



TC02332

Appeal number: TC/2012/05146

*TYPE OF TAX – PAYE – extra statutory concession – no jurisdiction –
appeal dismissed.*

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

IAN HUDSON

Appellant

- and -

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

TRIBUNAL: JUDGE RICHARD BARLOW

Sitting in public at North Shields on 28 August 2012.

No appearance by the Appellant

Mr Aidan Boal for the Respondents

DECISION

1. Mr Hudson underpaid PAYE in the year 2010-11 and asked the respondents to
5 exercise the discretion they have under extra-statutory concession ESC A19 to waive
collection of the underpayment from him which they have been collecting by having
adjusted his code for the year 2011-12.

2. By a letter dated 9 February 2012 the respondents notified the appellant that
they would not exercise that discretion in his favour, indeed it appears they consider
10 that the concession does not apply to Mr Hudson in the circumstances of this case.

3. The respondents cited to me and relied upon the Decision of the First Tier
Tribunal in the case of *Michael Prince and Others –v- The Commissioners for Her
Majesty’s Revenue and Customs* (Judge Bishopp) reference TC 01852. Judge
Bishopp held in that case, after full argument, that the First Tier Tribunal does not
15 have jurisdiction to consider whether an extra-statutory concession applies or should
have been allowed. I agree with and will follow the reasoning and conclusion of that
Tribunal decision.

4. As Mr Hudson has made it clear in his notice of appeal that he does not dispute
that there had been an underpayment and that his only ground of appeal is that the
20 concession should have been allowed, there is no disputed decision for which the First
Tier Tribunal has jurisdiction and so the appeal must be dismissed accordingly.

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
25 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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**RICHARD BARLOW
TRIBUNAL JUDGE**

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RELEASE DATE: 24 October 2012