FIRST-TIER TRIBUNAL
TAX CHAMBER

Paper decision
Appeal reference: TC/2024/02215

VAT – late payment penalty – reasonable excuse – withholding VAT and alleged payment into a discretionary trust – concern about commission of alleged criminal offences – appeal dismissed

Paper appeal: 8 August 2024
Judgment date: 13 February 2025

Before
TRIBUNAL JUDGE LEE

Between

MARK WATTS

Appellant

and

THE COMMISSIONERS FOR HIS MAJESTY'S REVENUE AND CUSTOMS

Respondents

Representation:

For the Appellant: Mr Mark Watts, in person

For the Respondents: Not applicable

DECISION

INTRODUCTION

1. This is an appeal brought by the Appellant against HMRC's decision to issue a late payment penalty under Sch. 26 to the Finance Act 2021 ("FA 2021") in respect of the late payment of VAT for the period 11/23. The penalty under appeal amounts to **£100.38**.

2. This is a paper appeal. I issued a summary written decision on 12 November 2024. This is my full, written decision.

BACKGROUND

3. In determining this appeal, I have considered all the documents in the document/ hearing bundle which runs to 42 pages. The bundle includes the Appellant's notice of appeal dated 16 March 2024, the Appellant's letters to HMRC dated 5 January 2024, 8 February 2024 and 13 February 2024, and HMRC's statement of case dated 28 May 2024.

4. The Appellant is a taxable person and has been registered for VAT purposes with effect from 1 March 2020. He is a sole proprietor and his business activity is that of painting and decorating (trading as "Fine Finish"). The Appellant submits VAT returns on a quarterly basis.

5. Details pertaining to the VAT return relevant to this appeal are as follows:

   (1) The return was for the period 11/23, which covered 1 September 2023 to 30 November 2023;

   (2) The due date for the VAT return and VAT payment was 7 January 2024;

   (3) The Appellant submitted his VAT return on 12 December 2023 (in time);

   (4) The Appellant did not make the VAT payment required (£2,513.63) to HMRC by the due date and, at the date of HMRC's statement of case, no payment had been received by HMRC; and

   (5) HMRC issued a first late payment penalty on 7 February 2024 (notified on 9 February 2024).

6. The Appellant appeals against the late payment penalty. I set out in full his grounds of appeal (as set out in his notice of appeal):

> "In January 2024 I became aware of the fact that tax money paid is credited to Parliament's Consolidated Fund. A percentage of this is transferred to the Ministry of Defence and a part of which is then used for the purposes of illegal warfare, acts of terrorism and genocide.
>
> It is a criminal offence in Britain under the International Criminal Court Act 2001 and the Terrorism Act 2000 for a person to pay money to their local Council, HMRC, the DVLA or other agents of HM Government, if he or she knows or suspects that some of their money may be used for criminal purposes, in particular to fund murder, war crimes, crimes against humanity, genocide or acts of terrorism.

On this basis I wrote to Jim Harra (copy attached), the HMRC Chief Executive & Collector of Taxes on 5th January 2024 and Hazel Whyte, Higher Customer Service Manager on 8th February (copy attached) explaining that I would be paying my personal income tax and VAT into a discretionary, conditional, revocable trust (copy attached) with HMRC as the primary beneficiary. The tax monies would be transferred over once HMRC has provided me with incontrovertible documented evidence of the points specified in section 8 of the trust document.

To date all tax monies due, including VAT, have been paid on time into the trust.

That is why I asked for a review of the penalties that are being charged for late payment. The VAT has been paid on time into the trust.

The reviewing officer, E Flyte, in his/her review letter dated 26th February 2024 (copy attached) claims that I do not have a reasonable excuse not to meet my tax obligation on time. The claims therefore are:

1) I am late making the payments of VAT. This is incorrect as I have paid the VAT on time into the trust.

2) That both the International Criminal Court Act 2001 and the Terrorism Act 2000 do not have implications for men and women in the UK. This is incorrect as men and women in the UK are subject to the jurisdiction of the International Criminal Court and can be prosecuted under the provisions of the Terrorism Act 2000.

E Flyte by insisting that I cannot pay the VAT into the trust and that I must transfer it over is personally asking me to commit a criminal offence and this applies to any other individual from HMRC or government department/agency doing the same."

7. The Appellant goes on to state that all tax monies due including VAT have been paid on time into a trust set up by him, with HMRC as primary beneficiary (HMRC being one of a number of entities named as primary beneficiary), and that he should not, therefore, have been charged a penalty for late payment.

8. The trust referred to is described by the Appellant as a discretionary, revocable, conditional trust, entitled "Declaration of Sovereignty and Deed of Discretionary Revocable Conditional Trust and Withdrawal of Consent to Mandatory Taxation" ("the Trust"). It appears to be a template. In any event, the terms of the Trust are set out in a four-page document. It has several terms. I summarise the relevant paragraphs below:

    (1) The Appellant consents to pay £5,000 in favour of Parliament, the Government of Britain and Northern Ireland, public authorities and institutions, HMRC, the DVLA, Rossendale Borough Council, corporate bodies and, business or individuals acting as agents of HM Government (which are jointly and severally known as the "Primary Beneficiary"), in consideration of various taxes, fees, fines, rents, duties, levies, demands or charges made upon me under various Finance Acts, laws and/or regulations enacted, passed or issued by the Primary Beneficiary, and the Appellant as trustee will hold the payment on a discretionary, conditional, revocable trust for the Primary Beneficiary until the last day of the financial year on 5 April 2024.

(2) However, the Appellant has been made aware that all taxes, fees, fines, duties, charges and payments of money to the Primary Beneficiary are paid on receipt into Parliament's Consolidated Fund, whereupon some of this money is used by the Primary Beneficiary directly and/or indirectly, in whole or in part, for illegal and criminal purposes, in particular to finance the manufacture, procurement, supply and/or use by:

(i) The UK Ministry of Defence and HM Military Forces of weapons such as nuclear and high-explosive bombs, rockets, missiles and firearms as well as weapon delivery systems such as ships, aircraft, tanks, submarines and drones, for the instigation, facilitation, support or conduct of various illegal wars, invasions, occupations or armed attacks on the people of diverse independent Sovereign States, most recently Afghanistan, Iraq, Libya, Syria, the Yemen, Palestine and the Ukraine, causing serious bodily injury or death to thousands of men, women and children, none of whom were given the opportunity to plead for their lives and the lives of their family in court before being summarily injured or killed by military forces by order of Britain's political, civil, judicial and military commanders;

(ii) The UK Home Office and UK police forces of firearms which are used to threaten, harm or kill UK residents and nationals;

(iii) The Department of Health and Social Care, the National Health Service, Public Health England, The National Health Security Agency, UK Ministers of State, civil servants, employees, advisors and members of the medical profession of experimental toxic gene therapy [COVID 19] vaccines, falsely and deceptively described and promoted as safe and effective and administered without their informed consent to millions of UK residents and nationals resulting in harm, serious injury or death to thousands of children, women and men the majority of whom are members of the English, Welsh, Scottish and Northern Ireland national groups.

(3) The Appellant had also been made aware that:

(i) the United Kingdom is a member state of the United Nations, and its Government, on behalf of its people, has signed and ratified the Charter of the United Nations under which it has agreed with every other member State to be bound by its rules.

(ii) pursuant to the United Nations' Declaration on Principles of International Law, every State has the duty to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues, and no State has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State, and consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements are in violation of international law.

(iii) the Nuremberg War Crimes Tribunal (1946) observed and held that individuals have international duties which transcend the national obligations of obedience imposed by the individual State. He who violates the laws of war cannot obtain immunity while acting in pursuance of the authority of the State, if the State in authorising action moves outside its competence under international law.

(iv) the Nuremberg War Crimes Tribunal issued the Nuremberg Code on medical experiments in which it ruled that the voluntary consent of the human subject is absolutely essential… This requires that before the acceptance of an affirmative decision by the experimental subject there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment. The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity.

(4) That the Appellant understands that the Government of the United Kingdom of Great Britain and Northern Ireland:

(i) is a signatory and party to the Rome Statute of the International Criminal Court, and therefore there exists a potential risk to the Appellant and his family under the provisions concerning individual criminal responsibility of prosecution and imprisonment by the International Criminal Court in The Hague for aiding and abetting criminal acts of genocide, crimes against humanity and/or war crimes;

(ii) ratified the Rome Statute of the International Criminal Court when it enacted the International Criminal Court Act 2001 and the International Criminal Court Act 2001 [Elements of Crimes] Regulations 2001 making it a criminal offence under section 52 of the Act for a person to engage in conduct ancillary to war crimes, crimes against humanity and/or genocide and therefore, knowing that thousands of men women and children have been injured and killed by order of Britain's political, civil, military and medical leaders, there exists a risk to the Appellant and his family of prosecution and life imprisonment for the offences of aiding and abetting these crimes.

(iii) is a signatory and party to the Convention for the Suppression of the Financing of Terrorism and ratified the Convention by enacting the Terrorism Act 2000 in which it ruled in section 17 that a person commits an offence if he enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another, and he knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism and because terrorism is defined in section 1 as the threat or use of firearms or explosives endangering life for a political or ideological cause, there exists a risk to me and my family of prosecution and imprisonment for a term of fourteen years for fundraising for purposes of terrorism.

(iv) enacted The Accessories and Abettors Act 1861 in which it ruled in section 8 that whosoever shall aid, abet, counsel, or procure the commission of any indictable offence, whether the same be an offence at common law or by virtue of any Act passed or to be passed, shall be liable to be tried, indicted, and punished as a principal offender.

(5) That the following has also been brought to the Appellant's attention:

(i) that the UK Supreme Court, in a case concerning the definition of terrorism in the Terrorism Act 2000 (Regina 'v' Gul UKSC 64 (2012)), stated in paragraphs 26 and 28 that, "Terrorist action outside the United Kingdom which involves the use of firearms or explosives, resulting in danger to life is terrorist… Thus, it [the definition of terrorism] would appear to extend to military or quasi-military activity aimed at bringing down a foreign government, even where that activity is approved officially or unofficially by the UK government.

(ii) The Independent Reviewer of Terrorism Legislation in a report to Parliament (2012) stated: "The power to arrest under TA2000 section 14 and to hold for extended periods of detention prior to charge can in principle be used against anyone who, it is suspected, is or has been concerned in the commission, preparation or instigation of acts of terrorism. Legitimately elected political figures in the UK could quite lawfully be arrested under this power, and more generally, it can be used against anyone at any time.

(6) As a result of the above, the Appellant states that there is a serious risk to him and his family, colleagues and friends under the common law, customary international law and the provisions of international and domestic law identified above, of a criminal prosecution, conviction and imprisonment for aiding and abetting genocide, crimes against humanity, war crimes, fundraising for purposes of terrorism and/or other criminal acts of persons operating for and on behalf of the Primary Beneficiary.

(7) The Appellant therefore withdraws his consent to all mandatory taxes, fees, financial demands and charges made under various Finance Acts, laws, orders and regulations passed or issued by the Primary Beneficiary, and withholds all such payments of money (taxes) or other property to the Primary Beneficiary and to cause the same to be held in a conditional revocable discretionary trust for the benefit of the Primary Beneficiary by way of abandonment of, or complicity in, and/or all illegal and criminal acts of the Primary Beneficiary.

(8) If prior to the end of the financial year, the Appellant receives incontrovertible documentary evidence from a court of competent jurisdiction that the Primary Beneficiary:

(i) has ended all involvement in the criminal acts identified above;

(ii) is acting in accord with the domestic and international laws specified above;

(iii) has granted the Appellant complete and full immunity from any and all claims, charges or liability both present and future which may arise as a result of him paying taxes, fees, fines, rents, duties, charges or financial demands levied on him whether existing or future under the various Acts, judgments, laws or orders made, passed or issued by the Primary Beneficiary; and

(iv) has initiated with the DPP of England and Wales and Northern Ireland and the Lord Advocate of Scotland, criminal proceedings against 1000 of the leading instigators, perpetrators, financiers, investors, advisors, company directors, public officials and natural persons complicit in the criminal acts of the Primary Beneficiary identified above;

the Appellant will recommence periodic payments to the Primary Beneficiary in consideration of all lawful, legal and legitimate taxes, fees, fines, rents, charges, interest payments and/or financial demands made upon him.

(9) If however the Primary Beneficiary continues to breach the common law and the domestic and international laws governing warfare, terrorism, genocide and crimes against humanity identified in the document, and continues to take part in the criminal acts identified in the document, and is thereby complicit in the criminal offences of misconduct in public office, murder, crimes against peace, war crimes, crimes against humanity and genocide, then this conditional revocable, discretionary Trust will be revoked on the last day of the financial year and all money and/or assets held in trust for the Primary Beneficiary will be carried forward on the same terms and conditions to the following financial year, or at the discretion of the trustee, returned to me, the settlor (the "Second Beneficiary").

9. The trust document appears to be signed by the Appellant and is dated 4 January 2024. It was witnessed by a Mr Alden.

THE ISSUES

10. The issues that the Tribunal has to consider are these:

(1) Whether the late payment penalty charged to the Appellant by HMRC for late payment of VAT for the period 11/23 was correctly issued;

(2) Whether the Appellant has a reasonable excuse for the default (the late payment of VAT for the period 11/23);

(3) Whether HMRC's decision in relation to special reduction of the penalty was flawed.

11. The burden rests on HMRC to demonstrate that the penalty is due and has been correctly assessed. Once so established, the burden shifts to the Appellant to demonstrate that there is a reasonable excuse for the default. The standard of proof is the ordinary civil standard, which is the balance of probabilities. That means that they were reached on the basis that they are more likely to be true than not. The following is not intended to address every point of evidence or resolve every contention made. I have made the findings necessary to resolve the appeal before me.

THE LAW

12. Section 25(1) of the Value Added Tax Act 1994 ("VATA 1994") requires that a taxable person shall account for and pay VAT for a prescribed accounting period at such time and in such a manner as determined by regulations.

13. Regulation 40 of the Value Added Tax Regulations 1995 ("VAT Regulations 1995") states:

> "Any person required to make a return shall pay to the Controller such amount of VAT as is payable by him in respect of the period to which the return relates not later than the last day on which he is required to make that return."

14. Payment must be received by HMRC by the due date for the accounting period. HMRC have discretion under Regulation 40 of the VAT Regulations 1995 to allow extra time for the making of payments when these are carried out by electronic means. In effect, this results in the standard deadline being extended by seven calendar days (except for Payment on Account and Annual Accounting businesses).

15. If any VAT remains unpaid after day 15 following the payment due date and no application for a Time to Pay (TPP) agreement has been made, a penalty is payable under para. 5(1) Sch. 26 FA 2021. This penalty is set at 2% of the tax outstanding on day 15.

16. If any of the VAT is still unpaid after day 30 and no TTP application has been made, the penalty will be calculated as 2% of the VAT outstanding after day 15, plus 2% of the VAT outstanding on day 30 under para. 5(3) Sch. 26 FA 2021.

17. A key statutory provision, in the context of this appeal, is para. 12(1) of Sch. 26 FA 2021 which provides that liability to a penalty does not arise in relation to a failure to make a payment if the person satisfies HMRC, or on appeal, the Tribunal, that they had a reasonable excuse for the failure and they put right the failure without unreasonable delay after the excuse has ended.

18. Para.12(2) of Sch. 26 FA 2021 specifies two situations that are not capable of amounting to a reasonable excuse, namely:

    (1) An insufficiency of funds to pay, unless attributable to events outside the taxpayer's control; and

    (2) Reliance on another person to perform any task, unless the taxpayer took reasonable care to avoid the failure.

19. The term "reasonable excuse" is not defined in the statutes, but according to Special Commissioner Adrian Shipwright in *Rowland v Revenue and Customs Commissioners [2006] STC (SCD) 536* at paragraph 19, reasonable excuse "is a matter to be considered in the light of all the circumstances of the particular case."

20. The term "reasonable excuse" was also considered by Judge Medd QC in *The Clean Car Company v C&E Commissioners* [1991] BVC 568:

> "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?"

21. The Tribunal is required to approach the question of reasonable excuse in line with the Upper Tribunal decision in *Christine Perrin and The Commissioners for Her Majesty's Revenue and Customs* [2018] UKUT 0156 (TCC):

> "81. When considering a "reasonable excuse" defence, therefore, in our view the FTT can usefully approach matters in the following way:
>
> (1) First, establish what facts the taxpayer asserts give rise to a reasonable excuse (this may include the belief, acts or omissions of the taxpayer or any other person, the taxpayer's own experience or relevant attributes, the situation of the taxpayer at any relevant time and any other relevant external facts).
>
> (2) Second, decide which of those facts are proven.
>
> (3) Third, decide whether, viewed objectively, those proven facts do indeed amount to an objectively reasonable excuse for the default and the time when that objectively reasonable excuse ceased. In doing so, it should take into account the experience and other relevant attributes of the taxpayer and the situation in which the taxpayer found himself at the relevant time or times. It might assist the FTT, in this context, to ask itself the question "was what the taxpayer did (or omitted to do or believed) objectively reasonable for this taxpayer in those circumstances?"
>
> (4) Fourth, having decided when any reasonable excuse ceased, decide whether the taxpayer remedied the failure without unreasonable delay after that time (unless, exceptionally, the failure was remedied before the reasonable excuse ceased). In doing so, the FTT should again decide the matter objectively, but taking into account the experience and other relevant attributes of the taxpayer and the situation in which the taxpayer found himself at the relevant time or times."

22. Whether a person has a reasonable excuse will therefore depend on the particular circumstances in which the failure occurred and the abilities of the person who has failed. What is a reasonable excuse for one person may not be a reasonable excuse for another.

DECISION

Whether the late payment penalty was correctly issued

23. I turn first to consider whether the late payment penalty charged for period 11/23 was correctly issued.

24. The Appellant states in his notice of appeal that all tax monies due including VAT have been paid on time into the Trust with HMRC as "Primary Beneficiary". HMRC does not accept this contention and submits that the Appellant has failed to pay the required VAT to HMRC.

25. There is no dispute in this case that the notice of penalty was issued and received by the Appellant. He appends a copy of the notice to his letter to HMRC dated 13 February 2024, in which he requested a review of the decision to charge a penalty. In that letter, the Appellant maintains the position that the VAT of £2,513.63 had been paid into the Trust with HMRC as Primary Beneficiary.

26. Having considered the material submitted to the Tribunal, I find that the penalty under appeal was correctly issued, and that the amount charged or assessed was in accordance with the rate prescribed under para. 5(1) and para. 5(3) of Sch. 26 FA 2021.

27. The statutory provisions which apply, and are binding on the Appellant, require the taxpayer (the Appellant) to make payment of VAT for a prescribed accounting period to HMRC (and not to any other person or body) by the due date, e.g. by 7 January 2024. The statutory provisions do not allow for the arrangement proposed by the Appellant, by which the VAT due is apparently held by the taxpayer or others on behalf of HMRC pursuant to a trust, and subject to conditions unilaterally imposed by the taxpayer.

28. Furthermore, whilst the Appellant states that the VAT due had been paid into the Trust, I note that he has not provided any evidence of the alleged payment as part of his appeal. Were the monies deposited into a bank account, specifically opened for the benefit of HMRC as Primary Beneficiary? When were the monies said to have been deposited? No details and corroborative evidence have been provided as to the alleged payment; a surprising omission given that this is one of the central points in the Appellant's appeal. I find that no such payment has been made.

29. For these reasons, I am satisfied that there was a default, that HMRC was entitled to charge the penalty, and that the penalty was correctly issued pursuant to the relevant tax legislation (VATA 1994, the VAT Regulations 1995, and Sch. 26 FA 2021).

Whether the Appellant has a reasonable excuse for the default

30. I turn to consider whether the Appellant has a reasonable excuse for the late payment. The burden of proof rests on the Appellant to demonstrate that a reasonable excuse exists for the default.

31. According to his notice of appeal and his letter of 5 January 2024 to Jim Harra, Chief Executive of HMRC, the thrust of the Appellant's case is that:

    (1) He discovered in January 2024 that it is a criminal offence under the International Criminal Court Act 2001 and the Terrorism Act 2000 for a person to pay money to their local council, DVLA or other agents of HM Government if they know or suspect that some of their money may be used for criminal purposes, in particular, to fund murder, war crimes, crimes against humanity, genocide or crimes against peace.

    (2) By paying tax, he would be funding warfare, crimes against humanity, genocide, fraud and criminal activity that leads to the injury or death of innocent men, women and children.

    (3) The Government has used at least £750M of taxpayer's money since 2000 to wage or support at least 7 illegal wars.

(4) He has discovered that some of the tax money paid is credited to Parliament's Consolidated Fund and a percentage is then transferred to the MOD for purposes of illegal warfare;

(5) He is not refusing to pay his taxes, but is placing the tax due to HMRC in the discretionary, conditional, revocable trust with HMRC (amongst a number of other public bodies or entities) as Primary Beneficiary in accordance with the terms of the Trust.

(6) If before the end of the financial year (e.g. 5 April 2024), HMRC provides the Appellant with incontrovertible documentary evidence from a court of competent jurisdiction that it has complied fully with the conditions at section 8 of the Trust, the Appellant will "recommence" periodic payments to the Primary Beneficiary of all lawful, legal and legitimate taxes.

(7) However, if HMRC continues to breach the common law and the domestic and international laws governing warfare, terrorism, genocide and crimes against humanity identified in the trust document, and continues to take part in the criminal acts identified in the document, and is complicit in the criminal offences of misconduct in public office, murder, crimes against peace, war crimes, crimes against humanity and genocide, then the Trust will be revoked on the last day of the financial year and all money and/or assets held in trust for the Primary Beneficiary will be carried forward on the same terms and conditions to the following financial year, or at the discretion of the trustee (the Appellant), released to him as the settlor and Second Beneficiary.

32. Taken together, these are the facts which the Appellant asserts give rise to a reasonable excuse.

33. In *Gladders v Prior (Inspector of Taxes)* [2003] SpC 361, the Tribunal held that a reasonable excuse for not filing returns or paying tax on time would be something outside the person's control that would prevent a reasonable man from complying, such as illness. In that case, the taxpayer's political belief that direct taxation was opposed to an individual's freedom and used for the propagation of wars was held not to amount to a reasonable excuse not to submit a return or to pay tax. That decision is persuasive but not binding upon me. I am of the view that, in theory, a taxpayer's political belief *could* amount to a reasonable excuse. However, what would amount to a reasonable excuse is fact specific and is to be considered in light of all the circumstances: *Rowland v HMRC [2006] STC (SCD) 536*.

34. Having considered all the documentation and applying the guidance set out in the relevant authorities, I have come to the conclusion that it is not objectively reasonable for the Appellant to default on his legal obligation to pay VAT for the period 11/23 to HMRC. My reasons are as follows:

(1) I accept that the Appellant may well hold the beliefs/ views set out in his notice of appeal and in his letters to HMRC. However, that does not mean that they amount to objectively reasonable excuses to withhold payment of VAT to HMRC (in this regard, any payment into the Trust, even if such payment had been made, would not amount to a payment to HMRC). In making this observation, the Tribunal expresses no view as to the legality or otherwise of the alleged acts of warfare and other alleged criminal offences mentioned by the Appellant. It is not the function

of this Tribunal to make any determination in respect of those matters (and it is not necessary for this appeal).

(2) The Appellant's letters to HMRC focus on concerns about alleged illegal warfare, terrorism and potential offences under the International Criminal Court Act 2001 and Terrorism Act 2000. However, when one delves into the Trust document, it is apparent that his concerns are far wider. The document refers to the Appellant's view that taxes, as well as all manner of fees, fines, duties, charges and payments of money to the Primary Beneficiary, are used to finance the manufacture, supply and use by the MOD of weapons, the UK Home Office and police force of firearms, and the Department of Health and Social Care, the NHS, Public Health England, the National Health Security Agency, UK ministers, civil servants and employees, and members of the medical profession of what he referred to as experimental toxic gene therapy (Covid-19) vaccines, which he alleges have been falsely and deceptively promoted as safe and effective without the informed consent of millions of UK residents and nationals resulting in harm and serious injury. His reasons for not making payment of VAT to HMRC (and other arms of HM Government) are therefore wide-ranging. It is not objectively reasonable for the Appellant to make his own sweeping determination that all those matters, which concern, in his view, not just HMRC but other government bodies, civil servants and members of the medical profession, are unlawful or amount to criminal acts, so as to justify him withholding payment of VAT to HMRC.

(3) Viewed objectively, I do not consider the Appellant's concern that he may be committing offences under the International Criminal Court Act 2001 to amount to a reasonable excuse. The Appellant knows that he is under a legal obligation to pay VAT pursuant to legislation which has been passed by Parliament. That legislation has not been declared unlawful by a court of law or superseded by contrary legislation. There is no suggestion or any evidence provided that the Appellant will be, or has been investigated for or charged, with the commission of any alleged offences.

(4) Viewed objectively, I also do not accept that it is objectively reasonable for the Appellant to unilaterally impose wide-ranging and impossible conditions on HMRC as a precursor to payment of VAT. Those unilaterally imposed conditions include a term that "incontrovertible documentary evidence from a court of competent jurisdiction" be provided to the Appellant confirming that HMRC has initiated with the DPP criminal proceedings against 1000 (unnamed) instigators, perpetrators, financiers, investors, advisors, company directors, public officials and natural persons allegedly complicit in purported criminal acts by HMRC.

(5) I have already found that no payment for VAT for 11/23 has been made by the Appellant into the Trust. Even if it had, according to the Trust document, the wide-ranging and impossible conditions imposed by the Appellant, even if met to his satisfaction, would not actually release that VAT payment to HMRC, but would only result in the Appellant recommencing future periodic payments to HMRC. The VAT for 11/23 would never, on the Appellant's terms, be passed on to HMRC.

35. I am therefore satisfied that, viewed objectively, the reasons given by the Appellant do not amount to a reasonable excuse for the default.

Special reduction

36. I turn to consider the issue of whether HMRC's decision not to apply a special reduction of the penalty was flawed. Para. 13(1) of Sch. 26 FA 2021 gives HMRC a discretion to reduce a penalty if they consider it right to do so because of special circumstances.

37. Where a taxpayer appeals against the amount of a penalty, para. 21(2) and (3) 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 para. 13 (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.

38. The principles referred to as applicable in proceedings for judicial review include ensuring: (a) that the decision maker has taken into account all relevant factors; (b) that the decision maker has not taken into account any irrelevant factors; and (c) that the decision is one that a reasonable decision maker having regard to the available evidence could make.

39. The Tribunal is not permitted to consider the relevant facts *de novo* and determine whether or not it agrees with the conclusion that HMRC has reached. Instead, it needs to consider whether, in reaching that conclusion not to reduce a penalty because of special circumstances, HMRC has taken into account matters that they ought not to have taken into account or disregarded matters that they ought to have taken into account. As long as that is not the case, HMRC's decision may be impugned only if it is one that no reasonable person could have reached upon consideration of the relevant matters. HMRC's decision cannot be impugned simply because the Tribunal might have reached a different conclusion upon consideration of the relevant matters afresh.

40. I do not believe that HMRC's conclusion not to apply a special reduction can be impugned in light of the principles which the Tribunal must apply.

CONCLUSION

41. For the reasons set out above, the appeal is dismissed.

42. 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.

JUDGE LEE
TRIBUNAL JUDGE

Release date: 13/02/2025