



TC07043

Appeal number: TC/2018/02918

Income tax - fixed and daily penalties for late filing of self-assessment return - Appellant's accountant failed to file Appellant's returns - whether reasonable excuse - no - appeal dismissed

FIRST-TIER TRIBUNAL

TAX

INAM UL HAQ NAMI

Appellant

- and -

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

Respondents

TRIBUNAL: JUDGE MICHAEL CONNELL

The Tribunal determined the appeal on 20 August 2018 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 18 April 2018, and HMRC's Statement of Case received by the Tribunal on 28 April 2018 with enclosures. The Tribunal wrote to the Appellant stating that if he wished to reply to HMRC's Statement of Case he should do so within 30 days. The Appellant replied on 28 June 2018 with further submissions.

DECISION

1. This is an appeal by Mr Inam Ul Haq Nami ('the appellant') against penalties totalling £1,300 imposed by the Respondents ('HMRC') under Paragraphs 2, 3, and 4 of Schedule 55 Finance Act 2009 for the late filing by the appellant of his self-assessment ('SA') tax return for the tax year ending 5 April 2016.

Late filing penalties

2. A late filing penalty is chargeable where a taxpayer is late in filing their Individual Tax return.

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 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.

Filing date and Penalty date

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

Reasonable excuse

5. 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.

6. 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.

7. 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).

8. HMRC’s view is that 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.

9. If there is a reasonable excuse it must exist throughout the failure period.

The background facts

10. The notice to file for the year ending 5 April 2016 was issued to the appellant on 6 April 2016.

11. The filing date was 31 October 2016 for a non-electronic return or 31 January 2017 for an electronic return.

12. As the return was not received by the filing date, HMRC issued a notice of penalty assessment on or around 7 February 2017 in the amount of £100.

13. As the return had still not been received 3 months after the penalty date, HMRC issued a notice of daily penalty assessment on or around 11 August 2017 in the amount of £900, calculated at £10 per day for 90 days.

14. The appellant’s electronic return was filed on 1 August 2017.

15. As the return had not been received 6 months after the penalty date, HMRC issued a notice of penalty assessment on or around 11 August 2017 in the amount of £300.

16. On 8 December 2017, the appellant appealed against the penalties on the following grounds :

“The circumstances of these penalties were beyond my control because of the following reasons:

- My previous accountant, Mr Mehmood (Mehmood Accountancy) based in 64 Yardley Road, Bordesley Green, Birmingham, B9 5QE, closed his office and he is currently being investigated by HMRC. I had missing paperwork and took me

time to provide all the information to my new accountants which resulted in the tax return being submitted late.

- I have been filing my tax returns on time and this delay was completely out of my control. This also affected my business due to taking time in finding/requesting paperwork again from suppliers etc., instead of focusing on my business. I have paid outstanding tax and national insurance, however I am unable to pay penalties for not submitting end of year returns. This is due to the severe financial difficulty I am currently in. I am trying my best to sort business related issues and getting back on my feet. I will make sure to provide all the information well within time in future.”

17. On 7 March 2018 the appellant’s grounds for appeal were considered and the decision made that the appellant had not provided a reasonable excuse for filing his 2015-16 return late.

18. On 19 March 2017, the appellant requested a review of HMRC’s decision, saying:

“The matter of fact is that Mr Mehmood (Mehmood Accountancy, based in 64 Yardley Road, Bordesley Green, Birmingham, B9 5QE) was my accountant from about 2001 onwards. He had always dealt with my tax matters and returns. He had all my online account and login details until tax year in question (2015-16).

In August 2016, I went to see him regarding my VAT returns and found his office was closed without any prior notice. I kept going to check for a week or so, but his office remained closed all the time which raised concerns in my mind. Upon inquiry from some other clients of him, I come to know that he was under investigation by HMRC and nobody knew about his whereabouts.

I then called to HMRC for help and advice as my VAT returns were getting late and requested a copy of my User ID from HM Revenue & Customs Online Services. I was told via email on 31 August 2016 that my name and details were not linking to any online account. I was advised to register for a Government Gateway account. (Copies of email communication dated 30-31 August are attached). After completing other procedures, I got registered for Government Gateway on 22 September 2016. (A copy of Gateway Registration Notification dated 22 September 2016 is attached). I requested to change my VAT registration details through the Government Gateway. (This communication is also attached dated 22 September 2016).

After receiving my activation code, I immediately sent my VAT returns online without any delay on 10 October 2016. (Email also attached).

So, the observation given by Mrs L Sheridan in her decision while rejecting my appeal that, 'I could have contacted HMRC to obtain my login details', is maybe because of lack of this information. Attached emails record is proof that I was actively seeking advice and help from HMRC during all this period.

Now, as I only knew that my VAT returns for that quarter were due, so I dealt with that. My Tax Returns were supposed to be sent in by my ex-accountant (Mr Mehmood), and I had provided him required information well before the end of July 2016. And as I did not know that he has not done so, how should I have sent in

returns? I only come to know that my Tax returns were not sent in when I received a letter from HMRC, dated 6 June 2017, saying that my Tax Returns were more than 3 months late. (Copy of letter is attached). This was the first time I come to know that my Tax Returns were not sent in by my accountant. So, without wasting anytime, I manage to submit my Tax Returns on 16 June 2017, within just 10 days.

But later on, I received a letter asking to pay £1200 towards penalties for late submission of Tax Returns for the Tax year 2015-16. My account was also passed on to debt collection agency (Fredrickson) before the outcome of my appeal. And now on 7 March 2018, my appeal has been turned down like I willingly didn't fulfil my responsibility saying that 'I could have contacted HMRC to obtain login details' etc.

I hereby would like to repeat once again that, attached emails are proof of me actively seeking help and advice from HMRC. And as soon as I obtained my HMRC login credentials, I settled my VAT account without any delay. If I knew that my Tax Returns were also in arrears, I would have dealt with it also in the same manner. There was no reason why I wouldn't have done that. The only reason for me not doing that was, I did not know it had not been submitted by my accountant. And as soon as I come to know by the 6 June letter, I managed to send my returns within 10 days.

There was no way that I could have acted for something which I did not know was due.”

19. HMRC carried out a review and issued their review conclusion on 23 March 2018. The outcome of the review was that HMRC’s decision should be upheld.

20. On 18 April 2018, the appellant notified his appeal to the Tribunal, giving his grounds as:

“I didn't have any office or internet facility at my work place to run and check my accounts myself all the time. Therefore, my accountant had all my online account and login details until the tax year in question 2015-16.

Now this delay did not occur because of me being irresponsible or lazy, but because of reasonable reliance upon my accountant, that he would submit my returns online as he always had been doing. Neither had I received any penalty notice from HMRC during that period through which I could have come to know, in time, that my returns were not submitted. And that was because, which might need to be investigated, that he (ex-accountant) had closed my accounts with HMRC. That is why I didn't receive any reminder or penalty. I am saying that because my VAT returns for that whole year were also not submitted and when I regained the access for account, it was in thousands of pounds credit. I had to resubmit VAT returns for the whole previous missing periods. Also I am not an expert in accounting and had never dealt my online HMRC account myself before. I had to ask for help to, log in and submit my VAT returns. I believe even at the time there was no indication on my online account from which I could have noticed about missing returns. Now, how I would have acted for something which I didn't even know was still due? I came to know about this when I received letter from HMRC dated 6 June 2017.”

Relevant statutory provisions

Taxes Management Act 1970

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 j 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

21. 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 case

22. The appellant's case is as set out in his Notice of Appeal to the Tribunal.

HMRC's Case

23. On or around 7 February 2017, the appellant was issued a notice of penalty assessment as his return for the year 2015-16 had not been filed by 31 January 2017. The notice advised the appellant that he had incurred a £100 penalty for not filing his 2015-16 tax return on time. The notice also gave warning of the daily penalties he would incur if the return remained outstanding three months after the filing due date, for both paper and electronic returns.

24. On or around 6 June 2017, a 30 day daily penalties reminder was issued to the appellant. The letter advised the appellant that his return for the year 2015-16 was more than three months late, and that the minimum amount of daily penalties he had incurred to date was £300. The appellant was advised to file an electronic return as soon as possible in order to avoid further penalties.

25. On or around 4 July 2017, a 60 day daily penalties reminder was issued to the appellant. The letter advised the appellant that his return for the year 2015-16 was still outstanding, and that he had incurred more than £600 of penalties. The appellant was advised to file a return in order to avoid further penalties.

26. HMRC normally know when correspondence has not been delivered as it is returned to them under their Returned Mail Service with Royal Mail. There is no record of any mail to the appellant being returned as undelivered. Therefore, the

notice to file a tax return is deemed to have been served on the appellant, within the ordinary course of postal delivery in line with s 7 of the Interpretation Act 1978.

27. In his request for a review of 19 March 2018, the appellant states he went to visit his accountant in August 2016 only to find the office closed, and that nobody knew of the accountant's whereabouts. HMRC consider that the appellant had sufficient time to make alternative arrangements for his 2015-16 return to be filed with HMRC on time, after becoming aware in August 2016 of the possibility that his accountant was not going to be available to do this for him. The filing date for the 2015-16 electronic return was 31 January 2017.

28. HMRC considers that the obligation to ensure that a return is filed on time is on the customer. If the customer uses an agent, the customer is under an obligation to ensure that the agent files the return on time. Failure by the agent to meet his obligations might entitle the customer to some recourse against the agent, but this cannot relieve the customer of his own obligation to ensure the return is filed on time. The appellant has not provided any evidence to suggest he provided direct instructions to his accountant to file his return on time, or that he was monitoring the situation.

29. The appellant notes in his appeal to the Tribunal that, after acquiring the help of HMRC, he was able to access his HMRC online account and submit his VAT returns electronically, and that there was no indication on his online account from which he could have noticed that his SA returns were overdue. In his request for a review, the appellant notes that he was able to successfully submit the VAT returns on 10 October 2016. At this time, 10 October 2016, the appellant's 2015-16 SA return was not late. There would not have been any warnings on his online account, or any reminders issued, at this time.

30. In his request for a review of 19 March 2018, the appellant notes that he only became aware that his return had not been filed on 6 June 2017, when he received the 30 day daily penalty reminder notice.

31. Two items of correspondence had been issued to the appellant prior to the issue of the 30 day daily penalty reminder, both advising him that he had been charged a late filing penalty for 2015-16. On or around 7 February 2017, a £100 late filing penalty notice was issued and on 9 March 2017 a statement of account was issued. The statement of account confirmed the £100 late filing penalty for 2015-16. The £100 late filing penalty notice and statement of account were both sent to the address that the 30 day daily penalty reminder letter was sent to, which the appellant received. No items of correspondence were returned to HMRC under the 'Royal Mail Returned Letter Service'.

32. In his request for a review of 19 March 2018, the appellant states that after receiving the letter of 6 June 2017 he managed to send his return within 10 days. This is not the case. HMRC received the appellant's electronic return for 2015-16 on 1 August 2017.

33. In his appeal of 8 December 2017, the appellant states he has been filing his tax returns on time and this delay was completely out of his control. HMRC records show the appellant has filed many of his previous SA tax returns late. HMRC's computer records for the appellant show he filed his returns late for the years 2010-11, 2011-12, 2012-13, 2013-14 and 2014-15. HMRC do not consider the appellant has a good record for filing his SA returns on time.

34. Penalties are in place to promote efficient operation of the taxation system and are intended as a measure of fairness, so that customers who file late do not gain any advantage over those who file on time. The amount of the penalties charged is set within the legislation. HMRC has no discretion over the amount charged and must act in accordance with the legislation.

35. The amount of the penalties charged is set within the legislation. HMRC has no discretion over the amount charged and must act in accordance with the legislation. By not applying legislation and as such not to have imposed the penalty would mean that HMRC was not adhering to its own legal obligations.

36. Late filing penalties for the years ended 5 April 2016 are 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.

37. Where a return is filed after the relevant deadline a penalty is charged. The later a return is received, the more penalties are charged. This information was clearly shown on the notices to file issued to the appellant on 6 April 2016.

38. In this case, HMRC believe the appellant's actions are not of a prudent person, exercising reasonable foresight and due diligence, and having proper regard for his responsibilities under the Tax Acts.

39. HMRC consider the appellant has not provided a reasonable excuse for failing to file the 2015-16 SA return on time.

Special Reduction

40. 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.

41. 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).

42. 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.

43. 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'.

44. HMRC submit that its decision not to reduce the penalties under paragraph 16 was not flawed, but in any event there are no special circumstances which would require the Tribunal to reduce the penalties.

Conclusion

45. When a person appeals against a penalty they are required to have a reasonable excuse which existed for the whole period of the default. There is no definition in law of reasonable excuse, which is a matter to be considered in the light of all the circumstances of the particular case.

46. 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 would have been complied with.

47. The appellant had previously filed tax returns since at least 2005-06 and should have been aware of the filing procedures and the penalties payable in the event of default.

48. HMRC sent a late filing penalty to the appellant on 7 February 2017 for £100. Further penalties followed on 11 August 2017 for £900 and £300. Each of these penalty notices should have acted as a reminder to the appellant that his return was outstanding.

49. The appellant was aware of the consequences for filing his 2015-16 return late. His filing obligations and the consequences for late filing were clearly outlined on the notice to file issued in April 2016. The appellant has advised he became aware in August 2016 that his accountant had moved without warning. However, there is no evidence that the appellant made any alternative arrangements to have his 2015-16 return filed on time. The appellant was sent sufficient warning that his 2015-16 return was outstanding, in the form of a penalty notice, statement of account, and a daily penalty reminder, yet there was a continued delay in filing his 2015-16 return.

50. In his request for a review of 19 March 2018, the appellant states that he was actively seeking advice and help from HMRC during all this period, and that the emails he has provided are proof of this. The emails the appellant refers to are those issued by HMRC to the appellant when he was requesting a copy of his online User ID for HMRC's online services and his subsequent electronic VAT return submission. This was during the period 30 August 2016 to 10 October 2016. The appellant has not provided any evidence that he was seeking advice regarding his 2015-16 SA return. HMRC say that their records show no evidence of any contact from the appellant with regard to his 2015-16 return from when the notice to file was issued in April 2016 to 1 August 2017, when the electronic return for 2015-16 was received.

51. Reliance on a third party does not constitute a reasonable excuse. It is the taxpayer's own responsibility to ensure their tax return is received on time and they are liable to penalties if it is not. The SA system places a greater degree of responsibility on customers for their own tax affairs.

52. Late filing penalties are raised solely because the return is filed late. They are no longer linked to liability and remain fixed even if there is no tax due.

53. The appellant has not shown a reasonable excuse for the late filing of his 2015-16 return. The late filing penalties have been charged in accordance with legislation.

54. The penalties totalling £1,300 are therefore confirmed.

55. I find that there are no special circumstances which would allow penalties which have been correctly imposed to be reduced under Special Reduction regulations.

56. 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: 15 MARCH 2019