



TC03175

Appeal number: TC/2013/06297

***COMPANY TAX RETURNS – LATE LODGING – LACK OF
COMMUNICATION BETWEEN ACCOUNTANT AND DIRECTOR –
VOLUNTARY ACCOUNTANCY SERVICES – WHETHER
REASONABLE EXCUSE - NO – APPEAL DISMISSED***

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

TEESDALE WEST DURHAM CIC

Appellants

- and -

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

Respondents

TRIBUNAL: JUDGE N A BAIRD

The Tribunal determined the appeal on 6 December 2013 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 4 September 2013 (with enclosures), and HMRC's Statement of Case submitted on 15 October 2013 (with enclosures).

DECISION

1 The appellants appeal against the decision of HMRC to impose a penalty of £100
5 in terms of Paragraph 17 of Schedule 18 to the Finance Act 1998 for late lodging of
their Company Tax return due to be filed by 31 March 2013. It was filed online on 10
May 2013.

2. It is submitted in the grounds of appeal by a Director of the appellant company that
10 the Penalty Notice dated 17 April 2013 alerted him to the fact that the return had not
been filed. On speaking to his accountant he realised there had been a
misunderstanding. The accountant had not filed the return, saying ‘he did not recall
being given a date’. The Director says that the company, being a non-profit
15 community interest company, relies on voluntary accountancy services. He had
failed to make it clear that the return had to be done and the accountant thought the
Director had already done it.

3. The position of HMRC is that the account relied on by the appellants does not
20 constitutes a reasonable excuse. They say that a great deal of information about
returns is available online, the onus is on the company to ensure that a return is
submitted on time and a company is expected to arrange its affairs to ensure that there
is compliance with its obligations under the tax legislation. They conclude that the
appellants have not established that on a balance of probabilities there is a reasonable
excuse for their failure to file the return on time.

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4. . If a person is to rely on reasonable excuse, this must have existed for the whole of
the period of default. A reasonable excuse is normally an unexpected or unusual
event, either unforeseeable or beyond the person’s control, which prevents him from
complying with an obligation when he otherwise would have done. The matter has to
30 be considered in the light of the actions of a reasonable prudent tax payer exercising
foresight and due diligence and having proper regard for his responsibilities under the
Taxes Act.

5. The return was not filed on time so the penalty was properly charged. The
35 company had a responsibility to ensure that the return was filed and failed to do so.
There was clearly a lack of communication but the filing of the return was an
important obligation and such lack of communication does not in my view constitute
reasonable excuse.

40 6. I dismiss the appeal.

7. 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)
45 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.

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**N A BAIRD
TRIBUNAL JUDGE**

RELEASE DATE 23 December 2013

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