



[2020] UKFTT 0095 (TC)

**TC07589**

*INCOME TAX – Schedule 55 Finance Act 2009 - fixed and daily penalties for failure to file a self-assessment return on time – Residence abroad - whether taxpayer had a reasonable excuse for her default – appeal dismissed.*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**Appeal number: TC/2019/06599**

**BETWEEN**

**NIAMH BYRNE**

**Appellant**

**-and-**

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

**Respondents**

**TRIBUNAL: JUDGE ABIGAIL HUDSON**

The Tribunal determined the appeal on 7 February 2020 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 14 October 2019 (with enclosures) and HMRC's Statement of Case (with enclosures) acknowledged by the Tribunal on 9 December 2019.

## DECISION

### **Introduction**

1. This is an appeal by Ms Niamh Byrne ('the Appellant') against penalties totalling £1,700 imposed by the Respondents ('HMRC') under Paragraph 3, 4, 5 and 6 of Schedule 55 Finance Act 2009, for her failure to file self-assessment ('SA') tax returns on time for the tax years ending 5 April 2016 and 2017.

### **Background**

2. The Appellant's return for 2015-16, was due if filed electronically no later than 31 January 2017. The Appellant's return for 2016-17, was due if filed electronically no later than 31 January 2018.

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 of £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 £300 is imposed under Paragraph 6 of Schedule 55 FA 2009.

4. The Appellant's return for 2015-16 was filed late and penalties of £100, £900, £300 and £300 were imposed, under (i), (ii), (iii) and (iv) above.

5. The Appellant's return for 2016-17 was filed late and a penalty of £100, was imposed, under (i) above.

6. HMRC do not contend that there was a deliberate withholding of information.

#### *Filing date and Penalty date*

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

#### *Reasonable excuse*

8. 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.

9. 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.

10. 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).

11. 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.

#### *The background facts*

12. The Appellant’s 2015-16 return was issued on or around 6 April 2016 and so was due to be returned in paper form by 31 October 2016 or online by 31 January 2017. The Notice to file a return was sent by HMRC to 52 Meyer Road, Equatorial Apartment, 02/54, Singapore - the Appellant’s home address, provided by the Appellant for correspondence.

13. The Appellant’s 2016-17 return was issued on or around 6 April 2017 and so was due to be returned in paper form by 31 October 2017 or online by 31 January 2018. The Notice to file a return was again sent by HMRC to the Appellant’s home address on record.

14. The Appellant says that she was unable to attend to her tax obligations during the relevant period due postal difficulties and a lack of understanding of the requirements.

15. On 30 April 2018 the Appellant’s electronic returns were received by HMRC. The returns, being online returns, should have been filed by 31 January 2017 and 2018 respectively, and were therefore 453 days and 88 days late.

16. In relation to the 2015-16 tax year, HMRC imposed a fixed penalty of £100 together with daily penalties [90 days at £10 for each day] totalling £900. The return still having not been received six months after the filing date HMRC then imposed a fixed penalty of £300. The return still having not been received twelve months after the filing date HMRC then imposed a further fixed penalty of £300. In relation to the 2016-17 tax year, HMRC imposed a fixed penalty of £100.

17. The Appellant appealed to the Tribunal on 14 October 2019.

#### **PERMISSION TO APPEAL OUT OF TIME**

18. The Appellant’s appeal to HMRC under s31A TMA 1970 was made outside the statutory deadline. HMRC initially refused consent under s49(2)(a) of TMA 1970. However, HMRC have now prepared a full Statement of Case which deals with the substantive appeal (and does not suggest that the Tribunal should refuse to deal with the appeal because it was made late to HMRC). I therefore consider that HMRC have now given consent under s49(2)(a).

#### **The Appellant’s case**

19. The Appellant’s grounds of appeal are that she has lived overseas and moved address repeatedly over the last 12 years. She therefore struggled to manage her UK tax obligations. Accordingly, she had a reasonable excuse for the delay in filing an online returns.

#### **HMRC’s Case**

20. A late filing penalty is raised solely because a SA tax return is filed late 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. Legislation has been changed and penalties are no longer linked to liability.

21. Where a return is filed after the relevant deadline a penalty is charged. The later a return is received, the more penalties are charged.

22. The onus lies with HMRC to show that the penalties were issued correctly and within legislation. If the Tribunal find that HMRC have issued the penalties correctly the onus then reverts to the Appellant to show that she has a reasonable excuse for the late filing of her SA tax return.

#### *Reasonable Excuse*

23. Under Paragraph 23 (1) Schedule 55 FA 2009 liability to a penalty does not arise in relation to failure to make a return if the taxpayer has a reasonable excuse for failure.

24. ‘Reasonable excuse’ was considered in the case of *The Clean Car Company Ltd v The Commissioners of Customs & Excise* by Judge Medd who said:

“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 142 3rd line et seq.].

25. HMRC considers a reasonable excuse 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.

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

27. The Appellant has not provided a reasonable excuse for her failure to file her tax return for the year 2016-17 on time and accordingly the penalties have been correctly charged in accordance with the legislation.

28. 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.

#### *Special Reduction*

29. 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.

30. 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).

31. 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'.

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

33. 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.

## **FINDINGS OF FACT**

34. Ms Byrne has been registered under the self-assessment regime for over fifteen years. She has historically failed to file her tax return on time.

35. The notices to file were issued to Ms Byrne at her home address on or around 6 April 2016 and 2017. They were sent by post to 52 Meyer Road, 02/54 Equatorial Apartments, Singapore. Similarly, penalty notices were issued to her home on or around 7 February 2017, 11 August 2017, 13 February 2018 and 20 February 2018. None of that documentation has been returned undelivered.

36. The Appellant asserts that she received none of the correspondence from HMRC including the notice to file, statements of account and the penalty notices. She does however accept that she received a response to her non-resident landlord form which had the same address detail as the correspondence relating to her tax return. It is strange that she received that response but none of the documentation prompting filing of her tax return. None of the documentation was returned to HMRC marked undelivered. I find it unlikely that none of that documentation arrived at her address. I am supported in that conclusion by the fact that Ms Byrne must have been aware that she would be obliged to comply with her tax affairs in the UK and did not make any effort to investigate the lack of correspondence until 2018. I conclude that the documentation was received by the Appellant.

37. The Appellant sought assistance with accessing the Government Gateway through the HMRC helplines in October 2015 and June 2016. She sought no further assistance with this issue prior to April 2018.

38. It is agreed that the returns were in fact submitted electronically on 30 April 2018. The HMRC computer system does not allow a customer to submit a tax return for the same tax year twice. Therefore, the returns having been submitted on 30 April 2018 effectively, they must not have been submitted effectively prior to that. I accept that the returns were not properly submitted on or around 31 January 2017 or 2018.

39. Being submitted online on 30 April 2018 the returns were submitted 15 months and three months after they were due.

## **DISCUSSION**

40. Relevant statutory provisions are included as an Appendix to this decision.

41. I have concluded that the tax returns for the 2015-16 and 2016-17 tax years were not submitted until 30 April 2018. They should have been submitted by 31 January 2017 and 2018. Subject to considerations of "reasonable excuse" and "special circumstances" set out below, the penalties imposed are due and have been calculated correctly.

42. 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. A reasonable excuse is normally an unexpected or unusual event which prevents him or her from complying with an obligation which otherwise they would have complied with.

43. Ms Byrne owns a number of properties in the United Kingdom upon which she receives a rental income. As a result she is required to file a tax return and pay tax on that income. She must be aware of that and must have been aware of that in 2016. On the 15 January 2016 she filled in a form entitled Application to receive UK rental income without deduction of UK tax. She was therefore aware at that time that she was receiving untaxed income and would need to make up the shortfall annually. Ms Byrne has consistently failed to file her tax return on time since 2002-03. In January 2017 she must have known that she ought to be filling in some form of tax information for the UK government and again in 2018. It is odd that she did not notice that she had not declared her income for tax purposes for some considerable time.

44. Within the form filled in by Ms Byrne in January 2016 she lists her address as “52 Meyer Road, Equatorial Appartments 02/54, Singapore”. Prior to that she indicated in a phone call on 7 July 2015 that her address was “52 Meyer Road, Equatorial Apartment, 02/54, Singapore”. Aside from a different spelling of “Apartments” those addresses are the same, and crucially they do not include a postcode or additional information. In her letter from Lees-Buckley, she indicates that there is a postcode of 437875. This does not appear on her form or in her phone call. It is for the tax payer to ensure that HMRC have proper address details and are able to correspond with the tax payer. The most recent house move is said to have been “within the 2014-15 tax year” and therefore predates these failures, and so the numerous relocations preceding 2015 appear to have little relevance to this case.

45. Ms Byrne has chosen to live abroad while accruing income from UK property. In making that choice she makes herself subject to UK tax obligations. The fact that she lives abroad does not excuse the requirement to ensure she is up to date with her affairs. If indeed I accepted that she did not receive any of the documentation sent to her, she ought reasonably to have made investigations to ensure that she had not missed any deadlines.

46. Ms Byrne has indicated difficulties with the Government Gateway login, however, if she was aware of such difficulties she would have been obliged to be proactive in resolving the difficulty. If such difficulties were causative of the failure to file, then it took a further 15 months for Ms Byrne to take any action to resolve, despite being aware that there was a problem at the time of the failure. HMRC records do show that in October 2015 the Appellant called HMRC to report difficulties with the login. The records further show that she was given some advice regarding online issues in June 2016. That was some six months prior to the filing date of the 2015-16 return and there is no further record of attempts to resolve a similar issue. Again therefore, difficulties with the login do not appear to have been causative of the failure.

47. HMRC helplines are open for a significant number of hours and were readily available to her notwithstanding the time difference. There is no reason why she could not have sought help. In any event there is no evidence before me that she ever considered accessing the helpline for assistance with this issue. At 8am in the UK, it would have been 4pm in Singapore. There is no reason that Ms Byrne could not have used the helpline in the afternoon / evening. In fact she demonstrably has used this helpline on a number of occasions during her residency overseas.

48. No correspondence between the Appellant and her previous agent has been supplied. If indeed the previous agent was negligent in their duties then Ms Byrne may have some recourse against her former agent, however, her reliance upon an agent cannot be a reasonable excuse

unless she took reasonable care to ensure that her obligations were complied with. The responsibility for complying with her tax obligations rests with her. If indeed the initial error was the fault of the agent, there is no evidence before me of any effort by Ms Byrne to ascertain what was happening in relation to her tax affairs. She must have known that she had not completed a tax return in January 2017 and 2018 and it is not reasonable to fail to enquire about that failure or to fail to act to rectify the position for over twelve months.

49. In *Perrin v HMRC* [2018] UKUT 156, the Upper Tribunal explained that the experience and knowledge of the particular taxpayer should be taken into account. The Appellant is extremely experienced in dealing with the self-assessment having been required to file a self-assessment return since 2003, those being required while she has been resident abroad since 2006. On the information before me, I conclude that Ms Byrne does not have a reasonable excuse for the late filing of her returns for 2015-16 and 2016-17.

50. Even when a taxpayer is unable to establish that she has a reasonable excuse and she remains liable for one or more penalties, HMRC have the discretion to reduce those penalties if they consider that the circumstances are such that reduction would be appropriate. In this case HMRC have declined to exercise that discretion.

51. Paragraph 22 of Schedule 55 provides that I am only able to interfere with HMRC's decision on special reduction if I consider that their decision was flawed (in the sense understood in a claim for judicial review). That is a high test and I do not consider that HMRC's decision in this case (set out in their Statement of Case) is flawed. Therefore, I have no power to interfere with HMRC's decision not to reduce the penalties imposed upon Ms Byrne.

52. I should add, that even if I did have the power to make my own decision in respect of special reduction, the only special circumstance which Ms Byrne relied upon was her residence abroad. I have explained above why I do not consider that the same has been shown to provide Ms Byrne with a reasonable excuse for her late filing. For the same reasons I conclude that there are no special circumstances which would make it right for me to reduce the penalty which has been imposed. It is in no way unusual or exceptional for a taxpayer to be resident overseas.

## **CONCLUSION**

53. I therefore confirm the fixed penalties of £100, £300 and £300, and the daily penalties of £900 in relation to the 2015-16 tax year.

54. I further confirm the fixed penalty of £100 in relation to the 2016-17 tax year.

## **RIGHT TO APPLY FOR PERMISSION TO APPEAL**

55. 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.

**ABIGAIL HUDSON  
TRIBUNAL JUDGE**

**RELEASE DATE: 17 FEBRUARY 2020**

**APPENDIX**  
**RELEVANT STATUTORY PROVISIONS**

**Finance Act 2009**

56. The penalties at issue in this appeal are imposed by Schedule 55. The starting point is paragraph 3 of Schedule 55 which imposes a fixed £100 penalty if a self-assessment return is submitted late.

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

4—

(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).

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

5—

(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.

59. Paragraph 6 of Schedule 55 provides for further penalties to accrue when a return is more than 12 months late as follows:

6—

(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 12 months beginning with the penalty date.

(2) Where, by failing to make the return, P deliberately withholds information which would enable or assist HMRC to assess P's liability to tax, the penalty under this paragraph is determined in accordance with sub-paragraphs (3) and (4).

(3) If the withholding of the information is deliberate and concealed, the penalty is the greater of —



(a) the relevant percentage of any liability to tax which would have been shown in the return in question, and

(b) £300.

(3A) For the purposes of sub-paragraph (3)(a), the relevant percentage is—

(a) for the withholding of category 1 information, 100%,

(b) for the withholding of category 2 information, 150%, and

(c) for the withholding of category 3 information, 200%.

(4) If the withholding of the information is deliberate but not concealed, the penalty is the greater of —

(a) the relevant percentage of any liability to tax which would have been shown in the return in question, and

(b) £300.

(4A) For the purposes of sub-paragraph (4)(a), the relevant percentage is—

(a) for the withholding of category 1 information, 70%,

(b) for the withholding of category 2 information, 105%, and

(c) for the withholding of category 3 information, 140%.

(5) In any case not falling within sub-paragraph (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.

(6) Paragraph 6A explains the 3 categories of information.

60. Paragraph 23 of Schedule 55 contains a defence of “reasonable excuse” as follows:

23—

(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.

61. Paragraph 16 of Schedule 55 gives HMRC power to reduce penalties owing to the presence of “special circumstances” as follows:

16—

(1) If HMRC think it right because of special circumstances, they may reduce a penalty under any paragraph 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.

62. 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:

22—

- (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.

### **Taxes Management Act 1970**

63. 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 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

(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 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.

(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

(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 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.

(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.

(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.

(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.