



[2020] UKFTT 0088 (TC)

TC07582

INCOME TAX – Schedule 55 Finance Act 2009 - fixed and daily penalties for failure to file a self-assessment return on time – Family member’s illness - whether taxpayer had a reasonable excuse for her default – appeal dismissed. Permission to appeal out of time – refused.

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

Appeal number: TC/2019/06689

BETWEEN

KAREN CURRAN

Appellant

-and-

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

Respondents

TRIBUNAL: JUDGE ABIGAIL HUDSON

The Tribunal determined the appeal on 7 February 2020 without a hearing under the provisions of Rule 26 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 (default paper cases) having first read the Notice of Appeal dated 8 October 2019 (with enclosures) and HMRC’s Statement of Case (with enclosures) acknowledged by the Tribunal on 9 December 2019.

DECISION

Introduction

1. This is an appeal by Mrs Karen Curran ('the Appellant') against penalties totalling £1,300 imposed by the Respondents ('HMRC') under Paragraph 3, 4 and 5 of Schedule 55 Finance Act 2009, for her failure to file self-assessment ('SA') tax returns on time for the tax year ending 5 April 2017.

Background

2. The Appellant's return for 2016-17, was due if filed electronically no later than 31 January 2018.

3. 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.

4. The Appellant's return for 2016-17 was filed late and penalties of £100, £900 and £300 were imposed, under (i), (ii) and (iii) above.

Filing date and Penalty date

5. 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.

Reasonable excuse

6. 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.

7. The law specifies two situations that are not reasonable excuse:

(a) An insufficiency of funds, unless attributable to events outside the Appellant's control, and

(b) Reliance on another person to do anything, unless the person took reasonable care to avoid the failure.

8. 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).

9. 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.

The background facts

10. The Appellant's 2016-17 return was issued on or around 15 June 2017 and so was due to be returned in paper form by 31 October 2017 or online by 31 January 2018. The Notice to file a return was sent by HMRC to the Appellant home address, provided by the Appellant for correspondence.

11. The Appellant says that she was unable to attend to her tax obligations during the relevant period due to her sister's illness.

12. On 1 August 2018 the Appellant's electronic return was received by HMRC. The return, being an online return, should have been filed by 31 January 2018 and was therefore six months late.

13. HMRC imposed a fixed penalty of £100 together with daily penalties [90 days at £10 for each day] totalling £900. The return still having not been received six months after the filing date HMRC then imposed a fixed penalty of £300.

The Appellant appealed to the Tribunal on 8 October 2019.

PERMISSION TO APPEAL OUT OF TIME

14. The appellant's appeal to HMRC under s31A TMA 1970 was made outside the statutory deadline. HMRC refused consent under s49(2)(a) of TMA 1970. For the following reasons, I have decided not to give permission for the appeal to be notified late:

15. The relevant penalty notices were dated 13 February 2018, 31 July 2018 and 10 August 2018, and were sent to the Appellant's home address. Therefore the time limit for appealing expired on the 9 September 2018. The Appellant was sent statements of account on 11 March 2018, 16 September 2018 and 6 January 2019.

16. Mrs Curran has stated that her sister was terminally ill during the relevant period and so she was making weekly trips from Edinburgh to Bristol in order to help her. In August 2018 she was able to file her SA return, and sought to appeal the penalty notices at the same time on the basis that she did not receive her notice to file. By letter dated 6 September 2018 the Respondent notified her that it was not accepted that she did not receive her notice to file, and that her appeal had failed. She was advised to seek review or appeal by 6 October 2018. Despite that correspondence the Appellant does not appear to have made further efforts to appeal until March 2019 despite repeated notifications of the outstanding monies. By that date her appeal was 199 days late. She was then notified by letter dated 11 April 2019 that her appeal was out of time and that she must seek further appeal by 11 May 2019. Notwithstanding that, she then did not file a notice of appeal until October 2019. On the Appellant's account her sister's illness had sadly resulted in her death by February 2019, and no explanation is offered for the repeated delays in appealing these penalties. Even were I to accept that the illness caused the appellant to ignore her tax responsibilities until February / March 2019, and that that was reasonable, the continued failure to act between May and October is wholly inexplicable and clearly unreasonable.

17. The consequences to either party of an extension of time limits must be considered in light of my assessments of the merits of the substantive appeal. The Respondent is entitled to some finality in properly administering the SA tax regime and the time limits have been imposed by statute to provide that finality. The Appellant would be prejudiced by a refusal to extend the time limits, however, she has offered no good explanation for her delay in appealing beyond the same as her proffered excuse for late filing, and I do not consider that the explanation given constitutes a reasonable excuse for either delay.

18. In considering the application for permission to appeal out of time, pursuant to *Data Select Ltd v HMRC [2012] UKUT 187 (TCC)* I have considered:

- a) The length of the delay;
- b) Whether there is a good explanation for that delay;
- c) The consequences of permission to appeal;
- d) The consequences of refusal of permission.

19. In the circumstance I do not consider that Mrs Curran has a good explanation for her delay which is of some significant length. In balancing the prejudice caused to both parties, I conclude that it would be inappropriate to extend the time limit for appeal, and the application for permission to appeal out of time is refused.

The Appellant's case

20. The Appellant's grounds of appeal are that her sister was terminally ill and sadly passed away in February 2019. As a result she did not attend to her tax affairs during the period of illness. Accordingly, she had a reasonable excuse for the delay in filing an online return.

HMRC's Case

21. A late filing penalty is raised solely because a SA tax return is filed late in accordance with Schedule 55 FA 2009, even if a customer has no tax to pay, has already paid all the tax due or is due a refund. Legislation has been changed and penalties are no longer linked to liability.

22. Where a return is filed after the relevant deadline a penalty is charged. The later a return is received, the more penalties are charged.

23. The onus lies with HMRC to show that the penalties were issued correctly and within legislation. If the Tribunal find that HMRC have issued the penalties correctly the onus then reverts to the Appellant to show that she has a reasonable excuse for the late filing of her SA tax return.

Reasonable Excuse

24. Under Paragraph 23 (1) Schedule 55 FA 2009 liability to a penalty does not arise in relation to failure to make a return if the taxpayer has a reasonable excuse for failure.

25. 'Reasonable excuse' was considered in the case of *The Clean Car Company Ltd v The Commissioners of Customs & Excise* by Judge Medd who said:

"It has been said before in cases arising from default surcharges that 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?" [Page 142 3rd line et seq.].

26. HMRC considers a reasonable excuse to be something that stops a person from meeting a tax obligation on time despite them having taken reasonable care to meet that obligation. HMRC's view is that the test is to consider what a reasonable person, who wanted to comply with their tax obligations, would have done in the same circumstances and decide if the actions of that person met that standard.

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

28. The Appellant has not provided a reasonable excuse for her failure to file her tax return for the year 2016-17 on time and accordingly the penalties have been correctly charged in accordance with the legislation.

29. 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

30. 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.

31. 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).

32. 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'.

33. HMRC have considered the Appellant's grounds of appeal but her circumstances do not amount to special circumstances which would merit a reduction of the penalties.

34. Accordingly, 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.

FINDINGS OF FACT

35. Mrs Curran became a company director of Zest Energy Ltd on 31 January 2017. As a result a return under self-assessment was required for the 2016-17 tax year.

36. The notice to file was issued to Mrs Curran at her home address on or around 15 June 2017. Similarly, penalty notices were issued to her home on or around 13 February 2018, 31 July 2018 and 10 August 2018. Mrs Curran does not suggest in her notice of appeal in October 2019 that she did not receive the penalty notices, and indeed there is no evidence before me that there were any difficulties with the postal service at around the time of any deliveries. In her self-assessment appeal form dated 1 August 2018 she has ticked a box stating that she did not receive the return and she again made reference to a return not being received in her request for review dated 22 August 2019. Whilst it is always possible that a letter goes missing in the

post, had the Appellant not received the June 2017 notice, I would have expected her to be more proactive upon receiving the February 2018 correspondence. On each occasion the correspondence was not returned undelivered. I consider it to be grossly unlikely that none of the correspondence was delivered. Mrs Curran appears to have been under the misapprehension that she would not be at risk of penalties for failing to file due to the lack of tax liability, and it is likely therefore that she would not have considered the notice to file something that needed to be attended to. Its receipt may well not have been memorable. In those circumstances, I find that the Appellant did receive those communications, including the notice to file.

37. It is agreed that the return was in fact submitted electronically on 1 August 2018. The HMRC computer system does not allow a customer to submit a tax return for the same tax year twice. Therefore, the return having been submitted on 1 August 2018 effectively, it must not have been submitted effectively prior to that. I accept that the return was not properly submitted on or around 31 January 2018.

38. Being submitted online on 1 August 2018 the return was submitted six months and one day after it was due.

39. Mrs Curran's sister was diagnosed with breast cancer and underwent surgery. As a result she made weekly trips from Edinburgh to Bristol to assist with the care of her nephew. It is not clear to me when this occurred. Unfortunately Mrs Curran's sister passed away in February 2019.

DISCUSSION

40. Relevant statutory provisions are included as an Appendix to this decision.

41. I have concluded that the tax return for the 2016-17 tax year was not submitted until 1 August 2018. It should have been submitted by 31 January 2018. Subject to considerations of "reasonable excuse" and "special circumstances" set out below, the penalties imposed are due and have been calculated correctly.

42. When a person appeals against a penalty they are required to have a reasonable excuse which existed for the whole period of the default. There is no definition in law of reasonable excuse, which is a matter to be considered in the light of all the circumstances of the particular case. A reasonable excuse is normally an unexpected or unusual event which prevents him or her from complying with an obligation which otherwise they would have complied with.

43. On 1 August 2018 the Appellant filed her tax return online. On that same date she filled in a form seeking to appeal the penalties imposed. She indicated that she had received a penalty notice dated 3 July 2018 for £600. By the 1 August 2018 she would not have received a statement of account including her six-month penalty, and therefore it may be that as at 1 August she was unaware of the current total of penalties incurred, however she was notified in that penalty notice and indeed the previous notice that penalties continue to accrue until the return is filed. On 8 October 2019 the Appellant filed her notice to appeal, in which she raised the issue of her sister's illness for the first time. Prior to that she had asserted that she had not received the return and that the penalties were disproportionate. She raised those issues only in appeal forms dated 1 August 2018, 18 March 2019 and 22 August 2019, despite the fact that according to her October 2019 appeal notice her sister had passed away only a month before the March 2019 form. Had her sister's illness had a particular role in her failure to comply with her tax obligations or respond to the communications from the Respondent I would have expected her to refer to it prior to October 2019.

44. Unfortunately Mrs Curran has offered no detail of the assistance offered to her sister during her period of illness. I am not aware when she became ill, when she had surgery or how

old her son was and what assistance he required. In the absence of any detail attached to the Appellant's assertion, I am unable to conclude that the tragic illness of the Appellant's sister had any impact upon Mrs Curran's ability to comply with her tax obligations in January 2018. In particular her notice of appeal dated October 2019 appears to suggest that her sister was diagnosed with breast cancer at the time she appealed her penalties, rather than at the time she failed to file her SA return, and therefore cannot have had an impact on that failure.

45. In *Perrin v HMRC* [2018] UKUT 156, the Upper Tribunal explained that the experience and knowledge of the particular taxpayer should be taken into account. I have little information as to the Appellant's previous tax history but acknowledge that this was the first return required upon becoming a company director. On the information before me, I conclude that Mrs Curran does not have a reasonable excuse for the late filing of her return for 2016-17.

46. Even when a taxpayer is unable to establish that he has a reasonable excuse and he remains liable for one or more penalties, HMRC have the discretion to reduce those penalties if they consider that the circumstances are such that reduction would be appropriate. In this case HMRC have declined to exercise that discretion.

47. Paragraph 22 of Schedule 55 provides that I am only able to interfere with HMRC's decision on special reduction if I consider that their decision was flawed (in the sense understood in a claim for judicial review). That is a high test and I do not consider that HMRC's decision in this case (set out in their Statement of Case) is flawed. Therefore, I have no power to interfere with HMRC's decision not to reduce the penalties imposed upon Mrs Curran.

48. The appellant has argued that the penalties charged are disproportionate because she had no tax liability for the relevant tax year. She appears to refer to the previous penalty regime which ceased to have effect after the 2009-2010 tax year. As noted at paragraph 30 of this decision, this Tribunal does, in certain circumstances, have the power to reduce a penalty because of the presence of "special circumstances". In *Barry Edwards v HMRC* [2019] UKUT 0131 (TCC), the Upper Tribunal considered whether the fact that significant penalties had been levied for the late filing of returns where no tax was due was a relevant circumstance that HMRC should have taken into account when considering whether there were "special circumstances" which justified a reduction in the penalties. The Upper Tribunal concluded that the penalty regime set out in Schedule 55 establishes a fair balance between the public interest in ensuring that taxpayers file their returns on time and the financial burden that a taxpayer who does not comply with the statutory requirement will have to bear. Accordingly, the Upper Tribunal determined that the mere fact that a taxpayer has no tax to pay does not render a penalty imposed under Schedule 55 for failure to file a return on time disproportionate and, as a consequence, is not a relevant circumstance that HMRC must take into account when considering whether special circumstances justify a reduction in a penalty. It follows that I have concluded that the mere fact that the appellant had no tax liability for the relevant tax year does not justify a reduction in the penalty either on the grounds of proportionality generally or because of the presence of "special circumstances".

49. I should add, that even if I did have the power to make my own decision in respect of special reduction, the only special circumstance which Mrs Curran relied upon was her sister's illness. I have explained above why I do not consider that the same has been shown to provide Mrs Curran with a reasonable excuse for her late filing. Due to a complete lack of specificity in the Appellant's contention I conclude that there are no special circumstances which would make it right for me to reduce the penalty which has been imposed. On the information before me it is likely that the effects of her sister's illness did not exist until after the penalties had been incurred.

CONCLUSION

50. I therefore confirm the fixed penalties of £100 and £300, and the daily penalties of £900.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

51. 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.

**ABIGAIL HUDSON
TRIBUNAL JUDGE**

RELEASE DATE: 14 FEBRUARY 2020

APPENDIX RELEVANT STATUTORY PROVISIONS

Finance Act 2009

52. The penalties at issue in this appeal are imposed by Schedule 55. The starting point is paragraph 3 of Schedule 55 which imposes a fixed £100 penalty if a self-assessment return is submitted late.

53. Paragraph 4 of Schedule 55 provides for daily penalties to accrue where a return is more than three months late as follows:

4—

(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).

54. Paragraph 5 of Schedule 55 provides for further penalties to accrue when a return is more than 6 months late as follows:

5—

(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.

55. Paragraph 6 of Schedule 55 provides for further penalties to accrue when a return is more than 12 months late as follows:

6—

(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 12 months beginning with the penalty date.

(2) Where, by failing to make the return, P deliberately withholds information which would enable or assist HMRC to assess P's liability to tax, the penalty under this paragraph is determined in accordance with sub-paragraphs (3) and (4).

(3) If the withholding of the information is deliberate and concealed, the penalty is the greater of —

(a) the relevant percentage of any liability to tax which would have been shown in the return in question, and

(b) £300.

(3A) For the purposes of sub-paragraph (3)(a), the relevant percentage is—

(a) for the withholding of category 1 information, 100%,

(b) for the withholding of category 2 information, 150%, and

(c) for the withholding of category 3 information, 200%.

(4) If the withholding of the information is deliberate but not concealed, the penalty is the greater of —

(a) the relevant percentage of any liability to tax which would have been shown in the return in question, and

(b) £300.

(4A) For the purposes of sub-paragraph (4)(a), the relevant percentage is—

(a) for the withholding of category 1 information, 70%,

(b) for the withholding of category 2 information, 105%, and

(c) for the withholding of category 3 information, 140%.

(5) In any case not falling within sub-paragraph (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.

(6) Paragraph 6A explains the 3 categories of information.

56. Paragraph 23 of Schedule 55 contains a defence of “reasonable excuse” as follows:

23—

(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.

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

16—

(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.

58. 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:

22—

(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.

Taxes Management Act 1970

59. 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 the 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 the 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 the Act for a period which includes, or includes any part of, the year of assessment or its basis period.]
- (1D) A return under the 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 the 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 the section may require different information, accounts and statements for different periods or in relation to different descriptions of source of income.

(4) Notices under the section may require different information, accounts and statements in relation to different descriptions of person.

(4A) Subsection (4B) applies if a notice under the section is given to a person within section 8ZA of the 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 the section and sections 8A, 9 and 12AA of the 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.