



**TC02411**

**Appeal number: TC/2012/06623**

*INCOME TAX – appeal against a penalty charge under Schedule 24 Finance Act 2007 for an incorrect self assessment return for the year 2009/10- appellant omitted a bonus from his tax return and the penalty in respect of this careless omission is confirmed – in respect of an extra payment from RBS which they left out of the appellant’s P45 the penalty is cancelled as the appellant had a right to believe that the P45 from the bank would have been carefully prepared and was correct – appeal allowed in part*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**GAVIN HUNT**

**Appellant**

**- and -**

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

**TRIBUNAL: JUDGE SANDY RADFORD  
MR JULIAN STAFFORD**

**Sitting in public at Bedford Square, London on 27 September 2012**

**The Appellant in person**

**Mrs G Orimoloye, Officer of HMRC, for the Respondents**

## DECISION

1. This is an appeal against the penalty of £243.46 imposed for the carelessness in submitting an incorrect self assessment return.

### Background and facts

2. The appellant was employed by the Royal Bank of Scotland during the year 2009/10. His employment with RBS was terminated on 30 November 2009.

3. The appellant's P45 showed that he had earned £44,844.25 for the year 2009/10. However unbeknownst to the appellant his final salary of £6,400 which included holiday pay was not included in the P45 although it was included on his P14 which was sent to HMRC.

4. Additionally the appellant received a bonus of £1,611 in March 2010.

5. A Section 9A enquiry was opened on 24 May 2011 to check the accuracy of the appellant's tax return for the year.

6. The appellant did not dispute the fact that the bonus which he had received had not been included in his return. This was because it had been deposited into a bank account which largely remained unused. He had only used the account when he worked for RBS and once he had left in November 2009 he did not expect to receive any more money from them.

7. He stated that he had not considered that his P45 might be inaccurate. He had assumed that RBS had sent him a P45 that was correct.

### Appellant submissions

8. The appellant submitted that he had understated his income for two reasons the first of which was due to an error on his P45 as supplied by RBS. On receipt of his final payslip and P45 he ensured he had been paid the correct net amount to his account and filed his P45 in order to complete his self-assessment return at a later date.

9. He submitted that he had used the P45 to complete his self assessment return but at no time did he realise that he did not include his final pay. He submitted that he did not expect an organisation such as RBS to make such a basic error.

10. He submitted that four months after leaving the bank he received the unexpected bonus payment but as he did not believe he was entitled to the bonus he did not include it on his return as he expected a refund would be requested by the bank.

11. He submitted that the main reason for not noticing this payment earlier was because it was paid into an account he had not used following the final salary payment by RBS.

12. He submitted that his only oversight therefore was not to reconcile his final payslip to his P45.

### **HMRC submissions**

5 13. Mrs Orimoloye submitted that after 18 years as an accountant the appellant ought to have known to reconcile his P45 with his payslips. There was quite a difference between the amount shown on his P45 and the amount he had actually earned in the relevant tax year.

10 14. She submitted that the appellant had been careless as a result of lack of reasonable care. Although the appellant had helped HMRC after the start of the enquiry it had been necessary for HMRC to prompt the disclosure.

### **Findings**

15 15. Although the Tribunal found the appellant to be honest and sincere, the Tribunal found he had been careless in not checking with RBS as to the source of the funds in his unused bank account which represented the bonus.

15 16. The Tribunal found however that with respect to the mistake made by RBS in the P45, this was the mistake of the bank and not the appellant. It was most unlikely that he would have considered reconciling his payslips to the P45 as the amount appeared around the right number.

### **Decision**

20 17. The appeal is allowed in part and the penalty is confirmed in respect of the tax due on the bonus of £1,611 only. The penalty in respect of the tax payable on the final holiday pay not included in the P45 is hereby cancelled.

25 18. 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 “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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**SANDY RADFORD  
TRIBUNAL JUDGE**

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**RELEASE DATE: 8 December 2012**