



[2020] UKFTT 0135 (TC)

TC07622

INCOME TAX – Schedule 55 Finance Act 2009 - fixed and daily penalties for failure to file a self-assessment return on time – reliance on agent - whether taxpayer had a reasonable excuse for his default – appeal dismissed. Permission to appeal out of time – refused.

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

Appeal number: TC/2019/05817

BETWEEN

MANUEL E. NARANJO-MARTINEZ

Appellant

-and-

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

Respondents

TRIBUNAL: JUDGE ABIGAIL HUDSON

The Tribunal determined the appeal on 17 February 2020 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 12 February 2019 (with enclosures) and HMRC's Statement of Case (with enclosures) acknowledged by the Tribunal on 9 December 2019.

DECISION

INTRODUCTION

1. This is an appeal by Mr Manuel Naranjo-Martinez ('the Appellant') against fixed and daily penalties totalling £1,300 imposed by the Respondents ('HMRC') under Paragraph 3, 4 and 5 of Schedule 55 Finance Act 2009, for his failure to file a self-assessment ('SA') tax return on time for the tax year ending 5 April 2017.

BACKGROUND

2. The Appellant's return for 2016-17, was due no later than 31 October 2017 or, if filed electronically, no later than 31 January 2018.
3. The penalties for late filing of a return can be summarised as follows:
 - (i) A penalty of £100 is imposed under Paragraph 3 of Schedule 55 Finance Act ('FA') 2009 for the late filing of the Individual Tax Return.
 - (ii) If after a period of 3 months beginning with the penalty date the return remains outstanding, daily penalties of £10 per day up to a total of £900 are imposed under Paragraph 4 of Schedule 55 FA 2009.
 - (iii) If after a period of 6 months beginning with the penalty date the return remains outstanding, a penalty of £300 is imposed under Paragraph 5 of Schedule 55 FA 2009.
 - (iv) If after a period of 12 months beginning with the penalty date the return remains outstanding, a penalty of £300 is imposed under Paragraph 6 of Schedule 55 FA 2009.
4. The Appellant's paper return for 2016-17 was filed on 30 October 2018. It was therefore not filed on time and penalties of £100, £900 and £300 were imposed, under (i), (ii) and (iii) above.

Filing date and Penalty date

5. Under s 8(1D) TMA 1970 a non-electronic return must normally be filed by 31 October in the relevant financial year or an electronic return by 31 January in the year following. The 'penalty date' is defined at Paragraph 1(4) Schedule 55 FA 2009 and is the date after the filing date.

Reasonable excuse

6. Paragraph 23 of Schedule 55 FA 2009, provides that a penalty does not arise in relation to a failure to make a return if the person satisfies HMRC (or on appeal, a Tribunal) that they had a reasonable excuse for the failure and they put right the failure without unreasonable delay after the excuse ceased.
7. The law specifies two situations that are not reasonable excuse:
 - (a) An insufficiency of funds, unless attributable to events outside the Appellant's control, and
 - (b) Reliance on another person to do anything, unless the person took reasonable care to avoid the failure.
8. There is no statutory definition of "reasonable excuse". Whether or not a person had a reasonable excuse is an objective test and "is a matter to be considered in the light of all the circumstances of the particular case" (*Rowland V HMRC* (2006) STC (SCD) 536 at paragraph 18).

9. The actions of the taxpayer should be considered from the perspective of a prudent person, exercising reasonable foresight and due diligence, having proper regard for their responsibilities under the Tax Acts. The decision depends upon the particular circumstances in which the failure occurred and the particular circumstances and abilities of the person who failed to file their return on time. The test is to determine what a reasonable taxpayer, in the position of the taxpayer, would have done in those circumstances and by reference to that test to determine whether the conduct of the taxpayer can be regarded as conforming to that standard.

The background facts

10. The Appellant's 2016-7 return was issued to him on 6 April 2017 and was due to be returned by 31 October 2017 if returned non-electronically. The Notice to file a return was issued to the correspondence address provided by the Appellant.
11. The Appellant says that he believed he had instructed his agent to submit his return, but that they failed to do so.
12. The SA return was received by HMRC on 30 October 2018. It was therefore over 364 days late.
13. HMRC originally imposed a fixed penalty of £100 together with daily penalties [at £10 for each day], totalling £900. The initial penalty notices were issued to the postal address provided by the Appellant. The return still having not been received six months after the filing date HMRC then imposed a fixed penalty of £300.
14. The Appellant appealed to the Tribunal on 12 February 2019.

PERMISSION TO APPEAL OUT OF TIME

15. The appellant's appeal to HMRC under s31A TMA 1970 was made outside the statutory deadline. HMRC refused consent under s49(2)(a) of TMA 1970. For the following reasons, I have decided not to give permission for the appeal to be notified late:
16. The relevant penalty notices were dated 13 February 2018 and 16 October 2018, and were sent to the Appellant's home address. Therefore the time limit for appealing expired on the 15 March 2018 and the 15 November 2018. In relation to the latest penalties the Appellant is 89 days late in appealing. That in itself is serious and significant. However, the appeal against the earlier penalty is almost 12 months late.
17. The Appellant does not indicate when he may have been out of the country, but certainly by March 2018 he had returned. During the following months he communicated with the Respondent in relation to the penalty and the outstanding return. He was fully aware of both. Notwithstanding that it took a further six months to file the return. Upon filing that return he notified the Respondent of a new representative. He therefore chose not to engage a new representative for some months after accruing the first penalty. By that time the deadline for appealing the penalties had already passed. Instead of appealing immediately, the Appellant delayed for a further three months following the appointment of the agent before submitting the appeal.
18. The consequences to either party of an extension of time limits must be considered in light of my assessments of the merits of the substantive appeal. The Respondent is entitled to some finality in properly administering the SA tax regime and the time limits have been imposed by statute to provide that finality. The Appellant would be prejudiced by a refusal to extend the time limits, however, he has offered no good explanation for his delay in appealing beyond the same as his proffered excuse for late filing, and I do not consider that the explanation given constitutes a reasonable excuse for either delay.

19. In considering the application for permission to appeal out of time, pursuant to *Data Select Ltd v HMRC [2012] UKUT 187 (TCC)* I have considered:
- a) The length of the delay;
 - b) Whether there is a good explanation for that delay;
 - c) The consequences of permission to appeal;
 - d) The consequences of refusal of permission.
20. In the circumstance I do not consider that Mr Naranjo-Martinez has a good explanation for his delay which is of some significant length. In balancing the prejudice caused to both parties, I conclude that it would be inappropriate to extend the time limit for appeal, and the application for permission to appeal out of time is refused.

The Appellant's case

21. The Appellant's grounds of appeal are that his agent failed to submit his return as instructed due to her pregnancy complications. Accordingly, he had a reasonable excuse for the delay in filing a return.

HMRC's Case

22. A late filing penalty is raised solely because a SA tax return is filed late in accordance with Schedule 55 FA 2009, even if a customer has no tax to pay, has already paid all the tax due or is due a refund.
23. Where a return is filed after the relevant deadline a penalty is charged. The later a return is received, the more penalties are charged.
24. The onus lies with HMRC to show that the penalties were issued correctly and within legislation. If the Tribunal find that HMRC have issued the penalties correctly the onus then reverts to the Appellant to show that he has a reasonable excuse for the late filing of her SA tax return.

Reasonable Excuse

25. Under Paragraph 23 (1) Schedule 55 FA 2009 liability to a penalty does not arise in relation to failure to make a return if the taxpayer has a reasonable excuse for failure.
26. 'Reasonable excuse' was considered in the case of *The Clean Car Company Ltd v The Commissioners of Customs & Excise* by Judge Medd who said:
- "It has been said before in cases arising from default surcharges that the test of whether or not there is a reasonable excuse is an objective one. In my judgment it is an objective test in this sense. One must ask oneself: was what the taxpayer did a reasonable thing for a responsible trader conscious of and intending to comply with his obligations regarding tax, but having the experience and other relevant attributes of the taxpayer and placed in the situation that the taxpayer found himself at the relevant time, a reasonable thing to do?" [Page 142 3rd line et seq.].
27. HMRC considers a reasonable excuse to be something that stops a person from meeting a tax obligation on time despite them having taken reasonable care to meet that obligation. HMRC's view is that the test is to consider what a reasonable person, who wanted to comply with their tax obligations, would have done in the same circumstances and decide if the actions of that person met that standard.
28. If there is a reasonable excuse it must exist throughout the failure period.

29. The Appellant has not provided a reasonable excuse for his failure to file his tax return for the year 2016-17 on time and accordingly the penalties have been correctly charged in accordance with the legislation.
30. The amount of the penalties charged is set within the legislation. HMRC has no discretion over the amount charged and must act in accordance with the legislation. By not applying legislation and as such not to have imposed the penalty would mean that HMRC was not adhering to its own legal obligations.

Special Reduction

31. Paragraph 16(1) of Schedule 55 allows HMRC to reduce a penalty if they think it is right because of special circumstances. "Special circumstances" is undefined save that, under paragraph 16(2), it does not include ability to pay, or the fact that a potential loss of revenue from one taxpayer is balanced by a potential overpayment by another.
32. In other contexts "special" has been held to mean 'exceptional, abnormal or unusual' (*Crabtree v Hinchcliffe* [1971] 3 All ER 967), or 'something out of the ordinary run of events' (*Clarks of Hove Ltd v Bakers' Union* [1979] 1 All ER 152). The special circumstances must also apply to the particular individual and not be general circumstances that apply to many taxpayers by virtue of the penalty legislation (*David Collis* [2011] UKFTT 588 (TC), paragraph 40).
33. Where a person appeals against the amount of a penalty, paragraph 22(2) and (3) of Schedule 55, FA 2009 provide the Tribunal with the power to substitute HMRC's decision with another decision that HMRC had the power to make. The Tribunal may rely on paragraph 16 (Special Reduction) but only if they think HMRC's decision was 'flawed when considered in the light of the principles applicable in proceedings for judicial review'.
34. HMRC have considered the Appellant's grounds of appeal but assert that his circumstances do not amount to special circumstances which would merit a reduction of the penalties.
35. Accordingly, HMRC's decision not to reduce the penalties under paragraph 16 was not flawed. There are no special circumstances which would require the Tribunal to reduce the penalties.

FINDINGS OF FACT

36. A person is liable to a penalty if (and only if) HMRC give notice to the person specifying the date from which the penalty is payable. I am satisfied that the penalty notices dated on or around 13 February 2018 and 16 October 2018 were sent to the postal address linked to the Appellant's SA account (*Donaldson v The Commissioners for HM Revenue & Customs* [2016] EWCA Civ 761).
37. Mr Naranjo-Martinez does not suggest that he did not receive those penalty notices. There is no evidence before me of any postal difficulties at around the relevant times and therefore I am satisfied that the notices were received at Mr Naranjo-Martinez's home address.
38. Given the letter dated 21 March 2018 stating that the Appellant could be communicated with at that address, I am satisfied that those communications were received by him prior to March 2018.
39. No record of any communication between Mr Naranjo-Martinez and his previous agent, or Mr Naranjo-Martinez and HMRC has been provided to me. I have not been told what

the dates of any such communication may be. The Appellant sent a letter dated 21 March 2018 and HMRC have stated that there is a record of a telephone call from the Appellant on 12 May 2018 seeking a new login identification code. By March the return was over four months late. I am not satisfied that there was any communication with the Respondent in relation to the failure to file the return prior to that date.

40. It is agreed that the return was in fact submitted in paper form on 30 October 2018. I accept that the return was not properly submitted on or around 31 October 2017, or prior to 30 October 2018.

DISCUSSION

41. Relevant statutory provisions are included as an Appendix to this decision.
42. I have concluded that the tax return for the 2016-17 tax year was not submitted on time. It should have been submitted (if submitted non-electronically) by 31 October 2017. Subject to considerations of “reasonable excuse” and “special circumstances” set out below, the penalties imposed are due and have been calculated correctly.
43. When a person appeals against a penalty they are required to have a reasonable excuse which existed for the whole period of the default. There is no definition in law of reasonable excuse, which is a matter to be considered in the light of all the circumstances of the particular case. A reasonable excuse is normally an unexpected or unusual event, which prevents him or her from complying with an obligation which otherwise they would have complied with.
44. Mr Naranjo-Martinez has indicated that he relied upon his unnamed previous accountant. He tells me that she lost her phone upon which his login details for the online system were stored and she could not therefore access the online system. That implies that she was trying to access the online system and that she had intended therefore to file the return online. However, in his notice of appeal he suggests that in fact she had not understand that that would be her role. In his letter of 21 March 2018 he states that HMRC have been sending the login details to his phone but that phone has been lost. I find it implausible that the details were sent to two separate phones belonging to two separate people but both phones were lost before the login details could be used. I do not accept this account.
45. Having lost the login details he indicates that both he and the agent tried to obtain another. I have no dates or timescales available to me, but in my judgment it is unlikely to take that long to obtain a duplicate code. The Appellant’s letter states that because she could not obtain a duplicate code, she resorted to sending a paper version instead. If she was unwilling to wait for a replacement code, this suggests that it was urgent that the return be filed. He then talks about a complicated pregnancy and birth before she posted the paper return prepared. That account is at odds with the account within the notice of appeal, whereby she had expected him to file the return. If that account is correct, and the original agent a reputable accountant, I would have expected a letter to that effect from her. I have no record of any communication between the Appellant and his former agent. Further, the notice of appeal states “as he was doing it by himself, he enlisted the help of an agent.” The inference is that at the time he was calling HMCTS he was attempting to deal with the return independently. The only telephone call on record is in May 2018 and he wrote a letter himself in March 2018. The notice of appeal therefore implies that he engages the agent after those communications. In those circumstances, by the time he engaged an agent he was already several months late in filing. On the evidence before me, I do not accept that there was a previous agent involved in the filing or failure to file this return.

46. Mr Naranjo-Martinez wrote to HMRC on 21 March 2018 confirming payment of the £100 late filing penalty and requesting a new security code. By doing so he acknowledged that as at March 2018 he was aware that he had not filed his SA return. Even if I accepted that the excuse proffered was reasonable as at 31 October 2017, any excuse must exist throughout the default period. It took a further six months for the Appellant to file the return. That can in no way be reasonable.
47. The Appellant indicated in his appeal letter that both he and the former agent tried to contact HMRC to obtain new login details but were unsuccessful. The only record of such a communication after the letter of the 21 March is from Mr Naranjo-Martinez on 12 May 2018. It is reasonable therefore to suppose that by 12 May 2018 the Appellant was trying to access his SA account. It is further reasonable to conclude that he was doing so because he believed that there might be some correspondence of relevance on the account. In light of the previous letter, it is reasonable to suppose that he was contacting HMRC in an effort to progress his SA return.
48. In those circumstances, Mr Naranjo-Martinez was plainly not acting with due diligence in dealing with his tax obligations. He was the person dealing with filing the return between March and May and it is simply not reasonable to have failed to send a paper copy prior to June 2018.
49. There is reference within the notice of appeal to the Appellant traveling abroad, however no further information has been provided in relation to such travel. I do not know when he was out of the country. However, if he was on holiday then it cannot explain the very lengthy failure in this case, and if it was residence abroad then it would be incumbent upon him to ensure that there were arrangements in place to receive his postal communications. Certainly when he wrote to HMRC in March 2018 he gave his correspondence address as Hornsey Road, London, and therefore he was “at home” by then. He does not suggest that any of his post did not reach his home address, and no correspondence was returned undelivered. From prior to 21 March 2018 he was certainly aware that he had not filed his return and was incurring penalties.
50. No correspondence dated October 2017 to October 2018 between him and his alleged previous agent has been supplied. I have concluded that there is no such correspondence because the agent does not exist. However, if I am wrong and if indeed the previous agent was negligent in their duties due to ill health then Mr Naranjo-Martinez may have some recourse against his former agent, however, his reliance upon an agent cannot be a reasonable excuse unless he took reasonable care to ensure that his obligations were complied with. The responsibility for complying with his tax obligations rests with him. If indeed the initial error was the fault of the agent, it could have been rectified shortly after the notice of February 2018 was received.
51. In *Perrin v HMRC* [2018] UKUT 156, the Upper Tribunal explained that the experience and knowledge of the particular taxpayer should be taken into account. The Upper Tribunal concluded that for an honestly held belief to constitute a reasonable excuse it must also be objectively reasonable for that belief to be held. Had Mr Naranjo-Martinez had an honest belief that her return had been filed on time, that belief ought to have been displaced by the February penalty notice which he certainly had received by March. I am satisfied that Mr Naranjo-Martinez took wholly insufficient action following the receipt of that document, suggesting that he was not paying due attention to his tax obligations.
52. I conclude that Mr Naranjo-Martinez does not have a reasonable excuse for the late filing of his return for 2016-17.

53. Even when a taxpayer is unable to establish that he has a reasonable excuse and he remains liable for one or more penalties, HMRC have the discretion to reduce those penalties if they consider that the circumstances are such that reduction would be appropriate. In this case HMRC have declined to exercise that discretion.
54. Paragraph 22 of Schedule 55 provides that I am only able to interfere with HMRC's decision on special reduction if I consider that their decision was flawed (in the sense understood in a claim for judicial review). That is a high test and I do not consider that HMRC's decision in this case (set out in their Statement of Case) is flawed. Therefore, I have no power to interfere with HMRC's decision not to reduce the penalties imposed upon Mr Naranjo-Martinez.
55. I should add, that even if I did have the power to make my own decision in respect of special reduction, the only special circumstance which Mr Naranjo-Martinez relied upon was his reliance upon an agent. I have explained above why I do not consider that reliance and subsequent failure to properly respond to communication from HMRC can provide Mr Naranjo-Martinez with a reasonable excuse for his late filing. Similarly, I conclude that ignorance of the severity of the Schedule 55 penalty regime does not constitute a special circumstance which would make it right for me to reduce the penalty which has been imposed.

CONCLUSION

56. I therefore confirm the fixed penalties of £100, £900 and £300.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

57. 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.

**ABIGAIL HUDSON
TRIBUNAL JUDGE**

RELEASE DATE: 5 MARCH 2020

APPENDIX
RELEVANT STATUTORY PROVISIONS

Finance Act 2009

58. The penalties at issue in this appeal are imposed by Schedule 55. The starting point is paragraph 3 of Schedule 55 which imposes a fixed £100 penalty if a self-assessment return is submitted late.

59. Paragraph 4 of Schedule 55 provides for daily penalties to accrue where a return is more than three months late as follows:

4—

(1) P is liable to a penalty under this paragraph if (and only if) —

- (a) P's failure continues after the end of the period of 3 months beginning with the penalty date,
- (b) HMRC decide that such a penalty should be payable, and
- (c) HMRC give notice to P specifying the date from which the penalty is payable.

(2) The penalty under this paragraph is £10 for each day that the failure continues during the period of 90 days beginning with the date specified in the notice given under sub-paragraph (1)(c).

(3) The date specified in the notice under sub-paragraph (1)(c)—

- (a) may be earlier than the date on which the notice is given, but
- (b) may not be earlier than the end of the period mentioned in sub-paragraph (1)(a).

60. Paragraph 5 of Schedule 55 provides for further penalties to accrue when a return is more than 6 months late as follows:

5—

(1) P is liable to a penalty under this paragraph if (and only if) P's failure continues after the end of the period of 6 months beginning with the penalty date.

(2) The penalty under this paragraph is the greater of —

- (a) 5% of any liability to tax which would have been shown in the return in question, and
- (b) £300.

61. Paragraph 6 of Schedule 55 provides for further penalties to accrue when a return is more than 12 months late as follows:

6—

(1) P is liable to a penalty under this paragraph if (and only if) P's failure continues after the end of the period of 12 months beginning with the penalty date.

(2) Where, by failing to make the return, P deliberately withholds information which would enable or assist HMRC to assess P's liability to tax, the penalty

under this paragraph is determined in accordance with sub-paragraphs (3) and (4).

(3) If the withholding of the information is deliberate and concealed, the penalty is the greater of —

(a) the relevant percentage of any liability to tax which would have been shown in the return in question, and

(b) £300.

(3A) For the purposes of sub-paragraph (3)(a), the relevant percentage is—

(a) for the withholding of category 1 information, 100%,

(b) for the withholding of category 2 information, 150%, and

(c) for the withholding of category 3 information, 200%.

(4) If the withholding of the information is deliberate but not concealed, the penalty is the greater of —

(a) the relevant percentage of any liability to tax which would have been shown in the return in question, and

(b) £300.

(4A) For the purposes of sub-paragraph (4)(a), the relevant percentage is—

(a) for the withholding of category 1 information, 70%,

(b) for the withholding of category 2 information, 105%, and

(c) for the withholding of category 3 information, 140%.

(5) In any case not falling within sub-paragraph (2), the penalty under this paragraph is the greater of —

(a) 5% of any liability to tax which would have been shown in the return in question, and

(b) £300.

(6) Paragraph 6A explains the 3 categories of information.

62. Paragraph 23 of Schedule 55 contains a defence of “reasonable excuse” as follows:

23—

(1) Liability to a penalty under any paragraph of this Schedule does not arise in relation to a failure to make a return if P satisfies HMRC or (on appeal) the First-tier Tribunal or Upper Tribunal that there is a reasonable excuse for the failure.

(2) For the purposes of sub-paragraph (1)—

(a) an insufficiency of funds is not a reasonable excuse, unless attributable to events outside P's control,

(b) where P relies on any other person to do anything, that is not a reasonable excuse unless P took reasonable care to avoid the failure, and

(c) where P had a reasonable excuse for the failure but the excuse has ceased, P is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

63. Paragraph 16 of Schedule 55 gives HMRC power to reduce penalties owing to the presence of “special circumstances” as follows:

16—

- (1) If HMRC think it right because of special circumstances, they may reduce a penalty under any paragraph of this Schedule.
- (2) In sub-paragraph (1) “special circumstances” does not include—
 - (a) ability to pay, or
 - (b) the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another.
- (3) In sub-paragraph (1) the reference to reducing a penalty includes a reference to—
 - (a) staying a penalty, and
 - (b) agreeing a compromise in relation to proceedings for a penalty.

64. Paragraph 20 of Schedule 55 gives a taxpayer a right of appeal to the Tribunal and paragraph 22 of Schedule 55 sets out the scope of the Tribunal’s jurisdiction on such an appeal. In particular, the Tribunal has only a limited jurisdiction on the question of “special circumstances” as set out below:

22—

- (1) On an appeal under paragraph 20(1) that is notified to the tribunal, the tribunal may affirm or cancel HMRC's decision.
- (2) On an appeal under paragraph 20(2) that is notified to the tribunal, the tribunal may —
 - (a) affirm HMRC’s decision, or
 - (b) substitute for HMRC’s decision another decision that HMRC had power to make.
- (3) If the tribunal substitutes its decision for HMRC’s, the tribunal may rely on paragraph 16—
 - (a) to the same extent as HMRC (which may mean applying the same percentage reduction as HMRC to a different starting point), or
 - (b) to a different extent, but only if the tribunal thinks that HMRC’s decision in respect of the application of paragraph 16 was flawed.
- (4) In sub-paragraph (3)(b) “flawed” means flawed when considered in the light of the principles applicable in proceedings for judicial review.

Taxes Management Act 1970

65. Section 8 - Personal return- provides as follows:

- (1) For the purpose of establishing the amounts in which a person is chargeable to income tax and capital gains tax for a year of assessment, [and the amount payable by him by way of income tax for that year,] he may be required by a notice given to him by an officer of the Board-
 - a) to make and deliver to the officer, on or before the day mentioned in subsection (1A) below, a return containing such information as may, reasonably be required in pursuance of the notice, and
 - b) to deliver with the return such accounts, statements and documents, relating to information contained in the return, as may reasonably be so required.

- (1A) The day referred to in subsection (1) above is-
- (a) the 31st January next following the year of assessment, or
 - (b) where the notice under the section is given after the 31st October next following the year, the last [day of the period of three months beginning with the day on which the notice is given]
- (1AA) For the purposes of subsection (1) above-
- (a) the amounts in which a person is chargeable to income tax and capital gains tax are net amounts, that is to say, amounts which take into account any relief or allowance a claim for which is included in the return; and
 - (b) the amount payable by a person by way of income tax is the difference between the amount in which he is chargeable to income tax and the aggregate amount of any income tax deducted at source and any tax credits to which [section 397(1) [or [397A(1)] of ITTOIA 2005] applies.]
- (1B) In the case of a person who carries on a trade, profession, or business in partnership with one or more other persons, a return under the section shall include each amount which, in any relevant statement, is stated to be equal to his share of any income, [loss, tax, credit] or charge for the period in respect of which the statement is made.
- (1C) In subsection (1B) above "relevant statement" means a statement which, as respects the partnership, falls to be made under section 12AB of the Act for a period which includes, or includes any part of, the year of assessment or its basis period.]
- (1D) A return under the section for a year of assessment (Year 1) must be delivered-
- (a) in the case of a non-electronic return, on or before 31st October in Year 2, and
 - (b) in the case of an electronic return, on or before 31st January in Year 2.
- (1E) But subsection (1D) is subject to the following two exceptions.
- (1F) Exception 1 is that if a notice in respect of Year 1 is given after 31st July in Year 2 (but on or before 31st October), a return must be delivered-
- (a) during the period of 3 months beginning with the date of the notice (for a non-electronic return), or
 - (b) on or before 31st January (for an electronic return).
- (1G) Exception 2 is that if a notice in respect of Year 1 is given after 31st October in Year 2, a return (whether electronic or not) must be delivered during the period of 3 months beginning with the date of the notice.
- (1H) The Commissioners-
- (a) shall prescribe what constitutes an electronic return, and
 - (b) may make different provision for different cases or circumstances.
- (2) Every return under the section shall include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete.

(3) A notice under the section may require different information, accounts and statements for different periods or in relation to different descriptions of source of income.

(4) Notices under the section may require different information, accounts and statements in relation to different descriptions of person.

(4A) Subsection (4B) applies if a notice under the section is given to a person within section 8ZA of the Act (certain persons employed etc. by person not resident in United Kingdom who perform their duties for UK clients).

(4B) The notice may require a return of the person's income to include particulars of any general earnings (see section 7(3) of ITEPA 2003) paid to the person.

(5) In the section and sections 8A, 9 and 12AA of the Act, any reference to income tax deducted at source is a reference to income tax deducted or treated as deducted from any income or treated as paid on any income.