



TC07870

INCOME TAX – Schedule 56 Finance Act 2009 - penalties for late payment – whether taxpayer had a reasonable excuse for his late payment – appeal dismissed. Permission to appeal out of time – refused.

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

Appeal number: TC/2020/02326

BETWEEN

ATA UR RAHMAN

Appellant

-and-

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

Respondents

TRIBUNAL: JUDGE ABIGAIL HUDSON

The Tribunal determined the appeal on 25 September 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 6 July 2020 (with enclosures) and HMRC’s Statement of Case (with enclosures) dated 1 September 2020.

DECISION

INTRODUCTION

1. This is an appeal by Ata Ur Rahman ('the Appellant') against penalties totalling £3,190 imposed by the Respondents ('HMRC') under Paragraph 3 of Schedule 56 Finance Act (FA) 2009, for failure to submit payment on time for the tax years ending 5 April 2013, 2014, 2016, 2017 and 2018.

BACKGROUND

2. The Appellant's first tax payment for the year ending 5 April 2013, was due by no later than 31 January 2014, under Section 59B Taxes Management Act ('TMA') 1970. Payments were due by no later than the 31 January 2015, 2017, 2018 and 2019 for the tax years ending April 2014, 2016, 2017 and 2018 respectively.
3. Paragraph 3 of Schedule 56 FA 2009 sets out the provisions in relation to the late payment penalty system. The penalties for late payment can be summarised as follows:
 - i) Under paragraph 3(2) the first penalty is calculated at 5% of all tax remaining unpaid after the expiry of 30 days from the due date.
 - ii) Where tax remains unpaid, after the end of the period of five months beginning with the penalty date, a further penalty of 5% of the tax unpaid at that date is imposed (paragraph 3(3)).
 - iii) Where tax remains unpaid, after the end of the period of 11 months beginning with the penalty date, a further penalty of 5% of the tax unpaid at that date is imposed (paragraph 3(4)).
4. The Appellant's tax for the tax year 2012-13 was not paid in full until 12 November 2015 was therefore late. Penalties of £283, £220 and £165 were therefore imposed under (i), (ii) and (iii) above.
5. The Appellant's tax for the tax year 2013-14 was not paid in full until 5 May 2017 and was therefore late. Penalties of £115, £115 and £95, and (additionally after amendment of the return in January 2016) £198, £198 and £163 were therefore imposed under (i), (ii) and (iii) above.
6. The Appellant's tax for the tax year 2015-16 was not paid in full until 28 May 2020 and was therefore late. Penalties of £235, £235 and £235, and (additionally after amendment of the return in January 2017) £41, £41 and £41 were therefore imposed under (i), (ii) and (iii) above.
7. The Appellant's tax for the tax year 2016-17 was not paid in full until 28 May 2020 and was therefore late. Penalties of £92, £92 and £50 were therefore imposed under (i), (ii) and (iii) above.
8. The Appellant's tax for the tax year 2017-18 was not paid in full until 29 May 2020 and was therefore late. Penalties of £192, £192 and £192 were therefore imposed under (i), (ii) and (iii) above.

Filing date and Penalty date

9. The 'penalty date' is defined at Paragraph 1(4) Schedule 56 FA 2009 and is the date on which a penalty is first payable for failing to pay the amount, the day after 30 days from the date payment became due.

Reasonable Excuse

10. A taxable person who is otherwise liable to a late payment penalty, may nevertheless escape that liability if he can establish that he has a reasonable excuse for the late payment which gave rise to the penalty (Paragraph 16 of Sch 56 of FA 2009).
11. The law under paragraph 16(2) of Sch 56 of the Finance Act 2009 specifies three situations that are not reasonable excuse:
 - (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.
12. 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).
13. 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.
14. 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 there is a reasonable excuse for the late payment.

The background facts

15. The Appellant's tax for the relevant years was due to be paid by 31 January 2014, 2015, 2017, 2018 and 2019.
16. The Appellant does not dispute that the full payments were not made by the due dates.
17. The Appellant appealed to the Tribunal on 6 July 2020.

PERMISSION TO APPEAL OUT OF TIME

18. The appellant's appeal to HMRC under s31A TMA 1970 was made outside the statutory deadline. HMRC refused consent under s49(2)(a) of TMA 1970. For the following reasons, I have decided to give permission for the appeal to be notified late:
19. The penalties under appeal are in respect of the years 2012-13, 2013-14, 2015-16, 2016-17 and 2017-18. In relation to the 2012-13 year penalty notices were issued to the Appellant as early as 18 March 2014. Penalty notices were also issued in August 2014 and February 2015. The first of those penalty notices were therefore issued over six years ago. Mr Rahman's SA return was filed on 15 December 2014 and so he was aware of the tax outstanding almost five years ago. In relation to the more recent defaults, the penalty notices for the tax year 2017-18 were issued in March 2019 leading to the appeal in June of that year. Subsequent penalty notices were issued for ongoing failure after the appeal was made. All penalty notices were appealed between three months and 5 years late, aside from the last two penalty notices which post-date the appeal and were appealed directly to the Tribunal. The delay is serious and significant.
20. The Appellant has argued that he was unable to lodge his "review application", promptly, due to his poor health and the Covid-19 pandemic. In his notice of appeal this appears to be a reference to the review preceding the appeal to the Tribunal, which was not lodged until June 2020, having had his HMRC appeal refused in January 2020. However, he offers no explanation therein for the delay in making that initial appeal to June 2019. He then does not offer any explanation as to why poor health and the pandemic impacted on his ability to appeal to the Tribunal and delayed such an appeal by four months.
21. It is likely in my judgment that the initial appeals were not made on time, because valid appeals could not be lodged until the tax liability had been paid. The tax liabilities remained unpaid in relation to the later three tax years until mid-2020. He did make an application to appeal in 2014 and that was rejected because of the outstanding debt. I acknowledge that it may seem fruitless to continue lodging appeals when they will not be accepted.
22. The consequences to either party of an extension of time limits must be considered in light of my assessment of the merits of the substantive appeal. A cursory examination of the merits of the substantive appeal would suggest that it is unlikely to succeed. The Respondent is entitled to some finality in properly administering the SA tax regime and the time limits have been imposed by statute to provide that finality. The Appellant would be prejudiced by a refusal to extend the time limits, however, I am not satisfied that Mr Rahman had a good explanation for his delay in appealing.
23. In considering the application for permission to appeal out of time, pursuant to *Data Select Ltd v HMRC [2012] UKUT 187 (TCC)* I have considered:
 - a) The length of the delay;
 - b) Whether there is a good explanation for that delay;
 - c) The consequences of permission to appeal;
 - d) The consequences of refusal of permission.
24. In the circumstance I do not consider that the Appellant has a good explanation for his delay which is of some significant length. In balancing the prejudice caused to both parties, I conclude that it would be inappropriate to extend the time limit for appeal, and the application for permission to appeal out of time is refused.

The Appellant's case

25. The Appellant's grounds of appeal are that he could not afford to pay his tax liability. He therefore had a reasonable excuse for not paying the tax on time.

HMRC's Case

26. Surcharges issued under Paragraph 3 of Schedule 56 of the Finance Act 2009 are a penalty based solely on the amount of tax outstanding after the due date, and neither the respondents nor the Tribunal have the power to reduce the amount because of mitigating circumstances.

Reasonable Excuse

27. A taxable person who is otherwise liable to a late payment penalty, may escape that liability if he can establish that he has a reasonable excuse for the late payment which gave rise to the penalty (Paragraph 16 of Sch 56 of FA 2009).

28. '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.].

29. 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.

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

31. The Appellant has not provided a reasonable excuse for his failure to make payment for the tax years 2012-13, 2013-14, 2015-16, 2016-17 and 2017-18 on time and accordingly the penalties have been correctly charged in accordance with the legislation.

32. 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

33. Paragraph 9(1) of Schedule 56 allows HMRC to reduce a penalty if they think it is right because of special circumstances. "Special circumstances" is undefined save that, under paragraph 9(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.

34. 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).

35. Where a person appeals against the amount of a penalty, paragraph 15(1) and (2) of Schedule 56, 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 9 (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'.
36. HMRC have considered the Appellant's grounds of appeal but assert that his circumstances do not amount to special circumstances which would merit a reduction of the penalties.
37. Accordingly, HMRC's decision not to reduce the penalties under paragraph 9 was not flawed. There are no special circumstances which would require the Tribunal to reduce the penalties.

FINDINGS OF FACT

38. The Appellant's tax returns were filed on time. The tax liability was calculated automatically at the time of submission by the Appellant.
39. The Appellant's tax liability was:
 - £6,778.15 for 2012-13;
 - £6,271.15 for 2013-14;
 - £5,540.95 for 2015-16;
 - £6,364.13 for 2016-17;
 - £3,842.87 for 2017-18.
40. Penalty notice were issued throughout the default periods to the address registered by the Appellant for correspondence. None of that correspondence was returned undelivered and Mr Rahman has clearly been aware of the penalties accruing throughout given his correspondence with the Respondent. He does not dispute that he received the penalty notices and I therefore find that he did.
41. The tax liability for 2012-13 was paid off incrementally at £200 per month with the final amount being paid on 12 November 2015. It was therefore approximately 22 months late. Mr Rahman did try to appeal the penalty notices in April 2014 but his appeal could not be accepted because the tax remained unpaid.
42. The tax liability for 2013-14 was amended in January 2016 and increased in amount. It was paid off incrementally with the final amount being paid on 5 May 2017. It was therefore approximately 28 months late.
43. The tax liability for 2015-16 was amended in January 2017 and increased in amount. It was paid off in full on 28 May 2020. It was therefore approximately 40 months late.
44. The tax liability for 2016-17 was paid off incrementally with the final amount being paid on 28 May 2020. It was therefore approximately 28 months late.
45. The tax liability for 2017-18 was paid off incrementally with the final amount being paid on 29 May 2020. It was therefore approximately 16 months late.
46. Mr Rahman had no right to work during the relevant years. He was pursuing an appeal through the Immigration Tribunal against visa refusals. His tax liability indicates that he was in fact working full time notwithstanding that prohibition. He therefore received the funds from which to pay his tax liability.

47. The Appellant asked the Respondent for a flexible payment plan in 2014 and June 2017. However, he sought to pay off less than half the tax owed per annum and therefore his requests for a Time To Pay agreement were refused. In June 2017 he indicated that if a TTP agreement were set up, he would pay £200 per month until March 2018 when he would increase his payments to almost £3,500 monthly and pay off the debt by June 2018. On 21 March 2018 he contacted HMRC and cancelled his TTP arrangement.
48. The appellant made regular payments of £200 per month starting in April 2014.
49. Mr Rahman's payments were allocated to the earliest debt. He did not contact HMRC to ask that those payments be allocated to specific tax years.
50. On 21 June 2019 Mr Rahman appealed against the penalty to the Respondent, and on 6 July 2020 he appealed to the Tribunal.
51. A person is liable to a penalty if (and only if) HMRC give notice to the person specifying the date from which the penalty is payable. I am satisfied that the penalty notices gave proper notice (*Donaldson v The Commissioners for HM Revenue & Customs* [2016] EWCA Civ 761) and was sent to the postal address linked to the Appellant's SA account.

DISCUSSION

52. Relevant statutory provisions are included as an Appendix to this decision.
53. I have concluded that the tax for the 2012-13, 2013-14, 2015-16, 2016-17 and 2017-18 tax years was not paid on time. Subject to considerations of "reasonable excuse" and "special circumstances" set out below, the penalty imposed is due and has been calculated correctly.
54. 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.
55. Mr Rahman received significant income throughout the relevant tax years, from which he ought to have been able to set aside sufficient to pay his tax liability at the end of the year. His visa issues did not stop him working and earning (albeit they perhaps should have) and did not therefore have any causative effect on his ability to pay his tax.
56. There is reference to a kidnapping in Pakistan made in the documentation but it is not clear to me what the circumstances of this incident were, how they impacted upon the Appellant or why they would have affected his ability to prioritise his tax obligations. It is not clear to me when the incident took place or what monies may have been diverted. It is for Mr Rahman to demonstrate that he had a reasonable excuse for divesting himself of monies rightly belonging to HMRC, and I am not satisfied that expending money in Pakistan was reasonable or causative of the failure to pay. There is no evidence before me of an insufficiency of funds, but there is further no evidence that any insufficiency is attributable to a cause outside of Mr Rahman's control.
57. Mr Rahman sought TTP arrangements on wholly unreasonable terms and HMRC was under no obligation to agree to those terms. The fact that he has continued to pay £200 per month to pay off his debts will have reduced the interest that his debt has accrued.
58. Mr Rahman indicates that he had intended to pay off later years before the earlier debt, but that his payments were allocated elsewhere. He does not suggest that he contacted

HMRC to ask that the payments be allocated to specific years. He could have done so at any time. The fact that those payments were allocated to the earliest years, will have significantly reduced the interest payable on those earlier years.

59. In *Perrin v HMRC* [2018] UKUT 156, the Upper Tribunal had explained that the experience and knowledge of the particular taxpayer should be taken into account. The Upper Tribunal had concluded that for an honestly held belief to constitute a reasonable excuse it must also be objectively reasonable for that belief to be held. The Appellant has been earning significant sums throughout the period, and it is unreasonable to believe that payment can be delayed without penalties being incurred.
60. I conclude that the Appellant has not shown a reasonable excuse for the late payment of his tax liabilities for the tax years 2012-13, 2013-14, 2015-16, 2016-17 and 2017-18.
61. Even when a taxpayer is unable to establish that he has a reasonable excuse and he 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.
62. Paragraph 15 of Schedule 56 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 is flawed. Therefore, I have no power to interfere with HMRC's decision not to reduce the penalties imposed upon Mr Rahman.
63. 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 Mr Rahman relied upon was delays in immigration law proceedings. He does not offer any explanation of why delays in those proceedings would entitle him to pay his tax late. I have explained above why I do not consider that that can provide Mr Rahman with a reasonable excuse for his late payment. For the same reasons I consider that it would be inappropriate to reduce the penalties due to special circumstances.

CONCLUSION

64. I therefore confirm the fixed penalties of £283, £220 and £165 for the tax year 2012-13.
65. I therefore confirm the fixed penalties of £313, £313 and £258 for the tax year 2013-14.
66. I therefore confirm the fixed penalties of £276, £276 and £276 for the tax year 2015-16.
67. I therefore confirm the fixed penalties of £92, £92 and £50 for the tax year 2016-17.
68. I therefore confirm the fixed penalties of £192, £192 and £192 for the tax year 2017-18.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

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: 07 OCTOBER 2020
APPENDIX
RELEVANT STATUTORY PROVISIONS

Finance Act 2009

69. The penalties at issue in this appeal are imposed by Schedule 56.

Schedule 56

70. Paragraph 1(4) of Schedule 56 states that the “penalty date”, in relation to an amount of tax, means the day after the date falling 30 days after the date specified in section 254(5) of FA 2004 as the date by which the amount must be paid.

71. Paragraph 3 sets out the amount of penalty payable –

3(1)...

(2) P is liable to a penalty of 5% of the unpaid tax.

(3) If any amount of the tax is unpaid after the end of the period of 5 months beginning with the penalty date, P is liable to a penalty of 5% of that amount.

(4) If any amount of the tax is unpaid after the end of the period of 11 months beginning with the penalty date, P is liable to a penalty of 5% of that amount.

72. Paragraph 9 of Schedule 56 gives HMRC power to reduce penalties owing to the presence of “special circumstances” as follows:

9—

(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.

73. Paragraph 13 of Schedule 56 gives a taxpayer a right of appeal to the Tribunal and paragraph 15 of Schedule 56 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:

15—

(1) On an appeal under paragraph 13(1) that is notified to the tribunal, the tribunal may affirm or cancel HMRC’s decision.

- (2) On an appeal under paragraph 13(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 9 —
- (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 9 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.
- (5) In this paragraph “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 14(1)).

74. Paragraph 16 of Schedule 56 contains a defence of “reasonable excuse” as follows:

16—

- (1) If P satisfies HMRC or (on appeal) the First-tier Tribunal or Upper Tribunal that there is a reasonable excuse for a failure to make payment —
- (a) liability to a penalty under any paragraph of this Schedule does not arise in relation to that failure, and
 - (b) the failure does not count as a default for the purposes of paragraphs 6, 8B, 8C, 8G and 8H.]
- (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.

Taxes Management Act 1970

75. 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.