



TC03680

Appeal number: TC/2014/00796

*VAT – late filing of returns – no proof of posting – one return dated after due date
– no reasonable excuse*

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

SECOND 2 NONE VEHICLE REPAIRS

Appellant

- and -

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

Respondents

TRIBUNAL: JUDGE ALASTAIR J RANKIN

The Tribunal determined the appeal on 19 May 2014 without a hearing under the provisions of Rule 26 of the Tribunal Procedure (First-tier Tribunal)(Tax Chamber) Rules 2009 (default paper cases) having first read the Notice of Appeal dated 6 February 2014 and HMRC's Statement of Case (with enclosures).

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DECISION

1. The Appellant is appealing VAT default surcharges for the periods 03/09 and
5 12/09 of £429.09 and £508.73 respectively on the grounds that the returns were sent
first class post at least 3 working days prior to the due dates.
2. For the period 03/09 the due date for filing was Thursday 30 April 2009. Both
the manual return and cheque payment were received on Monday 11 May 2009,
eleven days late.
- 10 3. For the period 12/09 the due date for filing was Sunday 31 January 2010. Both
the manual return and cheque payment were received on Monday 8 February 2010,
eight days late.
4. The Appellant company had been in the default surcharge scheme since its first
15 default for the period 09/07. On the reverse of the default surcharge notices is a
standard paragraph stating that VAT returns and any tax due must reach HMRC by
the due date. 'If you expect to have any difficulties contact either your local VAT
office...or the National Advice Service...'.
5. The return for the period 03/09 is signed by a director of the Appellant company
20 and dated 7 May 2009. Even if the return had been hand delivered on that date it
would still have been seven days late.
6. The return for the period 12/09 is signed by the same director and dated 29
January 2010. Even if this return had been posted first class on that date it could not
have been received by HMRC before Monday 1 February by which time it would
have been one day late. However the cheque in respect of the period 12/09 is dated 2
25 February 2010. As the return and cheque were both received on 8 February 2010 it is
probable they were both posted in the same envelope.
7. The Appellant company claims not to have received notification of the
surcharges due to it moving premises in 2007. However the VAT returns, addressed
to the former address, were all completed by the director and returned to HMRC
30 without the address being amended.
8. As no reasonable excuse has been offered by the Appellant company and as the
two surcharge notices were correctly issued in accordance with section 59(4) of Value
Added Tax Act 1994 the appeal is dismissed.
9. The surcharges remain due for payment by the Appellant company.
- 35 10. 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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ALASTAIR J RANKIN
TRIBUNAL JUDGE

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RELEASE DATE: 2 June 2014