



**TC01584**

**Appeal number: TC/2011/02192**

***PENALTY for late filing of personal income tax returns – whether a reasonable excuse had been shown for the late filing – Appellant suffering ill-health – medical evidence relating to periods after the due dates for filing the returns – No reasonable excuse found – appeal dismissed***

**FIRST-TIER TRIBUNAL**

**TAX**

**MRS RENU SEKHRI**

**Appellant**

**- and -**

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

**Respondents**

**TRIBUNAL: JOHN WALTERS QC (TRIBUNAL JUDGE)**

**The Tribunal determined the appeal on 11 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 17 March 2011, HMRC's Statement of Case submitted on 20 April 2011 and the Appellant's Reply dated 4 May 2011.**

## DECISION

1. The Tribunal's decision was to DISMISS the appeal.  
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2. The Tribunal's decision was released on 18 July 2011.
3. The Appellant, wishing to appeal against the decision, applied to the Tribunal for full written findings and reasons. This document incorporates those findings and reasons.  
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4. The Appellant appealed against fixed penalties imposed for the late filing of her personal tax returns for the years ended 5 April 2007 and 5 April 2008.
- 15 5. She gave as her grounds of appeal that she was suffering from ill-health, specifically with memory loss and was unable to provide the correct details to fill the forms in properly. She added that she was in constant pain due to her heart failure and was in and out of hospital.
- 20 6. She enclosed evidence of her ill-health with the Notice of Appeal as follows: a Patient Discharge Letter referring to her admission to Leicester General Hospital on 28 November 2010 and her discharge on 9 December 2010, together with hospital appointment notifications for consultations on 5 January 2011 and 28 February 2011. The discharge letter states that she suffered from epileptic seizures and that there were 'some concerns about her memory'.  
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7. The tax return for the year ended 5 April 2007 was issued, according to HMRC, on 6 April 2007 the due date for filing it was 31 January 2008. The tax return for the year ended 5 April 2008 was, according to HMRC, issued on 6 April 2008. It was due for filing on or before 31 October 2008 (for a paper return) or 31 January 2009 (if filed online). Neither return has been filed.  
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8. According to HMRC's statement of case (and there is no evidence from the Appellant contradicting this) the first indication given by the Appellant to HMRC of her health condition was in a letter dated 3 March 2009. The Tribunal finds accordingly. This was already some time after the return for the year ended 5 April 2008 ought to have been filed and well over a year after the return for the year ended 5 April 2007 ought to have been filed.  
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- 40 9. The question for the Tribunal was whether the Appellant had shown a reasonable excuse for her failure to file the returns on time.
- 45 10. The Tribunal accepts HMRC's submission that to accept an illness as a reasonable excuse for not submitting a tax return by the statutory due date the illness must have been so serious that it prevented the taxpayer from controlling her business affairs immediately before the filing date and from that date until the time when the return is received, and in circumstances where it would be

unreasonable to expect that alternative arrangements or processes would have been put in place to meet the taxpayer's statutory obligations.

5 11. In this case the evidence of ill-health put forward by the Appellant does not satisfy these criteria. The earliest evidence related to a period long after the due dates for filing the returns. The medical evidence of ill-health put forward by the Appellant relates to the period beginning on 28 November 2010 and continuing to (at the latest) 28 February 2011. This period was almost two years after the due date for filing the return for the year ended 5 April 2008 and almost three years after the due date for filing the return for the year ended 5 April 2007.

10 12. The Appellant has, for the above reasons, failed to establish a reasonable excuse for the late filing of the returns (neither of which has yet been filed). The appeal was accordingly dismissed.

15 13. 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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**JOHN WALTERS QC**

30 **TRIBUNAL JUDGE**  
**RELEASE DATE: 18/11/2011**

Amended pursuant to rule 37 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 on 24 November 2011

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