



TC02352

Appeal number: TC/2011/06372

TYPE OF TAX – penalty for late receipt of appellant’s self-assessment tax return – appellant had no reasonable excuse for the late filing of return – appeal dismissed

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

MR D.S RICHMAN

Appellant

- and -

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

**TRIBUNAL: JUDGE SANDY RADFORD
 MRS ELIZABETH BRIDGE**

Sitting in public at Bedford Square, London on 17 September 2012

The Appellant did not appear but its agent Richman and Company stated in a letter that it was happy for the Tribunal to decide the matter in their client’s absence.

Mrs E Gardiner, Officer of HMRC, for the Respondents

DECISION

- 5 1. This is an appeal against the penalty £100 imposed for the late receipt of the appellant's self-assessment return for the year ended 5 April 2011.
2. The due date for the return was 31 January 2012 and the return was not received until 16 March 2012.
3. The appellant was required to register a partnership within 6 months of the end of the tax year in which it was formed. As such the appellant should have informed
10 HMRC by 5 October 2010.
4. However the appellant's agent only informed HMRC that the appellant's business had changed status when they submitted the appellant's 2009/10 tax return on 31 January 2011.
5. The appellant's agent claimant that the self-assessment return was late because
15 HMRC were inefficient and slow in providing the appellant's new UTR.
6. The partnership could have registered by completing a form CWF1. This could be done either on a paper form or online. Additionally HMRC's website provides information about registering a new business by following the links. Registering a new partnership by the links would have generated a UTR for the partnership
20 therefore there was no need for the appellant's agent to wait for the information from HMRC.
7. Mrs Gardiner submitted that the appellant had a self-assessment record and a notice to file the 2010/11 tax return was issued to the appellant on 6 April 2011. The appellant's agent could therefore have submitted a provisional paper or an online self-
25 assessment return with the appellant's share of the partnership profits whether provisional or actual on a partnership page without the need for the partnerships' UTR. The appellant's agent could have submitted an explanation before the deadlines and avoided a penalty.
8. Mrs Gardiner submitted that blaming HMRC for a slow response to a letter was
30 not a reasonable excuse. A reasonable man would not wait until a day before the filing date expired to make contact with HMRC to chase the information required.
9. She submitted that the appellant had failed to comply with his obligation to register the partnership by 5 October 2010. He could have completed the forms online and obtained the relevant information.
- 35 10. She submitted that he could have submitted a self-assessment return by the due date as he was already under the system.
11. Finally she submitted that the return for the year 2010/11 was late and therefore a penalty of £100 was due under Section 28c (2) TMA 1970.

Decision

12. The Tribunal found that the appellant had no reasonable excuse for the late filing of his tax return. The appeal is dismissed and the penalty is hereby confirmed.

5 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
10 “Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)” which accompanies and forms part of this decision notice.

**SANDY RADFORD
TRIBUNAL JUDGE**

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RELEASE DATE: 1 November 2012