



TC07957

Appeal number: TC/2019/09525

Income tax - fixed and daily penalties for late filing of self-assessment return - Appellant asserts that she relied on an agent to file the return, that her knowledge of English is limited and that she was unaware of her obligations - whether reasonable excuse - no - appeal refused

FIRST-TIER TRIBUNAL

TAX

KRYSTYNA BEBEN

Appellant

- and -

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

Respondents

TRIBUNAL: JUDGE MICHAEL CONNELL

The Tribunal determined the appeal on 27 May 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 20 December 2019, and HMRC's Statement of Case received by the Tribunal on 12 February 2020

DECISION

The appeal

1. This is an appeal by Krystyna Beben (“the appellant”) against penalties totalling £1,300 imposed by the Respondents (“HMRC”) under Paragraphs 3,4 and 5 of Schedule 55 Finance Act 2009 for the late filing by the appellant of her self-assessment (“SA”) tax return for the tax year 2017-18.

Penalties for late filing of self-assessment returns

2. Penalties for late filing of a return can be summarised as follows:

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

Filing date

3. Under s 8(1D) TMA 1970 et seq. 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 date after the filing date. A late filing penalty is chargeable where a taxpayer is late in filing their Individual Tax return.

Reasonable excuse

4. 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 has ended.

5. 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.

6. 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).

7. 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.

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

The background facts

2016-17 year

9. HMRC records show that on 10 June 2018, the appellant appealed against a late return filing penalty for the year 2016-17. In her appeal the appellant said:

“I did not know the rules in the UK. I do not speak any English and I thought I did not have to send anything as my income has been below £11,500. I promise that next tax return will be done on time.”

10. HMRC accepted the appeal and cancelled the penalties. However, the letter from HMRC also informs the appellant to make sure that she sends in her tax returns on time.

2017-18 year

11. The notice to file for the year ending 5 April 2018 was issued to the appellant on or around 6 April 2018.

12. The filing date was 31 October 2018 for a non-electronic return or 31 January 2019 for an electronic return.

13. The appellant’s electronic return for the year 2017-18 was received on 12 August 2019 and was processed on 13 August 2019. The return was submitted 192 days late.

14. On or around 26 March 2019 in accordance with Paragraph 3 of Schedule 55 FA 2009, as the appellant did not submit a return by the filing date of 31 January 2019, she was liable to a penalty of £100. HMRC issued a notice of penalty assessment in the amount of £100. The notice (SA326D) serves as a warning of the daily penalties and so satisfies the requirement of Schedule 55 FA 2009 para 4(1)(c). This view was confirmed in the Upper Tribunal decision *HMRC v Donaldson* [2014] UKUT535.

15. On 4 June 2019, a 30 day daily penalty reminder was sent to the appellant.

16. On 2 July 2019, a 60 day daily penalty reminder was sent to the appellant.

17. On or around 9 August 2019 pursuant to Paragraph 4 of Schedule 55 FA 2009, as the return had still not been received 3 months after the penalty date, the appellant was liable to daily penalties of £10 per day up to a period of 90 days. HMRC issued a notice of daily penalty assessment in the amount of £900, calculated at £10 per day for 90 days.

18. On or around 9 August 2019 pursuant to Paragraph 5 of Schedule 55 FA 2009, as the return had still not been received 6 months after the penalty date, the appellant was liable to a penalty of £300. HMRC issued a notice of penalty assessment in the amount of £300.

19. On 30 August 2019 the appellant's agent appealed the penalty to HMRC:

“It was no attention on my client side to put herself in this situation. This problem has occurred because of lack of English and Clients knowledge about the rules and her obligation. The appellant she was looking for somebody or some company to do Self-Assessment Tax return behalf of her. She found somebody who said that can help for small competitive fee. My client accepted and paid for the service that was never delivered to the client. My client found out about that when she has received a letter from HMRC. Please note, that the appellant is using us now, and she is informed about her obligation.”

20. On 3 October 2019 HMRC issued its view of the matter upholding the decision to charge the penalties; the letter also offered a statutory review or the option to appeal to the First-tier Tribunal.

21. On 23 October 2019 the appellant requested a review:

“I am not agreed with the outcome of the decision letter dated 3 October 2019. The lack of knowledge and lack of English was the only reason why I took so long to complete all my duties.

I have paid for the service to person who said that help me with this issue. I have trust to this person, but I was cheated. I have found out about that, when received a letter from HMRC

Now I am using the practice who deals with my tax affairs properly, and all my Tax Returns are up to date

Also, I would like to highlight, that my total turnover for 2017/18 Tax years was £2256 only, the current penalty would cost me more than half of that. I do understand that this is not an excuse, but as mentioned before. Because of low income I have decided to use help of someone cheap to help me and with consequences I was cheated and now have more problems.”

22. On 25 November 2019, HMRC issued its conclusion of review letter to the appellant which upheld the decision to charge the late filing penalties.

23. On 20 December 2019 the appellant's advisors lodged an appeal before the First-tier Tribunal.

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

24. The penalties at issue in this appeal are imposed by Schedule 55 Finance Act 2009. The starting point is paragraph 3 of Schedule 55 which imposes a fixed £100 penalty if a SA return is submitted late.

25. 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).

26. 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.

27. 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

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

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

29. 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

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

“I am an older person, who doesn’t understand the rules of taxes, so I needed help from person who I thought knew what was doing. I believed everything is done properly until I received the letter with penalty. I hadn’t got a clue that is something wrong because I trusted

the person who made me sure all my things were sorted out and I didn't have to worry about my tax."

HMRC's Case

31. Late filing penalties for the year ended 5 April 2018 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.

32. Anyone receiving a notice to file must file a return by the specified date filing deadline or otherwise face penalties.

33. 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 2017-18 notice to file issued to the appellant on 1 April 2017.

34. The 2017-18 tax return was received on 12 August 2019, 192 days late.

35. The onus of proof is on HMRC to show that the penalties have been correctly calculated. The burden then moves to the appellant to demonstrate that a reasonable excuse exists for the default. The standard of proof is the ordinary civil standard, which is on the balance of probabilities.

36. In the Upper Tribunal case of *Christine Perrin v HMRC*, Judge Herrington addressed the question whether ignorance of the law can provide a reasonable excuse at paragraph 82 of his decision, when he concluded:

"One situation that can sometimes cause difficulties is when the taxpayer's asserted reasonable excuse is purely that he/she did not know of the particular requirement that has been shown to have been breached. It is a much-cited aphorism that 'ignorance of the law is no excuse', and on occasion, this has been given as a reason why the defence of reasonable excuse cannot be available in such circumstances. We see no basis for this argument. Some requirements of the law are well-known, simple and straightforward but others are much less so. It will be a matter of judgment for the FTT in each case whether it was objectively reasonable for the particular taxpayer, in the circumstances of the case, to have been ignorant of the requirement in question, and for how long."

37. The appellant chose to exercise her right of free movement and freedom of establishment to work in the United Kingdom. This carries with it an obligation to comply with all applicable United Kingdom laws, including tax obligations.

38. It is for the appellant to familiarise herself with United Kingdom law and to acquire a working knowledge of English.

39. HMRC submits that it was not objectively reasonable in the circumstances of this particular case, for the appellant to have been ignorant of her obligation to file the 2017-18 tax return by the due date for the following reasons:

- The appellant herself promised to submit the tax return on time.

- HMRC issued numerous items of correspondence to the appellant regarding the tax return and the penalties. HMRC issued penalty notice reminders to her.
- The appellant says that she wasn't aware that the tax return had not been submitted until HMRC sent her the penalty notice. The penalty notice was issued on 26 March 2019. The appellant did not submit her tax return until 12 August 2019, nearly 5 months later.
- HMRC records show no telephone or written contact was made. It would have been reasonable for the appellant to perhaps make contact and explain the situation and be given help. Each of the items issued to the appellant advised that help is available.

40. When viewed objectively, it was not reasonable for the appellant to be unaware of her filing obligations.

41. Although HMRC empathise with the appellant regarding her agent's failures, ignorance of what her agent did cannot amount to a reasonable excuse for failing to comply with her obligations.

42. HMRC does not consider an agent not fulfilling an individual's expectations is a reasonable excuse. It is the appellant's responsibility to ensure all her tax obligations are met. If she feels her agent has failed in their professional capacity or not followed specific instructions, then she should seek redress directly from the accountant.

43. Paragraph 23(2)(b) of Schedule 55 FA 2009 specifically precludes reliance on a third party unless the appellant took reasonable care to avoid the failure.

44. The responsibility to submit a SA tax return by the due date remains with the appellant regardless of whether she has delegated that task to another person.

45. Entrusting the Agent with responsibility to file the return does not absolve the appellant of her responsibility to ensure the return is filed on time.

46. This appeal is not concerned with specialist or obscure areas of tax law. It is concerned with the ordinary everyday responsibilities of the appellant to ensure her 2017-18 tax return was filed by the legislative date.

47. Self-assessment places a greater degree of responsibility on customers for their own tax affairs. This includes ensuring that HMRC get payment of the correct amount of tax and National Insurance at the correct time. The tax guidance and HMRC website give plenty of warning about filing and payment deadlines. It is the customer's responsibility to make sure they meet the deadlines.

48. 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.

49. 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.

50. In order for the appellant's appeal to succeed, she must demonstrate that a reasonable excuse existed which prevented her from complying with her Income Tax obligations. Based on the evidence held, no reasonable excuse exists for the late submission of the Individual tax return and the penalties were correctly charged in accordance with legislation

Special Reduction

51. Paragraph 16(1) of Schedule 55 allows HMRC to reduce a penalty if they think it is right because of special circumstances.

52. "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.

53. 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).

54. At paragraph 36 of his decision in *David Collis v HMRC*, Judge Roger Berner said

"In the context of a decision of HMRC as to whether a reduction in a penalty should be made on account of special circumstances, the general test will be whether the decision is so demonstrably unreasonable as to be irrational or perverse, such that no reasonable authority could ever have come to it."

55. At paragraph 86 in the Upper Tribunal case of *Barry Edwards v HMRC* [2019] UKUT 137 (TCC), it was confirmed that the Schedule 55 regime was proportionate and penalties are correctly due even in circumstances where there is no additional tax liability.

"In view of what we have said about the legitimate aim of the penalty scheme, a penalty imposed in accordance with the relevant provisions of Schedule 55 FA 2009 cannot be regarded as disproportionate in circumstances where no tax is ultimately found to be due. It follows that such a circumstance cannot constitute a special circumstance for the purposes of paragraph 16 of Schedule 55 FA with the consequence that it is not a relevant circumstance that HMRC must take into account when considering whether special circumstances justify a reduction in a penalty."

56. Part of the consideration for Special Reduction includes whether in HMRC's opinion a penalty has been raised when the legislation did not intend that taxpayer to be subject to the penalty regime. As the taxpayer was in the SA process, had not submitted a return as required to do so by the notice, and the failure continued after penalties and warning of further penalties, HMRC do not consider that special reduction applies because of this.

57. The appellant and her agent make several statements about her circumstances in the appeal letters, to support their view that she should not have been charged penalties under Schedule 55 FA 2009, as follows:

- i. “The lack of knowledge and lack of English was the only reason why it took so long to complete all my duties. I believed everything is done properly until I received the letter with penalty.
- ii. I am an older person, who doesn’t understand the rules of taxes
- iii. I thought I did not have to send anything as my income has been below £11500.
- iv. I promise that next tax return will be done on time.”

58. HMRC has considered the appellant’s statements in light of paragraph 16(2) Schedule 55 and HMRC’s response is:

- i. The appellant appealed against the late filing penalties for 2016-17, using the excuse that she was not aware of the rules and she did not speak any English. Following that appeal and the outcome, the appellant should have been aware of the filing requirements. Any reasonable excuse because of these issues ended when the 2016-17 appeal was dealt with.
- ii. The rules regarding SA are relevant regardless of age. The appellant is self-employed and therefore presumably able to work. The appellant made a choice to come to the United Kingdom. HMRC believes that by exercising this right the appellant also had a responsibility to comply with all United Kingdom laws, including all her tax obligations. She must take responsibility for the action or inaction of her agent.
- iii. Not being aware of your legal obligations does not relieve you from adhering to them. To support customers with their responsibilities, HMRC publish information and advice about their obligations and how they can meet them. Information was available on the GOV.UK website. The appellant should have contacted HMRC for help.
- iv. Although the appellant promised that her next tax return would be done on time, it was not and therefore the penalties have been correctly charged.

59. 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. 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.

60. Accordingly, HMRC have considered the circumstances described by the appellant and submits they are neither uncommon nor exceptional, nor do they suggest that the strict application of the penalty law produces a result that is contrary to the clear compliance intention of the relevant law in her case.

61. 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”.

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

Conclusion

63. 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.

64. In considering whether the appellant has a reasonable excuse for the default it is necessary to consider her actions from the perspective of a prudent tax-payer exercising reasonable foresight and due diligence and having proper regard for their responsibilities provided by legislation. 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.

65. Paragraph 23 of Schedule 55 contains a defence of "reasonable excuse" 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 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.

66. I have carefully considered the appellant's grounds of appeal but must concur with HMRC's assertions as set out in paragraphs 37-45 and 57-58 above.

67. Even if the appellant had a reasonable excuse at the time of the initial failure, too much time passed after that before she remedied the default. Any reasonable excuse has to continue to the date when the failure is remedied which it clearly has not in this case.

68. I find as fact that the appellant has not shown that she has have a reasonable excuse lasting throughout the period for the late submission of her individual return for the period ending 5 April 2018.

69. There are no special circumstances which would allow the penalty to be reduced under Special Reduction.

70. I find that the penalties imposed in the amount of £1,300 were correctly charged in accordance with legislation.

71. The appeal is dismissed and the penalties confirmed.

72. 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: 30 NOVEMBER 2020