



**TC05233**

**Appeal number: TC/2016/02348**

*INCOME TAX – penalties for late filing of returns and late payment of tax  
– whether appellant had a reasonable excuse – held that he had in relation  
to some but not all of the penalties – appeal allowed in part*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**MICHAEL BAINES-STILLER**

**Appellant**

**- and -**

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

**TRIBUNAL:    JUDGE JOHN WALTERS QC  
                  JOHN ROBINSON**

**Sitting in public at Southampton on 28 June 2016**

**The Appellant in person**

**Mrs Gill Carwardine, HMRC, for the Respondents**

## DECISION

1. The Appellant, Mr Baines-Stiller, appealed (according to his Notice of Appeal)  
5 against a decision of the Respondents (“HMRC”) dated 4 April 2016 against a penalty  
or surcharge in the amount of £4,452.26.

2. The decision letter dated 4 April 2016 was, in fact, a decision on review that the  
decision in a letter dated 1 October 2014 should be upheld. Unfortunately we did not  
have before us the letter dated 1 October 2014, but it was apparent from the letter  
10 dated 4 April 2016, and from the submissions of the parties at the hearing, that the  
decision was that penalties for late filing of Mr Baines-Stiller’s tax returns for the  
years 2010/2011 and 2011/2012 and the late payment penalties should be upheld on  
the basis that he had shown no reasonable excuse for the late filing of those returns  
and late payment of tax. We were told that the return for 2010/2011, which should  
15 have been filed on or before 31 January 2012, was filed on 13 February 2015, and that  
the return for 2011/2012, which should have been filed on or before 31 January 2013,  
was filed on 15 July 2014.

3. The amount of £4,452.26 corresponded to the total amount shown to be owing  
by Mr Baines-Stiller to HMRC in a self-assessment Statement of date 22 April 2015,  
20 but apparently issued on 27 April 2015.

4. That amount of £4,452.26 was made up as follows:

	Balancing payment of income tax due for the year 2010/2011	£364.60
	Interest thereon to 22 April 2015	35.24
25	Late filing penalty for 2010/2011	£100.00
	Interest thereon to 22 April 2015	9.26
	6 month late filing penalty for 2010/2011	£300.00
	Interest thereon to 22 April 2015	23.43
30	12 month late filing penalty for 2010/2011	£300.00
	Interest thereon to 22 April 2015	18.61
	Balancing payment of income tax due for the year 2011/2012	£2115.14
35	Interest thereon to 22 April 2015	140.99
	Late filing penalty for 2011/2012	£100.00
	Interest thereon to 22 April 2015	6.26
40	6 month late filing penalty for 2011/2012	£300.00
	Interest thereon to 22 April 2015	14.27
	12 month late filing penalty for 2011/2012	£300.00
	Interest thereon to 22 April 2015	9.46

	30 days late payment penalty for 2011/2012	£105.00
	6 months late payment penalty for 2011/2012	£105.00
5	12 months late payment penalty for 2011/2012	£105.00
	<b>Total</b>	<b>£4452.26</b>

10 5. At the hearing, Mr Baines-Stiller accepted that the balancing payments of income tax due for the years 2010/2011 and 2011/2012 were amounts of income tax (calculated from the figures given in his returns) which he owed, and he did not pursue any appeal in relation to those amounts, or the interest thereon.

15 6. The late filing penalties of £100 each are assessed pursuant to paragraphs 1(1) and 3, Schedule 55, Finance Act 2009("FA 2009").

7. The 6 month late filing penalties of £300 each are assessed pursuant to paragraphs 1(1) and 5, Schedule 55, FA 2009.

8. The 12 month late filing penalties of £300 each are assessed pursuant to paragraphs 1(1) and 6, Schedule 55, FA 2009.

20 9. We were told that the late payment penalties of £105 each were assessed pursuant to Schedule 56, FA 2009, but were not told which paragraph of that Schedule was relevant.

10. From the evidence before us, we find that Mr Baines-Stiller is liable to the penalties assessed, subject to his showing a reasonable excuse for his non-compliance.  
25 He did not contend that he was not so liable.

11. The excuse he has put forward is that he suffered severe injuries in a car accident on 4 January 2014, which has rendered him unable to attend to his tax affairs promptly. We were shown copious evidence supporting his case (which we accept) that he has been under continuous medical attention from that time, starting with a  
30 period of in-patient hospitalisation from 4 January to 31 January 2014.

12. Mrs Carwardine accepted that Mr Baines-Stiller has had a reasonable excuse for non-compliance since 4 January 2014. She submits that he has not shown any reasonable excuse for non-compliance before that date. Mr Baines-Stiller accepted that that was the position and we so find.

35 13. The consequence is that we uphold the penalties imposed at dates before 4 January 2014. These are both late filing penalties of £100 and both 6 month late filing penalties and the 12 month late filing penalty or 2010/2011.

14. However we find that Mr Baines-Stiller had a reasonable excuse that leads us to  
40 quash the 12 month late filing penalty for 2011/2012 (imposed on 3 Aril 2014) and the 3 late payment penalties (all imposed on 24 September 2014).

15. The appeal is therefore allowed in part as explained above.

16. “Daily penalties” of £900 each were also imposed in respect of each of the year 2010/2011 and 2011/2012, but collection of these has been suspended pending, we were told, the decision in another appeal which has recently been heard. These penalties were not included in the sum of £4,452.26 referred to above, and were therefore not part of the subject matter of this appeal and we say no more about them.

17. 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.

**JOHN WALTERS QC**

**TRIBUNAL JUDGE**

**RELEASE DATE: 6 JULY 2016**