



TC01590

Appeal number: TC/2011/04808

*Penalties – failure to submit personal Tax Return – reasonable excuse –
Appeal allowed.*

FIRST-TIER TRIBUNAL

TAX

STEPHEN CHARD

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 28 June 2011 and HMRC's Statement of Case submitted on 29 July 2011.

DECISION

1. Mr Chard appeals against a penalty in the sum of £100 issued on or around 15
5 February 2011 for his failure to submit his Tax Return for the year ended 5 April
2010. Mr Chard submitted his Returns on line and HMRC sent out to him a notice to
file on 6 April 2010. The filing dates were 31 October 2010 for a paper Return or 31
January 2011 if filed on line. The Commissioners received a paper return on 2 March
2011. Their penalty notice was issued on or a few days after 15 February 2011.
- 10 2. Mr Chard's case is quite simply that he did not receive the notice to file. I
understand that Mr Chard has filed on line since 2005/06. He asserts, and this is not
challenged by the Commissioners, that all previous Returns have always been filed on
time.
- 15 3. I accept that the Notice was sent out by the Commissioners but post does
occasionally go astray and when Mr Chard maintains that he did not receive the
Notice I accept that as a truthful statement and find as a fact that he did not. I am
influenced in making this finding by the fact that he has never defaulted in submitting
his Returns before and that he submitted this Return within three days of receiving the
penalty.
- 20 4. A taxpayer's obligation is to deliver a return of his income when required to do
so by being sent a Notice to file. The obligation arises out of receipt of the Notice.
Having found as a fact that Mr Chard did not receive the Notice, I find that he has a
reasonable excuse for the non-submission of the Return and I therefore allow the
appeal.
- 25 5. 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
30 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: 21 November 2011

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