribunal, the appellant states the partners were both inexperienced in tax matters. However, he had completed individual returns since 2010-11, so would have been familiar with the SA system and completing SA returns.

40. The appellant states that they were both totally unaware that the partnership was also required to submit a SA return. However, information regarding the requirement to submit an annual SA return for the partnership was given several times during the registration process.

41. In their individual SA returns submitted for 2012-13, both partners have completed supplementary pages giving details of their share of the partnership’s trading or professional profits. In HMRC’s help sheets available online, the guidance for individuals completing the Partnership (short) pages as part of their individual SA return states that “You are also jointly responsible, with your partners, for completing the Partnership Tax Return for 2012-13. If that return is not sent back on time, each partner who was a member of the partnership during

the return period may be charged a £100 automatic initial penalty.” The guidance goes on to say that “the Partnership Tax Return includes a summary of the share of profits, loss or income allocated to you during any period for which you were a member of the partnership. This summary is called the 'Partnership Statement' and you should use the information in that Statement to complete your Partnership pages.”

42. The appellant states that “Out of the blue, we received a letter from HMRC advising we had both been fined for not filing a partnership self-assessment return”. However, the Notice to File a Partnership return issued on 6 April 2013 gives full details on Penalties for filing late.

43. HMRC has not received an appeal against the Daily Penalty in the amount of £450, but it has been included in these submissions for the Tribunal to consider. Both partners gave details of their share of the partnership profits on their individual returns. This information is usually extracted from the partnership return so it would appear that although both partners state they are lacking in knowledge of tax accountancy skills and unable to employ an accountant, they have been able to prepare records of income and expenditure to enable them to complete their own returns.

44. Late filing penalties for the year ended 5 April 2013 are therefore due in accordance with Schedule 55 FA 2009, even if a customer has no tax to pay, has already paid all the tax due or is due a refund.

HRA/ ECHR & Proportionality

45. The penalties under appeal are not criminal in nature for the purpose of Article 6 ECHR.

- The “offence” is merely administrative (i.e. the failure to file a return on time).
- The nature of the offence requires no proof of qualitative misconduct. All that is required is for a return to be filed after the proper filing date.
- The penalties are simply an administrative means of securing the production of timely returns. Their aim is to encourage compliance, not punish defaults.

46. In any event, even though HMRC do not accept that Article 6 rights are engaged in respect of these penalties HMRC contend that it has fully complied with the requirements of Article 6. In particular the appellant was told what they had done wrong and the statutory basis for the allegation against them. There could not therefore be any reasonable doubt about the “nature and cause of the accusation” against the person. Likewise, the person was made fully aware of their right to a statutory review or to appeal to an independent Tribunal.

47. HMRC also submit that the penalties are not disproportionate and the penalty regime is proportionate to its aim. In order for a national measure to be considered disproportionate, it must be “not merely harsh but plainly unfair” (see *International Transport Roth GmbH v SSHD* [2002] EWCA Civ 158). HMRC contend that the penalties imposed here are not ‘plainly unfair’ and fall within the wide margin of appreciation in framing and implementing taxation policies (Bysermaw at para.71). Moreover, the regime includes provisions for ‘reasonable excuse’ and ‘special circumstances’ which allow mitigation in appropriate cases.

Special Reduction

48. 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.

49. In other contexts “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] UKFTT 588 (TC), paragraph 40).

50. HMRC have considered the appellant’s arguments and submit that there are no special circumstances which would merit a reduction of the penalties below the statutory amount and that the penalties are appropriate in the circumstances.

51. 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 HMRC’s decision was ‘flawed when considered in the light of the principles applicable in proceedings for judicial review’.

52. HMRC submit that its decision not to reduce the penalties under paragraph 16 was not flawed but, if the Tribunal disagrees, HMRC further submit that there are no special circumstances which would require the Tribunal to reduce the penalties.

Conclusion

53. 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.

54. 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).

55. 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.

56. HMRC’s website guidance under “Set up a business partnership/Register the partnership” states “You must register your partnership for Self-Assessment with HMRC if you’re the nominated partner”. This should have alerted the partners to the fact that they were responsible for sending the partnership tax return. All partners also need to send their own tax returns as individuals.

57. Furthermore, information regarding the requirement to submit an annual SA return for the partnership was given several times during the registration process.

58. HMRC sent a late filing penalty to the appellant on 18 February 2014 for £100. This would have acted as a prompt to the appellant that it had not filed the partnership return.

59. The Tribunal has some sympathy for the appellant. Clearly the partners made an honest mistake and were unaware of their obligation to file a partnership return in addition to individual returns. However the law does not provide shelter for mistakes.

60. Self-assessment places a greater degree of responsibility on customers for their own tax affairs. This includes ensuring that HMRC receive tax returns on time. The tax guidance and HMRC’s website give sufficient warning about filing returns. It is the customer’s responsibility to make sure they acquaint themselves with that information.

61. The late filing penalties of £100 and £450 have therefore been charged in accordance with legislation and there is no reasonable excuse for the appellant’s failure to file the partnership tax return on time, nor by the date the penalties arose. I note that the appellant has in fact not appealed the £450 daily penalties.

62. I find that there are no special circumstances which would allow the penalty to be reduced under Special Reduction regulations.

63. The appeal is therefore dismissed and late filing penalties totalling £550 are confirmed

64. 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.

**MICHAEL CONNELL
TRIBUNAL JUDGE**

RELEASE DATE: 14 MARCH 2019