[2019] UKFTT 326 (TC)

TC07154

Appeal number: TC/2018/04889

INCOME TAX – individual tax return –penalties for late filing – late appeal – application for permission to appeal out of time – application refused – appeal dismissed

FIRST-TIER TRIBUNAL
TAX CHAMBER

MR ROGER DICKENS **Appellant**

- and -

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

TRIBUNAL: JUDGE NIGEL POPPLEWELL
ANDREW PERRIN

Sitting in public at Cardiff on 15 April 2019

Mr Kingsley John of KWJ Bookkeeping for the Appellant

Miss Laura Morgan Officer of HMRC for the Respondents

DECISION

Background

1. This is an income tax case, the most important element of which concerns a late appeal against penalties (the "**penalties**") imposed on the appellant (or "**Mr Dickens**") by the respondents (or "**HMRC**") due to the late filing of his self-assessment tax returns for the tax years 2011/12, 2012/13, 2013/14, 2014/15 & 2015/16. The penalties are imposed pursuant to Schedule 55 to the Finance Act 2009 ("**Schedule 55**").

2. The penalties under appeal are as follows:

   (1) For the tax years 2011/12, 2013/14, 2014/15 and 2015/16 the penalties are:

      (a) £100 late filing penalty

      (b) £900 daily penalties

      (c) £300 six month late filing penalties

      (d) £300 twelve month late filing penalties

   (2) For the 2012/13 tax year the penalty is a £100 late filing penalty.

3. The penalties amount to £6500 in total

Late appeals

4. An appeal against the penalties was made by Mr Kingsley John ("**Mr John**") on behalf of the appellant on 9 February 2018. It was received by HMRC on 12 February 2018. As can be seen from the table below, the appeal was made very late (apart from that relating to the twelve month late filing penalty for 2015/16)

Penalty	**Date Issued**	**30 Day Deadline to Appeal**	**Appeal Received**	**No. of Days Late**
2011/2012				
Late Filing Penalty	12/02/2013	14/03/2013	12/02/2018	1797 days
Daily Penalties	14/08/2013	13/09/2013	12/02/2018	1614 days
6 Month Late Filing Penalty	14/08/2013	13/09/2013	12/02/2018	1614 days
12 Month Late Filing Penalty	25/02/2014	27/03/2014	12/02/2018	1419 days

2012/2013				
Late Filing Penalty	18/02/2014	20/03/2014	12/02/2018	1426 days
2013/14				
Late Filing Penalty	18/02/2015	20/03/2015	12/02/2018	1061 days
Daily Penalties	14/08/2015	13/09/2015	12/02/2018	884 days
6 Month Late Filing Penalty	14/08/2015	13/09/2015	12/02/2018	884 days
12 Month Late Filing Penalty	23/02/2016	24/03/2016	12/02/2018	691 days
2014/15				
Late Filing Penalty	17/02/2016	18/03/2016	12/02/2018	697 days
Daily Penalties	12/08/2016	11/09/2016	12/02/2018	520 days
6 Month Late Filing Penalty	12/08/2016	11/09/2016	12/02/2018	520 days
12 Month Late Filing Penalty	21/02/2017	22/03/2017	12/02/2018	328 days
2015/16				
Late Filing Penalty	07/02/2017	09/03/2017	12/02/2018	341 days
Daily Penalties	11/08/2017	10/09/2017	12/02/2018	156 days
6 Month Late Filing Penalty	11/08/2017	10/09/2017	12/02/2018	156 days
12 Month Late Filing Penalty	05/06/2018	05/07/2018	[06/06/2018]	[0 days]

Late filing

5. The tax returns for the relevant tax years were filed late by the appellant as per the table below:

Tax year	Notice to file issued	Filing due date	Date return filed
2011/12	06/04/2012	31/01/2013	12/02/2018
2012/13	06/04/2013	31/01/2014	25/03/2014
2013/14	06/04/2014	31/01/2015	12/02/2018
2014/15	06/04/2015	31/01/2016	12/02/2018
2015/16	06/04/2016	31/01/2017	12/02/2018

Filing oddities

6. The foregoing tables reflect a couple of filing oddities. The first, relating to the 12 month late filing penalty for 2015/2016 is that there is in the bundle no evidence of a formal appeal against this penalty. HMRC's records do not indicate that an appeal has been made. However, a copy of the penalty notice dated 5 June 2018 is with the papers as, too, is a letter from Mr John to Mr I Khalifa of HMRC dated 6 June 2018, the heading to which says that it is "Re-: Late Appeal against…… 2015/2016 penalties……"

7. On the date of that letter of course a notice of that penalty been received by the appellant, and all correspondence thereafter appears to accept that an appeal had been made against that penalty. When the appeals were notified to the tribunal on 5 July 2018, we are satisfied that that notification included the 12 month late filing penalty for 2015/2016.

8. Secondly the table at [5] above shows that the 2012/2013 return was filed in 2014. That reflects HMRCs computer records. But in the bundle there is also a copy of a paper tax return dated 8 January 2018 for that tax year. The correspondence shows that HMRC have treated this paper return as an amendment to the return originally filed for that tax year in 2014.

Findings of fact

9. We were provided with a comprehensive bundle of documents. The appellant gave oral evidence. We found him to be entirely credible, and from this evidence we make the following findings of fact

> (1) The appellant was, for the tax years in question, a self-employed plasterer. He had been in the self-assessment tax regime for a number of tax years, and prior to the years under appeal, his tax returns had been submitted, electronically, by his wife, on his behalf.

(2) Up until 2011, the appellant lived with his wife at 27 Jenkins Street, Pontypridd. However, following an acrimonious split from his wife in 2011 Mr Dickens left that house and lived above a pub in Pontypridd called the Ty-Mawr Hotel.

(3) The split between Mr Dickens and his wife in 2011 had not been a happy one and most of the correspondence and his financial records for the period of separation have been mislaid or disposed of.

(4) However, the appellant does not seriously challenge HMRC's assertion that not only were valid notices to file served at the appropriate address, on Mr Dickens, but so too, were the notices of the penalty assessments. We therefore find as a fact that such notices and assessments were validly served on the appellant in respect of the years under appeal.

(5) Sometime in 2015, the appellant became reconciled with his wife and moved back into 27 Jenkins Street.

(6) HMRC had served a number of documents relating to his tax affairs, on Mr Dickens, at 27 Jenkins Street. In his absence his wife had attempted to submit his tax return for 2012/2013, but that return was rejected because it had not been signed by Mr Dickens.

(7) Apart from that attempt to file that return, however, his wife made no further electronic returns to HMRC as she had done prior to their separation.

(8) In April 2015 Mr Dickens had a bad accident, following which, in August 2015 he had a knee operation which involved keyhole surgery. He was dealt with as a day case. In other words he was discharged from hospital later the same day as he had the operation. He was unable to work between April 2015 and February 2016.

(9) The appellant accepted that the operation did not really affect his ability to submit his returns or appeal against the penalties.

(10) Sometime in, we suspect late 2017/early 2018, Mr Dickens got in touch with Mr John in order to regularise his tax affairs. There is a record of the telephone conversation between Mr Dickens and HMRC dated 15 January 2018 in which Mr Dickens asked to be sent paper tax returns.

(11) The papers seem to show that the tax returns which were then completed by Mr John and signed by the appellant, were dated 8 January 2018. We suspect that this date is incorrect and it should have read 8 February 2018. HMRC records show that the returns were received on 12 February 2018. Mr John wrote to HMRC on 9 February 2018 indicating that he had been asked to represent the appellant in this matter (outstanding tax returns, tax and penalties) and asked if it was possible that the penalties could be withdrawn or reduced. The letter goes on to say that Mr Dickens concedes that he should be penalised in some way but that such a severe monetary imposition at that time would be crippling for him.

(12) This was treated by HMRC as an appeal against the penalties, as per the table at [4] above.

(13) There was then correspondence between Mr John and HMRC concerning the appeal, HMRC explaining that it was out of time and asking Mr John to submit, if he thought that the appellant had one, a reasonable excuse for the appellants' failure to appeal on time.

(14) HMRC did not seem to consider that the appellant had such an excuse, and as a consequence, Mr John told HMRC in his letter to them of 5 July 2018 that he was planning to write to HMCTS asking them to review the decision. In fact he went on to notify the appellant's appeal to the tribunal in a notice of appeal dated 5 July 2018.

Summary of the law

Late appeals

10. The statutory provision which permits us to consider an application for giving a late notice of appeal is section 49 of the Taxes Management Act 1970 ("**TMA 1970**") this reads as follows:

> "**49 Late notice of appeal**
>
> 49(1) This section applies in a case where-
>
> (a) notice of appeal may be given to HMRC, but
>
> (b) no notice is given before the relevant time.
>
> 49(2) Notice may be given after the relevant time limit if-
>
> (a) HMRC agree, or
>
> (b) where HMRC do not agree, the tribunal gives permission.
>
> 49(3) …
>
> 49(4) …
>
> 49(5) …
>
> 49(6) …
>
> 49(7) …
>
> 49(8) In this section "**relevant time limit**", in relation to notice of appeal, means the time before which the notice is to be given (but for this section)."

11. The principles which we should consider when dealing with an application such as this have been something of a moveable feast over the last few years. But the Upper

Tribunal in the case of *Martland* (*William Martland v HMRC* [2018] UKUT 178) has undertaken a detailed review of the relevant authorities and has given extremely helpful guidance on the principles which we should adopt. The relevant extract from *Martland* is set out below.

> "44.When the FTT is considering applications for permission to appeal out of time, therefore, it must be remembered that the starting point is that permission should not be granted unless the FTT is satisfied on balance that it should be. In considering that question, we consider the FTT can usefully follow the three-stage process set out in *Denton*:
>
> (1) Establish the length of the delay. If it was very short (which would, in the absence of unusual circumstances, equate to the breach being "neither serious nor significant"), then the FTT "is unlikely to need to spend much time on the second and third stages" – though this should not be taken to mean that applications can be granted for very short delays without even moving on to a consideration of those stages.
>
> (2) The reason (or reasons) why the default occurred should be established.
>
> (3) The FTT can then move on to its evaluation of "all the circumstances of the case". This will involve a balancing exercise which will essentially assess the merits of the reason(s) given for the delay and the prejudice which would be caused to both parties by granting or refusing permission.
>
> 45. That balancing exercise should take into account the particular importance of the need for litigation to be conducted efficiently and at proportionate cost, and for statutory time limits to be respected. By approaching matters in this way, it can readily be seen that, to the extent they are relevant in the circumstances of the particular case, all the factors raised in *Aberdeen* and *Data Select* will be covered, without the need to refer back explicitly to those cases and attempt to structure the FTT's deliberations artificially by reference to those factors. The FTT's role is to exercise judicial discretion taking account of all relevant factors, not to follow a checklist.
>
> 46. In doing so, the FTT can have regard to any obvious strength or weakness of the applicant's case; this goes to the question of prejudice – there is obviously much greater prejudice for an applicant to lose the opportunity of putting forward a really strong case than a very weak one. It is important however that this should not descend into a detailed analysis of the underlying merits of the appeal. In *Hysaj*, Moore-Bick LJ said this at [46]:
>
> > "If applications for extensions of time are allowed to develop into disputes about the merits of the substantive appeal, they will occupy a great deal of time and lead to the parties' incurring substantial costs. In most cases the merits of the appeal will have little to do with whether it is appropriate to grant an extension of time. Only in those cases where the court can see without much investigation that the grounds of appeal are either very strong or very weak will the merits have a significant part to play when it comes

to balancing the various factors that have to be considered at stage three of the process. In most cases the court should decline to embark on an investigation of the merits and firmly discourage argument directed to them."

Hysaj was in fact three cases, all concerned with compliance with time limits laid down by rules of the court in the context of existing proceedings. It was therefore different in an important respect from the present appeal, which concerns an application for permission to notify an appeal out of time – permission which, if granted, founds the very jurisdiction of the FTT to consider the appeal (see [18] above). It is clear that if an applicant's appeal is hopeless in any event, then it would not be in the interests of justice for permission to be granted so that the FTT's time is then wasted on an appeal which is doomed to fail. However, that is rarely the case. More often, the appeal will have some merit. Where that is the case, it is important that the FTT at least considers in outline the arguments which the applicant wishes to put forward and the respondents' reply to them. This is not so that it can carry out a detailed evaluation of the case, but so that it can form a general impression of its strength or weakness to weigh in the balance. To that limited extent, an applicant should be afforded the opportunity to persuade the FTT that the merits of the appeal are on the face of it overwhelmingly in his/her favour and the respondents the corresponding opportunity to point out the weakness of the applicant's case. In considering this point, the FTT should be very wary of taking into account evidence which is in dispute and should not do so unless there are exceptional circumstances.

47. Shortage of funds (and consequent inability to instruct a professional adviser) should not, of itself, generally carry any weight in the FTT's consideration of the reasonableness of the applicant's explanation of the delay: see the comments of Moore-Bick LJ in *Hysaj* referred to at [15(2)] above. Nor should the fact that the applicant is self-represented – Moore-Bick LJ went on to say (at [44]) that "being a litigant in person with no previous experience of legal proceedings is not a good reason for failing to comply with the rules"; HMRC's appealable decisions generally include a statement of the relevant appeal rights in reasonably plain English and it is not a complicated process to notify an appeal to the FTT, even for a litigant in person."

The Penalties

12. The law imposing late filing penalties is in Schedule 55 and in particular paragraph 1, paragraph 3 (initial penalty of £100.00), paragraph 4 (daily penalties) and paragraphs 5 and 6 (fixed or tax geared penalty after 6 and 12 months respectively).

13. Paragraph 1(1) of Schedule 55 states that:

"a penalty is payable by a person ("P") where P fails to make or deliver a return, or to deliver any other document, specified in the Table below on or before the filing date".

14. The Table referred to is in paragraph 1(5). It specifies an income tax return as being a return under Section 8(1)(a) of the TMA 1970.

15. Under Section 8(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, a return containing such information as may reasonably be required in pursuance of the notice.....".

16. HMRC must go through different procedural hoops to notify, properly, each type of late filing penalty. Most importantly, daily penalties cannot be imposed unless HMRC decide that such a penalty should be payable and also give notice to the taxpayer specifying the date from which the penalty is payable (paragraph 4(1)(c) of Schedule 55).

17. By contrast, there are no such qualifications for the initial penalty of £100 or the fixed or tax geared penalties after 6 and 12 months.

18. If the imposition of the penalties is procedurally correct, both the respondents and this tribunal have power to cancel them, if they think that the appellant has a reasonable excuse; or reduce them if either HMRC consider that there are special circumstances, or that the tribunal believes that HMRC's decision not to reduce for special circumstances is flawed.

19. The test of reasonable excuse is set out below. An insufficiency of funds is not a reasonable excuse unless attributable to events outside the taxpayer's control.

20. Special circumstances do not include the ability to pay.

Reasonable excuse

21. The test we adopt in determining whether the appellant has a reasonable excuse is that set out in *The Clean Car Co Ltd v C&E Commissioners* [1991] VATTR 234, in which Judge Medd QC said:

> "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?"

22. Although the Clean Car case was a VAT case, it is generally accepted that the same principles apply to a claim of reasonable excuse in direct tax cases.

23. Indeed, in the First-tier Tribunal case of *Nigel Barrett* [2015] UKFTT0329 (a case on late filing penalties under the CIS) Judge Berner said:

> "The test of reasonable excuse involves the application of an impersonal, and objective, legal standard to a particular set of facts and circumstances. 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."

24. Under Section 115 TMA:

> "Any notice or other document to be given, sent, served or delivered under the Taxes Acts may be served by post, and, if to be given, sent, served or delivered to or on any person by HMRC may be so served addressed to that person..... at his usual or last known place of residence, or his place of business or employment....."

25. Under Section 7 of the Interpretation Act 1978:

> "Where an Act authorises or requires any document to be served by post (whether the expression "serve" or the expression "give" or "send" or any other expression is used) then, unless the contrary intention appears, the service is to be deemed to be effected by properly addressing, pre-paying and posting a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post"

Proportionality

26. In relation to the doctrine of proportionality and its application to the issues in this case, we have considered the following cases:

> *(a) Paraskevas Louloudakis v Elliniko Dimosio* (Case C-262/99) [2001] ECR I-5547 ("*Louloudakis*")
>
> *(b) International Transport Roth GmbH v Secretary of State for the Home Dept* [2003] QB 728 ("*Roth*")
>
> *(c) James v UK* (Application 8793/79) (1986) 8 EHRR 123 ("*James*")
>
> *(d) Wilson v SoS for Trade and Industry* [2003] UKHL 40 [2004] 1AC816 ("*Wilson*")
>
> *(e) R(on the application of Lumsden and others) (Appellants) v Legal Services Board (Respondent)* [2015] UKSC 41 ("*Lumsden"*)

(1) A summary of the principles relating to proportionality are set out below:

> (a) Proportionality as a general principle of EU law involves a consideration of two questions: first, whether the measure in question is

suitable or appropriate to achieve the objective pursued; and secondly, whether the measure is necessary to achieve that objective, or whether it could be attained by a less onerous method (Lumsden at [33])

(b) As is the case for other principles of public law, the way in which the principle of proportionality is applied in EU law depends to a significant extent upon the context (Lumsden at [23].

(c) In the context of its application to penalties, the principle of proportionality is that:

(i) penalties may not go beyond what is strictly necessary for the objective pursued; and

(ii) a penalty must not be so disproportionate to the gravity of the infringement that it becomes an obstacle to the freedoms enshrined in the Treaty (Louloudakis at [67]).

(d) In deciding whether the measures or their application is appropriate and not disproportionate, the court must exercise a value judgment by reference to the circumstances prevailing when the issue is to be decided. It is the current effect and impact of the legislation which matters, not the position when the legislation was enacted or came into force (Wilson at [62]).

(e) The margin of appreciation given to law makers in implementing social and economic policy should be a wide one and the courts will respect the law makers judgment as to what is in the public interest unless that judgment is manifestly "without reasonable foundation" (James at [46]) or "not merely harsh but plainly unfair" (Roth at [26]).

Discussion re late appeal-re penalties other than the 12 month penalty for 2015/2016

27. We are satisfied on the facts that an officer of the Board issued a notice to file to the appellant under section 8 TMA 1970 and, too, that that and the penalty notices given to the appellant satisfy the requirements of paragraphs 4 and 18 of schedule 55 Finance Act 2009. Indeed Mr John accepted this was the case in his submissions.

28. The appellant's grounds for asking us to admit the appeal against the penalties, out of time are that he was, essentially, at a very low emotional ebb at the time when he accepts that it is likely that he would have received these penalty notices. He had split up from his wife and had moved out of their house. His wife, who had previously looked after his tax affairs, did not continue to do so after their separation. He basically couldn't cope with facing his obligations to submit tax returns and to appeal against the penalties.

29. Furthermore, in 2015 he not only had a bad accident but he then had a knee operation which further debilitated him.

30. He is now rehabilitated with his wife and as soon as he felt able to do so, he asked Mr John to regularise his tax affairs. This was done in February 2018. He accepts that he owes something but he cannot afford the penalties which will cripple him financially.

31. HMRC's position is, like ours, one of sympathy for Mr Dickens. However, he has been registered for self-assessment since 2005 and clearly knew that he had to submit timely tax returns. He accepts that he received notices to file and the notices of penalty assessments. The appellant's matrimonial difficulties are neither a reasonable excuse for failing to submit tax returns on time nor a reasonable excuse for failure to appeal against the penalties on time. A reasonable taxpayer would have put his tax affairs in the hands of a professional adviser before the time that Mr Dickens in fact did so.

32. We now consider the application of the Martland criteria to the foregoing submissions.

Length of the delay

33. As can be seen from the table in [4], and leaving aside, for the time being, the 12 month late filing penalty for 2015/16, the delay in making an appeal against the penalties is very considerable and ranges from 1797 days to 156 days. These delays are both serious and significant. There is a principle that litigation should be finalised as expeditiously as is reasonably possible. HMRC are entitled to expect that an appellant would appeal within the statutory time limits and so, if he fails to do so, they can put away their papers. In this case HMRC have clearly had to engage in this appeal notwithstanding that it should have been made over five years, in some cases, before the date on which it was actually made.

Reasons for the delay

34. We accept that the appellant was in emotional turmoil following his separation from his wife and subsequently leaving their house in Jenkins Street. And we are sympathetic to his plight. But we have found that he knew of the penalty notices which had been properly served. It was open to him to seek professional help, something which he subsequently did in 2017/2018. We accept that by this time he was reconciled with his wife and was on a more stable emotional keel and so better able to cope with the vicissitudes of the tax system. But the evidence does not show that his mental state during the relevant period was such that he simply was unable to submit timely returns or appeal against the penalties.

35. When it became apparent that his wife was no longer prepared to submit his tax returns on his behalf, as she had previously done, it is our view that he should have got in touch with Mr John at that stage. This might seem harsh, but it is in our view what a reasonable taxpayer in his position would have done.

The balancing exercise

36. We can consider the obvious merits of the appellant's appeal. We have thought about this long and hard. We do not think that the appellant has a reasonable excuse for failing to submit timely tax returns. The issue is whether there are special circumstances

and/or the penalties are disproportionate. And by denying the appellant permission to appeal out of time we are preventing him from running arguments that are likely to succeed in the substantive appeal. We do not, on balance, think that he has a strong case. We consider the 2015/2016 12 month late filing penalty below. But we do not consider that his separation from his wife nor his accident and subsequent knee operation comprise special circumstances. They are not out of the usual run of events (even in combination). Indeed, Mr Dickens accepted that his operation did not prevent him from attending to his tax affairs. It simply contributed to the other issues that were, at that time, adversely affecting his mental situation. Nor do we consider that each of the penalties is disproportionate (even if considered together, penalties of £6500 against a tax liability which is likely to be less than that, are harsh). Penalties are not tax geared. They are designed to promote the proper working of the tax system by ensuring the submission of timely tax returns. We accept Mr John's submission that the penalties are unlikely to affect Mr Dickens further behaviour towards the tax system. But whilst harsh, we do not consider that, individually, any of the penalties is plainly unfair.

37. Drawing these threads together, our view is that the length of the delay in making the appeals against these penalties combined with the small likelihood of success in the substantive appeals outweigh the reasons given by the appellant for failing to make the appeals against these penalties on time.

Decision re late appeals against the penalties other than the 12 month penalty for 2015/2016

38. In light of the foregoing we have decided not to give permission to the appellant to appeal against these penalties out of time. Accordingly at this stage we dismiss his appeal against all the penalties other than the 12 month late filing penalty for 2015/2016 which we deal with below.

The 12 month late filing penalty for 2015/2016

39. The appeal against this penalty was made in time so we now need to consider whether the appellant has a reasonable excuse for failing to file the return on time, or whether there are special circumstances or whether this penalty is disproportionate.

40. It has been accepted by the appellant that a notice to file the return for 2015/2016 was given to him, and that the due date for filing this return, electronically, was 31 January 2017. The return was not in fact filed until February 2018.

41. We have considered whether any of the submissions made by the appellant set out at [28-30] comprises a reasonable excuse for failing to submit this return on time. We do not think that they do. It is our view that a reasonable taxpayer would have put his tax affairs in the hands of Mr John notwithstanding the appellant's parlous emotional state. But on the facts, the appellant became reconciled with his wife in 2015, some considerable time before the due filing date for this return. By his own admission, the appellant did not consider that his accident and knee operation, of themselves, would have prevented him from attending to his tax affairs. Nor do we consider, for the same reasons, that there are special circumstances which would allow either HMRC or ourselves to reduce this penalty. The appellant was reconciled with his wife and his

accident and knee operation do not comprise special circumstances. Finally we do not consider that this penalty is either harsh or plainly unfair. It is proportionate.

Decision re 12 month filing penalty for 2015/2016

42. And so for these reasons we dismiss the appellant's appeal against the 12 month late filing penalty for 2015/2016.

Appeal rights

43. 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 a Company a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

NIGEL POPPLEWELL

TRIBUNAL JUDGE
RELEASE DATE: 23 May 2019