Neutral Citation: [2024] UKFTT 00192 (TC)

Case Number: TC09098

FIRST-TIER TRIBUNAL
TAX CHAMBER

[By remote video hearing]

Appeal reference: TC/2023/01316

Income Tax – notices by Appellant to Self-Assessment – insufficient information to enable HMRC to know what tax or amount – discovery assessments and penalty charges – appellant claimed authorities all pre-Covid - valid assessments and penalties – appeal dismissed

Heard on: 29 February 2024
Judgment date: 6 March 2024

Before

TRIBUNAL JUDGE ALASTAIR J RANKIN MBE
MR JAMES ROBERTSON

Between

FINOLA OWENS

Appellant

and

THE COMMISSIONERS FOR HIS MAJESTY'S REVENUE AND CUSTOMS

Respondents

Representation:

For the Appellant: Mr Jon Vyse of Pearl Lily & Co, Accountants

For the Respondents: Ms Maria Spalding, litigator of HM Revenue and Customs' Solicitor's Office

DECISION

INTRODUCTION

1. The form of the hearing with the consent of the parties was by video using the Tribunal video hearing system. The documents to which we were referred were an electronic Hearing Bundle containing 1098 pages, a Statement of Truth dated 29 November 2023 by the Appellant and a Witness Statement dated 17 November 2023 by Officer Iain Johnson of HMRC.

2. Prior notice of the hearing had been published on the gov.uk website, with information about how representatives of the media or members of the public could apply to join the hearing remotely in order to observe the proceedings. As such, the hearing was held in public.

BACKGROUND

3. This is an appeal against five discovery assessments made under Section 29 Taxes Management Act 1970 ("TMA1970") amounting to £24,423.16, for the tax years 2016-17 to 2020-21 inclusive in respect of rental income chargeable to income tax.

4. The Appellant is also appealing five penalties totalling £4,008.54 chargeable under Schedule 41 of the Finance Act 2008 ("FA2008") for the tax years 2016-17 to 2020-21 inclusive.

5. The penalties were charged as a result of the Appellant's failure to notify chargeability to income tax in respect of rental income. Both the liability to tax and the penalties were notified to the Appellant by HMRC on 12 December 2022.

6. On 5 February 2018 the Appellant's agent, Jon Vyse of Pearl Lily & Co Accountants ("the Agent") wrote to Self-assessment, HM Revenue & Customs, BX9 1AS informing them of the Appellant's liability to tax for the tax year 2016-17. After supplying the Appellant's name and National Insurance number the letter included the following:

> "We are writing to give notice of liability to tax under TMA 1970 s 7(1) for tax year SA17.
>
> We acknowledge that this notice is after the deadline of 5th October 2017. However, we believe our client has a reasonable excuse in that it has taken our client sometime to self-assess whether any tax is due and the estimate tax at risk is low. We therefore ask that a late notice penalty not be issued."

7. On 16 January 2019 the Agent sent a similar letter to Self-assessment but used the word "chargeability" instead of "liability" and again acknowledged that "this notice is after the deadline".

8. On 5 March 2019, an officer for HMRC wrote to the Agent in response to their letter of 16 January 2019, requesting information about the source of their client's income to inform their next steps. HMRC did not receive a reply to this letter.

9. On 9 December 2020 the Agent wrote to Self-assessment informing HMRC of the Appellant's chargeability to tax for the tax year 2019-20 and apologising for writing after the deadline.

10. On 5 October 2021 the Agent wrote to Self-assessment and informed them of the Appellant's chargeability to tax for the tax year 2020-21.

11. On 22 October 2021 HMRC issued a letter to the Appellant to her last known address, with a copy to her Agent opening an enquiry because HMRC had reasons to believe that she

had received and was still receiving rental income from properties chargeable to income tax. HMRC requested further information from the Agent regarding this potential liability to tax and enclosed Form Doc No:12 and Doc No:13 "Property Ownership History Questions".

12. On 1 December 2021, the Agent wrote to Self-assessment informing them of the Appellant's chargeability to tax for the tax year 2021-22 but also claimed a personal allowance under Income Tax Act 2007 section 35(1). However, no assessment is before the Tribunal in respect of this tax year and therefore this letter does not concern the current appeal.

13. On 29 December 2021, having received no reply to their letter dated 22 October 2021, HMRC wrote to the Appellant and her Agent attaching a further request for information in the form of a Schedule 36 Finance Act 2008 ("sch 36 FA2008") information notice.

14. On 6 January 2022, HMRC wrote to the Appellant to inform her that they had become aware that her Agent had been sending notifications to Self-Assessment, had located these communications, had registered her for Self-Assessment and had issued her with a Unique Tax Reference number.

15. On 16 February 2022 the Agent responded to the information notice issued on 29 December 2021 and provided some of the information requested. The agent explained that the reason why the rental income had not been declared to HMRC was attributable to HMRC's failure to issue notices to file tax returns despite his repeated notifications of chargeability to tax under s7 TMA 1970. The Agent maintained that HMRC did not issue notices to file tax returns under s 8(1) TMA or establish a self-assessment record and issue a Unique Tax Reference until 6 January 2022.

16. On 28 February 2022 the Agent provided information relating to mortgage statements and rental statements.

17. On 2 March 2022 HMRC wrote to the Agent and requested further information in respect of letting statements as well as a breakdown of income and expenditure, although they accepted the Agent's figures in terms of mortgage interest amounts. From 2 March 2022 to 8 August 2022 the Agent provided, at various stages, the information necessary to allow HMRC to make a decision.

18. On 8 August 2022 HMRC wrote to the Appellant and the Agent with their calculations in respect of income tax assessed under s29 TMA1970. On 8 August 2022 Officer Johnson, acting for the Respondents, had therefore discovered that the Appellant had not notified chargeability to income tax in respect of rental income for the tax years 2016-17 to 2020-21 and that there was a loss of tax in these tax years. On 23 August 2022 the Agent wrote to HMRC disputing the decision and requesting to know what legislation applied to the decision issued and explaining that he had notified HMRC of his clients' tax liabilities on all the occasions listed above.

19. On 1 September 2022 HMRC wrote to the Appellant and the Agent explaining that the legislation applicable to the decision of 8 August 2022 was s29 TMA 1970 allowing officers of HMRC to make an assessment when income is discovered that ought to be assessed to income tax. HMRC rejected the Agent's contention that he had notified his client's liability to tax as they deemed the Agent's notifications contained insufficient information to allow HMRC to respond appropriately and establish the correct liability. The notices contained neither the source of the income nor a quantum of liability.

20. On 16 September 2022, the Agent wrote to HMRC disputing their decision to consider the notices of liability submitted as inadequate. The Agent submitted that s7 TMA 1970 does not prescribe a specific manner in which that notice should be given.

21. On 18 October 2022 HMRC issued a penalty explanation letter to the Appellant and the Agent and on 12 December 2022 issued assessments based on the amounts shown in the table below:

Tax year	Property Income	Expenses	Net Income	Tax liability
2016-17	£13,000.00	£3,438.57	£9,561.43	£3,824.40
2017-18	£15,600.00	£3,691.18	£11,908.62	£4,654.80
2018-19	£14,420.00	£3,863.29	£10,556.71	£4,008.60
2019-20	£15,850.00	£2,366.27	£13,483.73	£5,102.20
2020-21	£14,850.00	£1,876.48	£12,973.52	£4,905.40
Total				£22,495.40

22. On 12 December 2022 the Respondents issued a notice of penalty assessment to the Appellant because of her failure to notify the above chargeability. The penalties were all considered to be non-deliberate and prompted and were as follows:

Tax Year	Tax Liability	Penalty range	Penalty percentage	Penalty charged
2016-17	£3,824.40	20% - 30%	20%	£764.88
2017/18	£4,654.80	20% - 30%	20%	£930.96
2018/19	£4,008.60	20% - 30%	20%	£801.72
2019-20	£5,102.20	20% - 30%	20%	£1,020.44
2020-21	£4,905.40	20% - 30%	20%	£490.51
Total				£4,008.54

23. On 2 January 2023 the Appellant appealed against the five assessments though he quoted the figures from a Self-assessment statement dated 12 December 2022 which included interest calculated up to 12 December. The Agent did not refer to the penalties though when HMRC accepted the appeal on 10 January 2023 they accepted it against both the assessments and the penalties.

24. By letter dated 28 February 2023 HMRC's Compliance Officer upheld both the assessments and the penalties.

25. On 22 March 2023 the Agent lodged a Notice of appeal to this Tribunal.

APPELLANT'S EVIDENCE

26. The Notice of appeal included the following Grounds for appeal:

> "HMRC purport to assess, under TMA70 section 29, a total of £22,495.40 for tax years ended 5 April 2017 to 5 April 2020. HMRC further purport, under FA08 Schedule 41, to charge penalties of £4,008.54 after allowing a reduction for "non-deliberate" failure to notify.
>
> The Claimant appeals on the following grounds, that:

(1) "The Ordinary time limit of 4 years", under TMA70 section 34, has expired and an objection against any assessment is made under section 34(2).

(2) Valid notices of chargeability to tax were served on HMRC by the Appellant, under TMA70 section 7(1), all in good time and for all years 2017 to 2020 and beyond. Any penalties for failure to notify are therefore invalid.

(3) There is no prescribed statutory format for such TMA70 section 7 notices and in any case any "want of form", under TMA70 section 114, does not invalidate these particular notices served by the Appellant on HMRC. Therefore any penalties for failure to notify are invalid. (Mabbutt v Revenue and Customs [2016] UKFTT 306 and Norton v HMRC [2023] UKUT 00048 (TCC).)

(4) There is no compulsion under TMA70 to make a voluntary return under section 12D "return made otherwise than pursuant to a notice", a voluntary return remains voluntary.

(5) HMRC has not issued a notice to file under TMA70 section 8 and the Claimant has not made a return otherwise under section 12D, therefore no returns were made for the years in question and this is lawful.

(6) No returns were made or are required to be made at the present time for the tax years in question, therefore it is lawful that no such returns exist.

(7) Neither the Appellant nor HMRC can include an assessment in a return not made and not required to be made because such returns do not exist. Assessment meaning an assessment of the nature required of returns actually made under TMA70 section 9 "Returns to include self-assessment", subsection (1) or (3).

(8) There can be no income tax which ought to have been assessed under TMA70 section 29(1)(a) which has not been assessed, because no preparation of an assessment has started and this is lawful. Therefore HMRC has no power to assess the Appellant. One can not omit to put a real asssessment "suitcase" in the boot of a non-existent tax return "car", that is one can not drive off in a nonexistent car leaving a real suitcase behind.

(9) HMRC notices must be drafted with the upmost care due to HMRC's vast power: "It is misleading to regard taxes simply as a means of obtaining revenue. Tax is the most pervasive and privileged exercise of the police power of the state." Page 10 Loutzenhiser, Glen, Tiley's Revenue Law, 8th edition. Hart 2016.

(10) Citation of powers in assessment notices is essential to avoid taxpayer confusion and to avoid fatal flaws. The term "assessment" in TMA70 is so overloaded with various meanings that citation of powers is essential in all valid notices of assessment.

(11) Citation of assessment powers is required to enable the taxpayer to judge whether the purported power even existed in law for the period assessed. FA16 introduction of additional assessment powers under TMA70 section 28H "Simple assessments by HMRC: personal assessments", alongside existing assessment powers under TMA70 section 29 "Assessment where loss of tax discovered" following FA94. Each type of assessment has particular powers and timeframes and came into law at particular times, section 29 by FA94, section 28H by FA16.

(12) HMRC's purported assessments to the Appellant are fatally flawed and void because they do not include a citation of powers and are not saved for "want of form" by TMA70 section 114."

27. At the hearing Mr Vyse repeated most of these arguments but maintained that at his first meeting with the Appellant he simply advised her that, in view of the amount of her rental income, she was required to inform HMRC. As their first meeting was a free consultation he did not ask her what were her other sources of income. He maintained it would have been unethical for him to incur costs in calculating her potential tax liability when it was up to HMRC to issue her with a notice under section 7(1) TMA70.

28. Mr Vyse was unable to explain why he had not replied to HMRC's letter dated 5 March 2019.

SUBMISSIONS ON BEHALF OF HMRC

29. HMRC's Statement of Case submitted the assessments and penalties were correctly assessed and raised respectively in accordance with the provisions of the TMA 1970. The five notices of chargeability to tax were submitted on the Appellant's behalf and both he Appellant and the Agent were aware of the liability because they had declared such liability to tax from 5 February 2018 on at least five occasions without acting to remedy the insufficiency of tax.

30. A reasonable tax-payer keen to comply with her statutory obligations would have realised that tax due to be paid had not been paid for several years and would have taken further action to declare this liability. The Appellant and the Agent were aware of the chargeability and went as far as declaring it but the five letters did not constitute notifications pursuant to s7 TMA 1970 because they did not contain enough information to allow HMRC to make an informed decision as to how to proceed in assessing the type and quantum of the liability.

31. The Agent is a professional tax advisor and familiar with the processes and responsibilities of taxpayers in respect of the notification and payment of taxes in due time. The five notices of liability submitted by the agent were not invalidated by their lack of content, but are simply insufficient for the purpose of assessing liability to income tax and become declarations rather than notifications capable of fulfilling the requirements of s7 TMA 1970.

32. The Notice of appeal referred to the cases of *Mabbutt v Revenue and Customs* [2016] UKFTT 306 (*Mabbutt 2016*) and *Norton v HMRC* [2023] UKUT 00048 (TCC) (*Norton*)but has not elaborated as to how these cases apply to this appeal. HMRC does not accept the significance of these cases in the context of the issues present at this appeal. *Mabbutt* relates to an enquiry into a tax return and the validity of the resulting closure notice due to the lack of a valid notice of enquiry. The case of *Norton* related to the validity of discovery assessments during the enquiry period, that is the period between the delivery of a tax return and the closing of an enquiry window when no enquiry had been opened or if an enquiry had been opened, the closure of the enquiry.

33. The Appellant has never submitted a tax return and the grounds of appeal do not convey why the liability to tax acknowledged since 2017 remains unpaid. HMRC accepts that there is no prescribed form to notify liability pursuant to s7 TMA 1970. However, for the reasons stated above, they consider that the liability was admitted and declared but not notified to HMRC in a manner that would allow HMRC to assess its nature and quantum. The declarations of liability or chargeability did not include the tax type or any attempt to quantify it.

34. HMRC submitted that whilst a voluntary return may be voluntary it is advisable to engage with the process in order to avoid discovery assessments and penalties such as the ones under appeal. The Appellant and the Agent do not have a reasonable excuse not to have

acted upon their knowledge that the Appellant was liable to income tax. HMRC does not accept the Agent's assertion that the mere act of declaring liability discharges the need to comply fully with the statutory duty to notify in an appropriate manner and pay tax in due time.

35. Although HMRC did not issue the Appellant with a notice to file under TMA 1970 section 8 and the Appellant has not made a return otherwise under section 12D, this does not mean that the Appellant is exempt from chargeability to income tax as discovered by the HMRC officer The Appellant and the Agent were aware of the liability because they disclosed it to HMRC under the mistaken assumption that this disclosure exempted the Appellant from further responsibility in relation to their liability to tax.

36. HMRC have issued discovery assessments in respect of the liability to income tax related to rental income. The gov.uk page related to rental income directs the user to register for SA to declare their liability for rental income. HMRC submitted that the Agent is a tax professional and aware of taxpayers' statutory obligations in respect of income tax. The TMA 1970 allows the Respondents to issue assessments pursuant to s29 TMA 1970. HMRC opened an enquiry based on information totally unrelated to the notices of liability filed by the Appellant's Agent.

37. On 8 August 2022 Officer Johnson, acting for the Respondents, established the following facts: first, the Appellant had received rental income from properties that ought to be assessed to income tax and secondly the Appellant had not completed a self-assessment tax return declaring the rental income for the years under appeal. Only once these facts had been established was the Officer able to decide that there was a liability to the income tax, quantify the liability and verify whether it had been declared. The Officer had therefore discovered income which ought to be chargeable to income tax and had not been assessed or declared. on or around 8 August 2022. He notified the Appellant on the same date.

38. The Upper Tribunal in *Jerome Anderson v The Commissioners for Her Majesty's Revenue and Customs* [2018] UKUT 0159 TCC has set out two tests which must be met for the relevant conditions of section 29(1) TMA 1970 to be satisfied: a subjective test and an objective test. They set out the subjective test in the following terms:

> "[28] …Having reviewed the authorities, we consider that it is helpful to elaborate the test as to the required subjective element for a discovery assessment as follows:
>
> > "The officer must believe that the information available to him points in the direction of there being an insufficiency of tax."
>
> That formulation, in our judgment, acknowledges both that the discovery must be something more than suspicion of an insufficiency of tax and that it need not go so far as a conclusion that an insufficiency of tax is more probable than not."

At [30] the Upper Tribunal set out the objective test:

> "The officer's decision to make a discovery assessment is an administrative decision. We consider that the objective controls on the decision making of the officer should be expressed by reference to public law concepts. Accordingly, as regards the requirement for the action to be "reasonable", this should be expressed as a requirement that the officer's belief is one which a reasonable officer could form. It is not for a tribunal hearing an appeal in relation to a discovery assessment to form its own belief on the information available to the officer and then to conclude, if it forms a different belief, that the officer's belief was not reasonable."

39. In summary therefore, the two questions to be asked are: (a) did the Officer believe that there was an insufficiency? and (b) was that belief one which a reasonable Officer could form? The Respondents contend in this appeal that both questions are unquestionably satisfied.

40. HMRC contended that the Appellant was liable to income tax from rental income and was required to give notice of her chargeability within 6 months from the end of the tax year in question.

41. Section 36(1A)(b) of TMA 1970 provides that there is a time limit of 20 years for raising an assessment. In this case all assessments have been issued within this time limit.

42. Section 50(6) TMA 1970 provides that, where an Appellant is overcharged by an assessment, the Tribunal is empowered to reduce it. The onus is on the Appellant to show that they have been overcharged by the assessment, otherwise the assessment shall stand. In *Norman v Golder (Inspector of Taxes)* [1945] 1 All ER 352 Lord Greene MR stated:

> "… [it is] clear, beyond possibility of doubt, that the assessment stands, unless and until the taxpayer satisfies the Commissioners that it is wrong."

43. The method by which the assessments are calculated is set out in statute. HMRC submitted that the assessments have been correctly calculated in line with statute and they are not disputed by the Appellant.

44. HMRC submitted that there is simply no "reasonable excuse" or other provision, such as "special circumstances", in the legislation for amending or cancelling assessments issued under section 29 TMA 1970. Similarly, none of the other reasons suggested by the Appellant can displace the assessments. No additional information has been provided by the Appellant to demonstrate that the assessments are incorrect.

45. Paragraph 1 of Schedule 41 FA2008 sets out when a penalty is payable by a person who fails to comply with an obligation. Paragraphs 5 and 6 of Schedule 41 FA08 set out degrees of culpability and the standard penalty amounts payable depending on the behaviour that led to the failure to notify. Paragraph 5 Schedule 41 FA2008 provides for three categories of behaviour that determine the standard penalty amount payable by a person: "deliberate and concealed", "deliberate" and "non-deliberate".

46. HMRC categorised the Appellant's behaviour as "non-deliberate", so the standard amount of the penalty by reference to paragraph 6(2)(c) Schedule 41 FA08 is 30% of Potential Lost Revenue ("PLR") Paragraph 12 Schedule 41 FA2008 details further reductions to the standard amount of a penalty to reflect the quality of a person's disclosure, which is the extent to which they told HMRC about the failure, gave HMRC reasonable help in quantifying the tax unpaid by reason of the failure, allowed HMRC access to their records for the purpose of checking how much tax is unpaid as a result and provided HMRC with additional information.

47. Paragraph 13 Schedule 41 FA2008 determines minimum amounts of penalties depending on whether a person's disclosure was prompted or unprompted, and whether HMRC became aware of their failure less than 12 months after the due date for income tax unpaid as a result of the failure. The failure to notify penalties for tax years 2016-17 to 2020-21 detailed in the table at paragraph 22 have been charged at 20% These percentages reflect the timing and quality of the Appellant's disclosure, and determination that their disclosure was prompted pursuant to paragraphs 12 and 13 Schedule 41 FA2008. The penalties were explained in the penalty explanation letter 18 October 2022. HMRC submitted that the penalties have been charged correctly.

THE LEGISLATION

48. Section 7(1) TMA 1970 details the requirement of an individual who is liable to income tax or capital gains tax for a year of assessment to notify HMRC of that fact within six months of the end of that year. It states:

> "**7** Notice of liability to tax
>
> (1) Every person who is chargeable to income tax for any year of assessment and who has not delivered a return of his profits or gains or his total income for that year in accordance with the provisions of the Income Tax Acts shall, not later than one year after the end of that year of assessment, give notice that he is so chargeable."

49. Discovery Assessments are governed by section 29 of TMA 1970: Section 29(1) provides that if HMRC discovers that income which ought to have been assessed has not been assessed or an assessment to tax is insufficient, HMRC may assess subject to sub-paragraphs 2 and 3. Sub-paragraphs 2 & 3 are only applicable if the taxpayer has made and delivered a self-assessment return. The Appellant in this case made no self-assessment return for the years under appeal. Consequently, sub-paragraphs 2 & 3 are not applicable.

50. The ordinary time limit for making an assessment is set out at section 34 TMA1970:

> "34(1) Subject to the following provisions of this Act, and to any other provisions of the Taxes Acts allowing a longer period in any particular class of case, an assessment to income tax or capital gains tax may be made at any time not more than 4 years after the end of the year of assessment to which it relates".

51. The time limit for making assessments in cases where a person has failed to notify their chargeability to income tax for the purposes of section 7 TMA 1970 are set out in section 36(1A)(b) of the Taxes Management Act 1970:

> "36(1A) An assessment on a person in a case involving a loss of income tax or capital gains tax –
>
> (…)
>
> (b) attributable to a failure by the person to comply with an obligation under section 7… may be made at any time not more than 20 years after the end of the year of assessment to which it relates…"

52. Section 50(6) TMA 1970 places the onus of proof upon the Appellant to demonstrate that they have been overcharged by the assessments.

53. Section 114 Taxes Management Act 1970 states:

> "114 Want of form or errors not to invalidate assessments, etc.
>
> (1) An assessment, warrant or other proceeding which purports to be made in pursuance of any provision of the Taxes Acts shall not be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of the Taxes Acts, and if the person or property charged or intended to be charged or affected thereby is designated therein according to common intent and understanding.
>
> (2) An assessment shall not be impeached or affected—
>
> (a) by reason of a mistake therein as to—
>
> (i) …
>
> (ii) the description of any profits or property,"

54. Section 41 of FA2008 determines the penalties for failure to notify liability.

DISCUSSION AND DECISION

55. Both parties accept that there is no specified wording for a taxpayer to notify HMRC of their chargeability to tax. However, the wording used by the Agent in his six letters to HMRC falls far short of the ordinary meaning of s7 TMA 1970. Upon receipt of the letters dated 5 February 2018 and 16 January 2019 HMRC were given no information as to what sort of tax the Appellant was liable for, no indication of the amount and no information concerning the source of the taxable income. The letter dated 16 January 2019 did not refer to the previous letter dated 5 February 2018 and did not query why no response had been received.

56. The Appellant accepts that she received the amounts of rental income detailed in the table at paragraph 21 above. The Agent should have realised that she would be liable for income tax on this income unless she had no other taxable income. The Tribunal finds it difficult to believe that the Agent did not ask the Appellant at their first meeting what other sources of income she received as it is a first principle of an accountant that "he should know the client". Although the Appellant attended the hearing, she did not give evidence and the Tribunal was therefore unable to ascertain when she became aware that she owed tax for each of the five years under appeal.

57. The Agent referred the Tribunal to the First-tier decision in *Mabbutt 2016*. However, this decision was overturned by the Upper Tribunal ([2017] UKUT 0289 (TCC)).

58. The discovery assessments clearly stated that they concerned the Appellant's rental income and s36((1A)(b) allows HMRC to issue assessments up to 20 years after the year of assessment. All five discovery assessments were therefore issued well within the time limit. While the Tribunal believes the Appellant could have claimed further reductions – insurance premiums and 10% wear and tear being such possibilities – which would have reduced her tax liability the Agent chose to appeal the entirety of the assessments and did not argue that the calculations were incorrect. The penalties could have been suspended had the Agent engaged with HMRC by submitting Self-Assessment Returns in each year.

59. The Agent maintained that it would have been unethical for him to carry out work completing tax returns for the Appellant when he believed he had given the appropriate notice to HMRC and it was then up to HMRC to take matters forward. The Agent has not given any explanation as to why he did not include a reference to income tax nor details of the rental income when he wrote to HMRC on six different occasions especially after he had received the letter dated 5 March 2019 from HMRC requesting details. Rather HMRC had to drag the information out from the Agent. The Tribunal considers it would have been quicker and possibly cheaper, if the Agent had supplied the information when each letter was written to Self-Assessment. Supplying the necessary information to HMRC each year would have avoided HMRC charging interest on the unpaid tax. The Appellant would also have been able to pay her tax liability in ten separate half yearly instalments rather in one large single amount.

60. While the initial meeting between the Appellant and the Agent presumably shortly before 5 February 2018 was an initial free consultation, no explanation has been provided as to why the letter sent on 16 January 2019 was outside the notification period though presumably it resulted from a further meeting between the Appellant and the Agent.

61. The Agent has not put forward any arguments as to why the Tribunal should find that there were any special circumstances. The Tribunal is unable to find any facts that would justify granting any reductions due to special circumstances.

62. The Tribunal has decided that the five discovery assessments were validly issued within time. As the five penalty charges were issued at the same time and were all calculated in accordance with statutory requirements, they also are valid.

63. The appeal is accordingly dismissed.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

64. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

ALASTAIR J RANKIN MBE
TRIBUNAL JUDGE

Release date: 06th MARCH 2024