



TC01588

Appeal number: TC/2011/04810

Penalty – late submission of partnership income tax return – Appellants’ error as to filing date – no reasonable excuse – appeal dismissed.

FIRST-TIER TRIBUNAL

TAX

C & P HINKLEY PARTNERSHIP

Appellant

- and -

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

Respondents

TRIBUNAL: LADY MITTING (TRIBUNAL JUDGE)

The Tribunal determined the appeal on 28 October 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 22 June 2011 and HMRC’s Statement of Case submitted on 29 July 2011.

DECISION

1. The Appellant partnership is made up of two partners, Mr C Hinkley and Mrs P Hinkley. They appeal against a £100 penalty charged on each of them for the late
5 filing of their partnership Income Tax Return for the year ending 5 April 2010.

2. The Return was issued to the representative partner on 6 April 2010 and was due to be returned on the 31 October 2010 if done on paper or 31 January 2011 if filed online. The Return was received on 10 January 2011. It is accepted by the Respondents that there was no delay in payment of tax as the profits had been shared
10 between the two partners and tax paid by them on their personal Returns. What is in issue is the late submission of the partnership Return alone.

3. Mr & Mrs Hinkley submit that the Return was not submitted by the 31 October because they made a genuine error in believing that the time for its submission had changed to 31 January 2011. They further contend that to be charged a penalty is
15 unfair given that there was no delay in the payment of tax.

4. Whilst I have every sympathy with Mr and Mrs Hinkley, I cannot accept, without more, that the fact that they were mistaken as to the filing date can represent a reasonable excuse. The front page of the partnership Tax Return makes clear that a paper Return should be filed by 31 October. There is no indication that this was Mr
20 and Mrs Hinkley's first partnership Return. Finally, I was told nothing to explain why such a mistake should have been made and as I say, without more, I cannot accept that they did have a reasonable excuse.

5. I therefore have to uphold the penalties and dismiss the Appeal.

6. This document contains full findings of fact and reasons for the decision. Any
25 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)"
30 which accompanies and forms part of this decision notice.

35 **TRIBUNAL JUDGE**

RELEASE DATE: 21 NOVEMBER 2011

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