



TC07265

Appeal number: TC/2018/04729

Income tax - fixed and daily penalties for late filing of self-assessment returns for three years - appellant ill - hospitalised for part of default period - whether reasonable excuse continuing throughout default period - no - appeal dismissed

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

KAYUM MOHAMMED DAD

Appellant

- and -

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

**TRIBUNAL: JUDGE MICHAEL CONNELL
MEMBER ANN CHRISTIAN**

**Sitting in public at Bradford IAC, Phoenix House, Rushton Avenue, Bradford on
5 November 2018**

The Appellant in person

Ms Vicky Wood, Officer of HMRC, for the Respondents

DECISION

Introduction

1. This is an appeal by Kayum Mohammed Dad ('the appellant') against penalties totalling £4,500 imposed by the respondents ('HMRC') under Paragraphs 3, 4, 5 and 6 of Schedule 55 Finance Act 2009 for the late filing by the appellant of his self-assessment ('SA') tax returns for the tax years ending 5 April 2014, 2015, and 2016 ('the default years').

Background to the defaults

2. A notice to file was issued to the appellant on 6 April for each of the three tax years 2013-14, 2014-15 and 2015-16.

3. Under s 8(1D) TMA 1970 a non-electronic return must normally be filed by 31 October in the relevant financial year or an electronic return by 31 January in the year following. The 'penalty date' is defined at Paragraph 1(4) Schedule 55 FA 2009 and is the date after the filing date.

4. A late filing penalty is chargeable where a taxpayer is late in filing their Individual Tax return.

5. The 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 of £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 £300 is imposed under Paragraph 6 of Schedule 55 FA 2009.

6. Due to illness, the appellant had been unable to work for many years. His occupation was that of a Child Protection Social Worker. He had suffered chronic kidney disease and renal problems since 2007. He has also suffered from high blood pressure and insulin treated diabetes. In 2012 he was admitted to the intensive care

unit of St Luke's Hospital, Bradford with respiratory arrest secondary to severe biventricular failure.

7. The appellant was late filing his SA return for 2011-12.

8. On 13 July 2013 he wrote to HMRC (following receipt of a £100 penalty in February 2013) to explain the reason for the late delivery of his 2011-12 return. The letter was not received by HMRC until 31 August 2013, but the appellant maintains that his daughter had also telephoned HMRC on 13 July 2013 to further explain the position. In his letter he said:

“I am writing this letter to inform you of the reason for not being able to complete my self-assessment tax return form. During the last few months I have been very unwell, suffering from a heart attack, and multi-organ failure in hospital. I have since been receiving treatment for this, and am now unable to work under medical grounds. I have recently contacted HMRC regarding this, and would really appreciate your understanding and support around this very difficult event in my life. I normally complete my tax return self-assessment very timely, but due to unforeseen circumstances I have been unable to. Due to the severity of my condition I have been unable to deal with my tax affairs. I hereby give consent for my daughter Ameera Dad to deal with my tax affairs when it's needed.”

9. The appellant's 2011-12 return was received by HMRC on 12 September 2013. The late filing penalty of £100 was waived on the grounds of the appellant's illness.

10. The 2012-13 return was filed on time.

11. The appellant's returns for 2013-14, 2014-15 and 2015-16 were all filed late ('the default years'). They were received by HMRC on 12 November 2017. The 2013-14 return was over two and a half years late; the 2014-15 return over one and half years late and the 2015-16 return over ten months late.

12. When received, his returns for each year showed income mainly from pensions and state benefits. He had also received a small amount of income from property. The tax payable in year 2013-14 was £322, in £2014-15 it was £283.20 and in 2015-16 it was £518.

13. Penalties of £100, £900, £300 and £300 were imposed for each of years 2013-14 and 2014-15 under paragraphs 3 to 6 of Schedule 55 above and for 2015-16 under paragraphs 3 to 5 above. The penalties therefore totalled £4,500.

14. The penalties were raised on the following dates:

- 2013-14 - Under paragraph 3 on 18 February 2015, under paragraphs 4 and 5 on 14 August 2015, and under paragraph 6 on 23 February 2016.
- 2014-15- Under paragraph 3 on 17 February 2016, under paragraphs 4 and 5 on 12 August 2016, and under paragraph 6 on 21 February 2017.

- 2015-16 - Under paragraph 3 on 7 February 2017, and under paragraphs 4 and 5 on 11 August 2017.

15. The appellant says that throughout the default period, i.e. from January 2015 to November 2017, he was ill and unable to deal with his tax returns. By April 2017 he had developed end stage renal failure in April 2017 and was started on dialysis. After that he was on regular hospital-based dialysis. The treatment takes place 3 times a week and each session lasts for 4 hours.

16. On 11 August 2017 the appellant appointed an agent to prepare his returns, which were filed on 12 November 2017.

17. On 15 February 2018 the appellant asked HMRC to reconsider the penalties that had been imposed during the three default years. He referred to his letter of 13 July 2013 and his daughter's telephone conversation with HMRC, when he says she was told that HMRC could not engage with her and that the filing of her father's SA returns were his responsibility.

18. On 16 February 2018 HMRC replied, saying that having reviewed the matter their decisions to issue penalties for the default years were upheld. With regard to the appellant's letter of 13 July 2013, HMRC said they had no record of the appellant's daughter telephoning HMRC, or that HMRC would not engage with his daughter. Irrespective of that however, HMRC reiterated that it was the appellant's responsibility to ensure his returns were filed on time.

19. On 14 March 2018 the appellant replied, reiterating that his daughter was unequivocally given permission by the letter of 13 July 2013 to liaise with HMRC on his behalf, but "was told by the Assessment Team" that she could not do so. He said that HMRC's refusal to engage with his daughter had left her "with no choice but to refrain from this situation". He said he had not denied that he was responsible for the filing of his returns. He explained that due to his medical conditions and health issues he "was mentally and physically not in a position to complete the Assessment on time".

20. He enclosed a letter from his Consultant Physician and Nephrologist dated 9th March 2018 which confirmed his medical conditions and the medication and treatment he was receiving, adding:

"Those people who suffer from extreme Renal failure and are obliged to attend the Renal Department Haemodialysis can appreciate what it involves and how painful and difficult is the process. I am also a diabetic and insulin dependent for around 32 years. It has affected both my feet and are intensely damaged due to gangrene and seriously injured beyond to any treatment.

This has affected me physically and mentally and I suffer from depression anxiety and cannot sleep and my memory is also damaged. If I go out I often become disoriented I live on a day to day basis my physical and mental condition made me incapable to take care of my responsibilities to send Assessment in time according to the rules. My situation to send Assessment on time is due to my inability on medical conditions.

You must appreciate that no human being can make a timely and appropriate decisions during the period one is going through of extreme mental and physical torture. Because of my medical condition I am a victim of the circumstances and not a culprit. I therefore most sincerely request you to reconsider and review your decision in light of the above facts. If you cannot reverse your decision please treat this letter as my formal appeal against your decision.”

21. On 18 April HMRC issued their review decision. The reviewing officer said that HMRC’s notes of the phone call made by the appellant’s daughter on 15 July 2013 did not show them informing her that they were unwilling to engage. There was no recording of the telephone call as HMRC do not keep them for this length of time, and as such the reviewing officer could not comment further.

22. The reviewing officer said that although he sympathised with the appellant regarding his illness, it had been ongoing for a number of years. Although he had received numerous penalty reminders and statements over the years, he had failed to contact HMRC from 12 September 2013 until 15 February 2018 about his situation. The appellant had therefore had ample opportunity to request help. As he had not provided a reasonable excuse for failing to submit his returns on time, the penalties had been correctly charged.

23. On 12 May 2018 the appellant asked HMRC to reconsider the conclusions reached in the review decision. He said:

“I accept that under section 8 Taxes Management Act (TMA) 1970 I was required to deliver the (returns). The returns were not submitted until 12 December 2017 and penalties were chargeable. I accept this without any hesitation.

I authorised my daughter Ameera Dad to liaise on my behalf. I was unable to complete the Assessment due to my medical condition. My daughter was told on the phone by the Assessment Team that they were not willing to engage with her. My daughter was left with no choice but to refrain from this situation.

I reiterate that due to my mental, physical and medical conditions I was unable to complete the Assessment on time. I am also diabetic for over 32 years and am insulin dependent. I often go hyper and this has affected my memory. I often become forgetful. When I go out I become disoriented. I suffer from gangrene in the toes of both feet ...I suffer from intense pain when I am walking.

Due to diabetes my kidneys have stopped working and I attend St Luke's Hospital Horton Wing for dialysis 3 times per week where I spend nearly 6 hours plus travelling from and to my home.

Between 3 to 4 litres of fluid is taken out and often my blood pressure goes extremely low which makes me feel dizzy after the process. I am left with no energy and hardly can walk.

I am sorry to say that Mr Daniel Green the Review Officer holds illogical invalid and unfair views about my physical, mental and medical conditions. He thinks that my condition does not amount to a reasonable excuse. Mr Daniel Green’s view is highly biased and subjective.”

24. On 22 May 2018 HMRC said that they could not undertake a second review but that the appellant could appeal to the Tribunal should he wish to do so.

25. On 2 July the appellant appealed to the Tribunal. He appeals all the penalties on the grounds set out above.

Relevant statutory provisions

Taxes Management Act 1970

26. 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 [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:

27. The penalties at issue in this appeal are imposed by Schedule 55 FA 2009.

Paragraph 1 (4) states that the ‘penalty date’ is the date after the ‘filing date’.

Paragraph 3 of Schedule 55 imposes a fixed £100 penalty if a self-assessment return is submitted late.

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).

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.

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.

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.

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

28. The appellant’s case is that he was too ill during the whole of the default years to file his tax returns on time. He also says that his daughter telephoned HMRC on 13 July 2013 to explain the severity of his illness and that he consented to his daughter dealing with his tax affairs. He says that HMRC refused to engage with his daughter. He has produced documentary evidence of his medical condition which confirms that he suffers from chronic long term and ongoing renal problems for which he has been hospitalised and that in August 2017 he was treated with regular hospital-based dialysis. He also suffers from insulin treated diabetes and high blood pressure. He says that he normally submits his tax returns on time, but “due to unforeseen circumstances” was unable to do so during the default years.

HMRC's case

29. 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 and warnings of penalties were clearly shown on the Notice to File issued to the appellant for each of the default years.

30. This appeal is not concerned with specialist or obscure areas of tax law. It is concerned with the ordinary every-day responsibilities of the appellant to ensure his tax returns were filed by the legislative date and payment of any tax due made on time.

31. Self-assessment places a greater degree of responsibility on customers for their own tax affairs. The tax guidance and HMRC's website give plenty of warning about filing and payment deadlines. It is the customer's responsibility to make sure they meet the deadlines.

32. The Notice to File issued to the appellant in each default year included generic information relating to the penalty regime in order to encourage customers to file their return on time.

33. HMRC issued to the appellant a late filing fixed penalty notice on 18 February 2015 in respect of his late 2013-14 return, informing him that he had been fined because the tax return had not been received and to submit his tax return to prevent further penalties being charged. Further penalties were issued (as set out above) at three months, six months and twelve months.

34. Similar one month, three month, six month and twelve month penalties were issued for the year 2014-15 and one month, three month, and six month penalties for 2015-16.

35. In each year HMRC issued 30 day daily penalty reminder letters to the appellant and these would have informed him that his tax return was still outstanding and to send it to HMRC to prevent further penalties.

36. Whilst the appellant's illness was serious and no doubt very debilitating, it should not have prevented the appellant from filing his tax returns on time.

37. For illness to be a reasonable excuse for late filing of a tax return it must have been so serious that it prevented the taxpayer from controlling his private affairs immediately before the deadline for filing the tax return and from that date to the time the return is received. In this appeal the returns were respectively over two and a half years, one and a half years and ten months late.

38. The appellant has not shown that he was incapable of handling his private affairs during the entirety of the default period. His tax affairs were not unduly complex and it would have been a relatively simple matter for him to appoint an agent to prepare and file his returns. He finally appointed an agent in August 2017 and his returns were filed in December 2017.

39. Late filing penalties for the default years are therefore due in accordance with Schedule 55 FA2009.

40. The amount of the penalties charged is set within the legislation. HMRC has no discretion over the amount charged and must act in accordance with the legislation. By not applying legislation and as such not to have imposed the penalty would mean that HMRC was not adhering to its own legal obligations.

Special Reduction

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

42. 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).

43. HMRC have considered the appellant’s ill health, but this does not amount to special circumstances which would merit a reduction of the penalties below the statutory amount.

44. 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”.

45. HMRC’s decision not to reduce the penalties under paragraph 16 was not flawed. There are no special circumstances which would require the Tribunal to reduce the penalties.

Conclusion

46. The appellant’s letter to HMRC dated 13 July 2013 appears to have been prompted by the issue of penalties following the late filing of his 2011-12 return. It was not received by HMRC until after the three month and six month penalties had

been issued. The penalties were subsequently waived by HMRC, but there was no suggestion that, in the event of any further defaults, penalties would not be imposed.

47. We entirely accept that the appellant has suffered numerous health problems including chronic kidney disease, insulin treated diabetes and high blood pressure. We have not received any evidence however to show how this might have affected his ability to ensure the timely filing of his tax returns. After the appellant's letter of 13 July 2013, he does not appear to take any action to ensure the filing of his returns. He did not engage assistance or appoint an agent until August 2017 (possibly after receiving the three and six month penalties for the late filing of his 2015-16 returns) and the returns for the default years were not filed until mid November 2017.

48. We accept that in the period leading up to the time when he was receiving hospital-based dialysis, which took place three times a week, each session lasting for four hours, it would have been difficult for him to deal with his tax affairs, or even wish to do so. However, there is no evidence that prior to that point in time he was totally unable to arrange for the filing of his outstanding return or appoint an agent for that purpose.

49. The appellant would have been aware of the filing dates and the obligation to file his returns on time. He had received late filing penalties in respect of the year 2011-12 which should have served as a warning that future returns had to be filed on time. The penalties for 2011-12 were waived due to the appellant's illness and it may be that he took that to mean that any penalties imposed for the late delivery of future returns would also be waived.

50. HMRC sent numerous reminders and late filing penalties to the appellant which should have acted as prompts to him that his returns had not been received.

51. 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 ceased.

52. 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).

53. 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.

54. The penalties were imposed over an extended period – three years. During the whole of that time, the appellant would have been aware of the accumulating penalties and in receipt of numerous penalty reminder notices.

55. Save for the consultant’s letter of 9 March 2018, the appellant has not produced any evidence to show that the effects of his illness were such that he could not have sought help or appointed an agent to ensure the timely submission of his tax returns. He has not produced any independent evidence, for example from his GP or Consultant to show that the effects of his illness were such that he would have been unable to put in place measures to ensure the timely filing of his returns during the default period which extended from January 2015 to August 2017.

56. The appellant would have had a reasonable excuse for the delay in filing his 2015-16 return, at least until mid July 2017, after receiving the dialysis treatment. However, he did not appoint an agent to file his outstanding returns until August 2017 and it was not for another three months that they were eventually filed. The appellant’s tax affairs were clearly not complex and there would appear to be no reason for the ongoing further delay between July and November 2017, irrespective of whether the delay was due to the appellant or his appointed agent.

57. If there is a reasonable excuse it must exist throughout the failure period. The appellant did not rectify the failure to file his returns once the reasonable excuse had ceased, as required by paragraph 23 Schedule 55.

58. We therefore concur with HMRC’s submission that the appellant’s grounds of appeal should not be accepted.

59. The late filing penalties totalling £4,500 have been charged in accordance with legislation and no reasonable excuse has been shown for the appellant’s failure to file his tax returns on time.

60. We also find that there are no special circumstances which would allow the penalty to be reduced under the Special Reduction regulations.

61. The appeal is dismissed and the penalties confirmed.

62. 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: 13 JULY 2019