



**TC01338**

**Appeal number: TC/2011/01861**

*Reasonable excuse; does not require exceptionality.*

**FIRST-TIER TRIBUNAL**

**TAX**

**PEACOCK DEVELOPMENTS LIMITED**

**Appellant**

**- and -**

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

**Respondents**

**TRIBUNAL: GERAINT JONES Q.C. (TRIBUNAL JUDGE)  
ANTHONY HUGHES ESQ (TRIBUNAL MEMBER)**

**The Tribunal determined the appeal on 07 July 2011 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 23 February 2011 and HMRC's Statement of Case submitted on 12 April 2011.**

## DECISION

1. The appellant, Peacock Developments Ltd, appeals against an automatic penalty levied against it by HMRC for failure to file its Contractor's Monthly Return for the period ending 5 September 2010 by the specified filing date.  
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2. The appellant does not contend that its filing was anything other than late, but makes the point that it was only two days late and, in any event, was a nil return.
3. A Review was undertaken which resulted in HMRC upholding the penalty.
4. The appellant has appealed to this Tribunal. HMRC does not need to prove the default as it has been admitted by the appellant. By its letter of 19 October 2010 the appellant seeks to put forward a reasonable excuse for its default. The letter says that Mr Peacock, the controlling mind of the company, had had financial difficulties and had laid off the entire workforce. The writer of the letter, whose name is illegible, stated that he or she was the only member of staff left and worked on only every second Tuesday. That is the explanation for the return being sent in late, on the 21 September 2010.  
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5. The sole issue in this appeal is whether the foregoing situation can properly be characterised as a reasonable excuse for the late filing. Incorrectly, HMRC asserts that for there to be a reasonable excuse there must be some exceptional event beyond the taxpayer's control which prevented the return from being filed by the due date. Parliament has not laid down any requirement of exceptionality. It has used the words "reasonable excuse" which are in everyday use and must be given their ordinary and natural meaning.  
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6. Even when we give those words their ordinary and natural meaning we cannot accept that where the manner in which a business is organised results in late filing, that fact is sufficient to establish a reasonable excuse for that late filing. If it was capable of amounting to a reasonable excuse, it would mean that any poorly administered company would be able to rely upon its own shortcomings to establish a reasonable excuse in respect of consequent defaults. That does not accord with either common sense or the law.  
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7. In our judgement the appellant has failed to demonstrate that there was any reasonable excuse for its admitted failure. Accordingly, the appeal is dismissed.
8. 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.  
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**TRIBUNAL JUDGE**  
**RELEASE DATE: 15 JULY 2011**

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