East Midlands Branch seminar report

Management of taxes

26 January 2016

Key Points

Issues for the Tribunal’s determination

1. Was the inaccuracy in the taxpayer’s return careless within the meaning of paragraph 3 of Sch 24?
2. If so, was the officer’s decision not to suspend the penalty flawed?
3. If the answer to both of the two preceding questions is yes, should the penalty be suspended?

On the 1 December, the East Midlands branch held its last meeting of 2015. This was a live Mock First-tier Tribunal recorded as a webinar. The branch is leading the use of the webinar as a means of reaching out to members who may have difficulty travelling to a live event. This particular event featured Pete Miller, acting as the HMRC representative and Margaret Curran as the taxpayer. Keith Gordon, Temple Tax Chambers, both conducted the event and also acted on behalf of the taxpayer.

The audience: in person and those accessing the webinar live played the role of the Tribunal: asking questions and making the final decision. Keith's role was to set out the facts and to ensure that at each stage, delegates were aware of the technical and practical practical issues. There were a number of occasion when the event was "suspended" so that delegates were clear as to what was happening and what might happen in a real hearing. The entire event was very well constructed and executed and is well worth watching. A promotional version of the webinar is available here.

The hearing considered the proposed imposition of a penalty for the taxpayer's failure to declare a capital gain on the disposal of a rental property and the taxpayer's claim to have had a reasonable excuse. Detailed facts were provided in

the notes and verbally as part of the proceedings.

As noted, there were also a number of occasions in which the hearing was "suspended" whilst procedural matters were addressed: extremely helpful for anyone considering appearing before a tribunal or advising clients who are tempted to take a case. The technical arguments were supported by the use of presentation material, not the way it would be dealt with in a hearing, but an extremely effective way of ensuring that the "tribunal (the audience)" could come to an informed conclusion.

The event is eminently watchable – Keith is an experienced advocate and Pete a clear and amusing performer. Indeed Pete recently won an award as a stand up comedian at the Leicester Stand Up Challenge 2015.

Importantly, the questions raised by the audience (the tribunal) were not rehearsed and Margaret / Pete and Keith were very much put on the spot.

In the concluding part of the event Maragret made a telling point that echoed the feelings of a client after enduring a tribunal hearing – it was "nerve-racking": particularly due to the stress of appreciating the need to ensure that the answers were consistent and convincing.

The event is available until the end of March on a pay per view basis. Members and non-members can register for all of the East Midlands past events in the 2015/2016 programme and view recorded sessions online for the same price as attending on the day. For more information and to register for recorded events visit the CIOT website and click East Midlands.