



**TC02730**

**Appeal number: TC/2012/08163**

*INCOME TAX – Appeal – Procedure – Extension of time – Application to appeal  
out of time refused*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**KENT COUNTY COUNCIL**

**Appellant**

**- and -**

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

**Respondents**

**TRIBUNAL: SIR STEPHEN OLIVER QC**

**Sitting in public in Ashford, Kent, on 28 October 2012**

**No attendance for the Appellant**

**Ms K Wheare for the Respondents**

## DECISION

1. This is an application for extension of time to appeal made by Kent County Council (“the Appellant”) in their Notice of Appeal of 20 August 2012.

5 2. The Appellant appealed to the Respondents on 2 July 2012 against a Regulation 80 Determination that had been issued on 28 February 2012. The Determination was that £704.20 was chargeable. The appeal to HMRC should have been made by 28 March. The Appellant had informed the Respondents, on 2 July 2012 that, as the relevant employee was still working for the Appellant, the tax to which the  
10 Determination related should be collected from his earnings. HMRC wrote back to the Appellant on 26 July informing it that a late appeal might be accepted if it advanced a reasonable excuse and showed that the appeal had been made as soon as the excuse had ended.

15 3. The Notice of Appeal to the Tribunal gave the following reasons as to why the Appellant’s appeal was out of time:

20 “The responsibility for managing this type of correspondence from HMRC is held by HRBC Control Team for Kent County Council. Kent County Council undertook a considerable reorganisation of the Human Resources directorate, of which the HRBC Control Team was part; that culminated in a significant number of redundancies and structural changes being made.

25 A review of the structure of the Control Team and the management of it was undertaken and processes were being reviewed during March when the notification was received. The new structure of the team with a new manager was effective and unfortunately the requirement to undertake the investigation and response to the correspondence was overlooked.

30 A response was provided to HMRC as soon as the error was identified.”

4. On 14 September 2012, the Tribunal notified both sides that the hearing of the application to appeal out of time was fixed for 26 October 2012 in Ashford, Kent. On 10 October 2012, the Respondents served their bundles of papers for the hearing.

35 5. When the time came for the hearing, no representative for the Appellant had arrived at the Tribunal. The Tribunal considered the position and decided to proceed in the absence of the Appellant.

6. Following a review of the background material and the correspondence between the Appellant and HMRC, the Tribunal decided that it would not be appropriate to exercise its power, in regulation 5(3) of the Tribunal Rules, to extend time for appealing.

40 7. The explanation given by the Appellant does not amount to a reasonable excuse for the delay in making the appeal; nor does it give reasonable grounds for extending time to appeal. The reorganisation of Kent County Council’s Human Resources

5 directorate should have been conducted in a manner that enabled the Council to  
comply with its obligations owed to HMRC under the Taxes Management Act. There  
was nothing special about the obligation to appeal against the Regulation 80  
Determination. It was simply overlooked. Moreover the Appellant did nothing to alert  
either the Respondent or the Tribunal that it was not going to attend the Hearing.

8. There being no acceptable reasons for extending the time within which to  
appeal, the Tribunal dismissed the Appellant's Application.

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  
10 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.

15

**SIR STEPHEN OLIVER QC  
TRIBUNAL JUDGE**

20

**RELEASE DATE: 3 June 2013**