



TC02130

Appeal number: TC/2011/08496

TYPE OF TAX – In-year penalties for late payment of PAYE – whether reasonable excuse for late payments – held no – appeal dismissed

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

MAPS PROPERTIES LIMITED

Appellant

- and -

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

Respondents

**TRIBUNAL: JUDGE JOHN WALTERS QC
SONIA GABLE**

Sitting in public at Norwich on 19 June 2012

M Christophi for the Appellant

P Osborne, for the Respondents

DECISION

1. Maps Properties Limited (“Maps”), which runs a care home with about 40
5 employees, appealed against a PAYE late payment penalty imposed for the tax year
2010-11 pursuant to Schedule 56, Finance Act 2009, originally in the amount of
£2,965.14, but amended following the tribunal decision in the appeal of *Agar*
(TC/2011/04910) to the lower amount of £1,807.75.

2. We had before us a bundle of documents and heard submissions, including
10 evidence, from Mr Michael Christophi, who appeared for Maps. From the evidence
we find the following facts.

3. In the tax year ended 5 April 2011, Maps was obliged to make 11 monthly
payments of PAYE relative to that tax year. They were all made late except for one
(the payment which was due on 19 January 2011 and made on 14 January 2011).

15 4. The first monthly payment which was made late was due on 19 June 2010 and
made on 9 July 2010 and attracted a late payment penalty of £263.61.

5. A penalty default letter was issued to Maps (or its agent) on 28 May 2010.
There were numerous attempts made by HMRC during the tax year, some successful,
to contact Maps to warn it about its increasing exposure to PAYE late payment
20 penalties. There was also extensive coverage about the PAYE in-year penalties
system in the press before its introduction in April 2010.

6. Mr Michael Christophi, who appeared for Maps, based his case on the alleged
unfairness of the Respondents (“HMRC”) allowing penalties to accumulate month by
month, as late payments of PAYE were made, month by month, before notifying
25 Maps of the penalties. He said that if he had been notified of the first penalty
(£263.61) as soon as it was imposed following late payment of PAYE for month 1
(PAYE due date: 19 May 2010; PAYE paid: 2 June 2010) he would have paid the
penalty and made sure that further monthly payments of PAYE were not paid late.
This was the first year of the operation of the PAYE in-year late payment penalties
30 and Maps’ practice had been to pay PAYE late for 15 years, and so adjusting to the
new system involved changing Maps’ procedures.

7. We cannot accept this as a reasonable excuse for any late payments of PAYE
pursuant to paragraph 16, Schedule 56, Finance Act 2009. Nor can we infer that
HMRC was under any obligation to make additional or earlier attempts to warn Maps
35 of the accruing penalties than they actually did. Nor can we make any finding that the
penalties are disproportionate or unenforceable.

8. For these reasons we dismiss the appeal.

9. 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
40 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
TRIBUNAL JUDGE**

RELEASE DATE: 12 July 2012

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