



Neutral Citation: [2025] UKFTT 00822 (TC)

Case Number: TC09670

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

Taylor House, London

Appeal reference: TC/2022/11204  
TC/2022/11209  
TC/2022/11213  
TC/2022/11214  
TC/2022/11215  
TC/2022/11216  
TC/2022/11217  
TC/2022/11219

*Application for permission to notify late appeals to HMRC – section 49(2) of the Taxes Management Act 1970*

**Heard on:** 6 March 2025  
**Judgment date:** 4 July 2025

**Before**

**TRIBUNAL JUDGE MICHAELA SNELDERS**

**Between**

**ABBHEY HEALTHCARE (EAST KILBRIDE) LIMITED AND OTHERS**

**Applicants**

**and**

**THE COMMISSIONERS FOR HIS MAJESTY’S REVENUE AND CUSTOMS**

**Respondents**

**Representation:**

For the Applicant: Michael Firth KC of counsel, instructed by inTAX Ltd

For the Respondents: Farah Ameerally, litigator of HM Revenue and Customs’ Solicitor’s Office

## DECISION

### INTRODUCTION

1. This is an application:

(1) by Abbey Healthcare (Huntingdon) Limited, appeal reference TC/2022/11215, (“Huntingdon”) for confirmation that its appeals to the Respondents (“HMRC”) against corporation tax assessments and closure notices as set out in Schedule 1 to this decision (“the Huntingdon Assessments and Closure Notices”) were in time;

(2) by:

(a) Abbey Healthcare (East Kilbride) Limited, appeal reference TC/2022/11204;

(b) Abbey Healthcare (Farnworth) Limited, appeal reference TC/2022/11209;

(c) Abbey Healthcare (Kendal) Limited, appeal reference TC/2022/11213;

(d) Abbey Healthcare Homes Limited, appeal reference TC/2022/11214;

(e) Barleycroft Care Home Limited, appeal reference TC/2022/11216;

(f) Trees Park (Callards) Limited, appeal reference TC/2022/11217; and

(g) Abbey Healthcare (Festival) Limited, appeal reference TC/2022/11219

for permission to make late appeals to HMRC against the corporation tax assessments set out in Schedule 2 to this decision.

2. The companies referred to in (2) above are referred to collectively in this decision as “the Abbey Healthcare Companies” and the corresponding corporation tax assessments referred to in (2) above are referred to collectively in this decision as “the Extended Time Limit Assessments” or “the ETL Assessments”. Schedule 2 also shows the closure notices that HMRC issued to the Abbey Healthcare Companies in December 2020 but the Abbey Healthcare Companies no longer seek permission to make late appeals to HMRC against the closure notices in Schedule 2.

### FINDINGS OF FACT

3. I was referred to a Documents and Authorities Bundle of 468 pages, which included the Respondents’ Statement of Objection, a supplementary bundle of 95 pages, a further supplementary bundle of 66 pages and the Applicants’ skeleton argument. I also had the benefit of written witness statements from Andy Taylor, Group Finance Director of Abbey Healthcare Group (“Mr Taylor”) and Grant Summers, a Director at inTAX Ltd, previously of Crowe U.K. LLP, (“Mr Summers”), both of whom gave oral evidence at the hearing. I was also provided with a 15 page document at the hearing, entitled *Respondents Notice and Grounds of Opposition to appeal against conviction and sentence*. After the hearing I was provided with further written submissions from HMRC on 20 March 2025 and the Applicants on 3 April 2025.

4. From all of the above I make the following findings of fact:

(1) In the relevant period the Applicants carried on residential care home businesses in the UK.

(2) In November 2011 Officer Randall of HMRC opened a COP9 enquiry into the Applicants’ tax affairs.

(3) In September 2013, HMRC opened a separate enquiry at local compliance level into the group relief claims made by the Applicants for the accounting period ending December 2011.

(4) On 5 December 2013, the Applicants' representatives, MHA MacIntyre Hudson, wrote to HMRC acknowledging that the annual returns for the accounting period ending 31 December 2011 were not correct as follows:

“As you rightly observe, the annual returns of the above claimant companies and the surrendering companies seem to indicate that their shares are held by either the P Sodhi Overseas Settlement or by Mr Sodhi himself.

It appears, however, that the returns have been prepared erroneously on the basis of the original shareholdings that prevailed at the point of incorporation without taking into account the group ownership which is shown in the attached diagram.

As you will see from the diagram, both the claimant and the surrendering companies are ultimately owned by Lansbury Ltd, a Gibraltar company which is in turned owned by the Prabhdyal Sodhi Overseas Settlement.”

(5) On 4 March 2015, Officer Charles advised that he had decided to include the group relief enquiry within his COP9 enquiry.

(6) During the relevant period Prabhdyal Sodhi (Mr Sodhi) was a director of each of the Applicants and their tax affairs were handled by MHA MacIntyre Hudson.

(7) Group relief claims had been made but the Applicants were not within the same group because they were all owned by a trust, rather than a company.

(8) HMRC pursued a criminal prosecution against Mr Sodhi and certain others, including Rakesh Shaunak of MHA MacIntyre Hudson, for false representations.

(9) In March 2017, Mr Taylor was appointed as the Group Finance Director of the Abbey Healthcare Group. He did not attend Mr Sodhi's trial, nor was he fully aware of all the legal arguments being made by the parties.

(10) The case advanced successfully by the prosecution in the criminal trial was that the structure of the Applicants that had been put in place was one that for many years the Applicants had erroneously but honestly believed qualified for group relief, but that belief was mistaken. The criminality arose when HMRC identified the mistake and attempts were made by Mr Sodhi and/or his advisers to put it right with retrospective effect.

(11) On 3 November 2020, following a jury trial, Mr Sodhi was convicted and on 6 November 2020 he was sentenced to a three year custodial term.

(12) On 23 November 2020 HMRC issued letters to the Applicants stating that discovery assessments would be issued to the Applicants in the amounts set out in Schedule 1 and Schedule 2 to this decision for the years ending 30 June 2007 to 31 December 2013.

(13) The 23 November 2020 letters also made the following statements:

“In accordance with Paragraph 46(2A) Schedule 18 FA 1998 an assessment for a loss of tax brought about deliberately by the company (or a related person) can be made at any time not more than 20 years after the end of the accounting period to which it relates.

It is HMRC's view that when the company submitted its tax return, the director, Mr P S Sodhi knew that the shares in the claimant and surrendering company were not owned by Lansbury Limited and therefore [X Ltd] was not entitled to use the losses of [£x] against its profits.”

(14) At this time Mr Taylor's understanding was that because Mr Sodhi had been found guilty of deliberate behaviour at the criminal trial, that meant that HMRC were entitled to rely on that deliberate behaviour to go back 20 years in relation to the assessments and to recover taxes due from the group relief issue. Having not attended the trial and not knowing the details of the case against Mr Sodhi, Mr Taylor had assumed that the deliberate behaviour that HMRC referred to in the 23 November 2020 letter and relied upon to raise the Extended Time Limit Assessments was the same deliberate behaviour that Mr Sodhi had been found guilty of at the trial.

(15) On 7 December 2020 HMRC issued further letters to the Applicants setting out HMRC's conclusions with respect to the enquiries that it had opened into the Applicants company tax returns and informing them that HMRC would be issuing closure notices with respect to those enquiries.

(16) I was not provided with copies of any of the assessments or closure notices that were issued to the Applicants, they were not provided in any of the bundles. A letter from HMRC to the Abbey Healthcare Group dated 14 December 2020 states that the discovery assessments issued following the letters issued on 23 November 2020 were issued to the Applicants on 2 December 2020 and the closure notices issued following the letters issued on 7 December 2020 were issued on 11 December 2020. The ETL Assessments were therefore issued between almost 7 years and over 13 years from the end of the accounting period to which they relate.

(17) On 9 December 2020 Mr Taylor wrote to HMRC requesting an extension of time until mid-February to verify the amounts assessed. HMRC granted an extension of time by letter dated 14 December 2020, allowing 60 days from the date of the assessments, which would extend the time limit to respond to the ETL Assessments only to 31 January 2021 and to respond to the closure notices only to 9 February 2021.

(18) On 10 February 2021 Mr Taylor wrote to HMRC. This was outside of the 60 day time limit but within the extended time limit that Mr Taylor had requested. In this letter Mr Taylor offered a full and final settlement with respect to the closure notices and ETL Assessments issued to the Abbey Healthcare Companies.

(19) In relation to Huntingdon, Mr Taylor stated in this letter;

"We do however continue to review the additional charge relating to the Abbey Healthcare (Huntingdon) Limited adjustment, as this did not form part of the Group Relief claim. However, we propose to make this as a payment on account, on a without prejudice basis, as well in order to prevent any further interest accruing. Our previous tax advisors have still not provided us with the information to support this adjustment. We will correspond with you on this when we are in a position to do so."

(20) Officer Charles of HMRC responded to that letter on 12 February 2021 as follows:

"Subject to you checking the non group relief adjustments for Abbey Healthcare (Huntingdon) Limited your schedule reconciles with the assessments and closure notices issued to the companies on 2 December 2020 and 11 December 2020.

As none of the assessments or closure notices have been appealed against these are now final."

(21) However Officer Charles then goes on to say in that letter:

“Before I can finalise these matters, I need to consider the penalty position for each company that submitted an incorrect return (old penalties) or a return containing an inaccuracy (new penalties).”

(22) Mr Sodhi appealed by notice dated 2 February 2021 against his conviction. In their notice and grounds of opposition to Mr Sodhi’s appeal dated 30 March 2021 the CPS, Specialist Fraud Division, states:

“The applicant was not prosecuted for the act of submitting the original group relief claims. The prosecution did not suggest that these original group relief claims were submitted dishonestly. **The prosecution case put at trial, in relation to the original claims, was that they were submitted as a result of a misunderstanding or mistake as to the qualification criteria for a group.** It was suggested by the Crown that Mr Sodhi and/or his advisers had wrongly assumed that common ownership by a trust was sufficient to meet the group criteria. This was, if anything a mistake as to the law rather than any clerical error.” [bold added]

(23) On 9 June 2021 Officer Charles wrote to the Applicants explaining how the penalties would be calculated and then under the heading “What happens next?” stated:

“If you wish to make any representations or provide any further information for me to consider you should do this within 30 days of the date of this letter.

If I have heard nothing from you within this period, I will arrange for the issue of penalty assessments in the amounts set out above.

If you do not agree these penalty assessments, you can either

- ask to have all or some of my decisions to be reviewed, or
- notify your appeal for all or specific years to an independent tribunal

within 30 days of the date of issue of the penalty assessments”

(24) On 8 July 2021, the Applicants’ new representative, Grant Summers of Crowe UK LLP, responded requesting an extension of time to make representations on the penalty calculations and requesting that HMRC accept late notices of appeal against all the assessments and closure notices set out in schedules 1 and 2 to this decision on the following grounds:

“I note your letter of 14 December provided a 60 day time limit for appeal which has now expired, but given that Mr Taylor only received the Street’s tax report in June and he received my advice this month. then I trust you will agree that Mr Taylor is bringing his appeal to your attention as soon as possible and therefore you will accordingly be able to agree that the conditions of Section 49 TMA 1970 are satisfied in this case.”

(25) On 9 July 2021, Officer Charles responded, extending the time for representations on the penalty calculations but refusing to accept late notice of the appeals, stating:

“I wrote to Mr Taylor on 14 February 2021 explaining that as no assessments or closure notices had been appealed they were now final. I have received no further communications from the Group until your letter dated 8 July 2021.

I consider HMRC allowed sufficient time for the Group to review the figures and agreed the figures after it had completed a review. The Group did not request any additional time to review the Abbey Healthcare (Huntingdon) Ltd assessments and offered no reasons why it might require additional time.

There appears to be no reason why a timeous appeal could not have been made.

To then ask another person to look at the figures again and wait a further 5 months before asking HMRC if it would accept late appeals is not a reasonable excuse.

I am therefore unable to agree to the request.”

(26) On 9 August 2021 Mr Summers responded explaining further the reason for the delay in appealing the assessments and closure notices as follows:

“It was therefore, not until your letter dated 12 February 2021, ie after waiting for the appeal period to pass, that you raised the issue of potential penalties with Mr Taylor. Mr Taylor assumed (albeit incorrectly) that this kept the total liabilities as a whole ‘open’, ie the tax, interest and penalties, while this new, previously unexpected issue of penalties was considered. This is evidenced by the fact that Mr Taylor instructed the companies’ auditors, Streets, to review the group relief reports prepared by Blick Rothenburg, so that the correct tax position could be established. If he believed the tax position was closed, he would not have done this.”

(27) On 23 August 2021 Officer Charles responded confirming that he would not allow a late appeal against the assessments as follows:

“I do not believe there remains any doubt over the corporate liabilities to 31 December 2013. The assessments are based on the figures provided on behalf of the companies during the proceedings against Mr Sodhi. Mr Taylor was given additional time to check these following the issue of the assessments and the closure notices. Mr Taylor confirmed he accepted the figures for corporation tax and late payment interest in his letter dated 10 February 2021.

Mr Taylor was notified of the formal appeal period when I wrote to him on 14 December 2020 and was informed that the assessments were final and conclusive on 12 February 2021. It would appear the companies now wish to make late appeals because penalties may be applicable. The application of penalties is a separate matter. I do not consider that there are any grounds for an appeal against the tax assessments or that there is a reasonable excuse for submitting one so late.”

(28) On 31 August 2021 HMRC issued the penalties to the Applicants which they appealed in time to HMRC on 30 September 2021. The Applicants also appealed in time to the Tribunal against the penalties.

### **THE HUNTINGDON APPEALS**

5. Huntingdon submits that the letter of 10 February 2021 amounted to an appeal to HMRC against the assessments and closure notices set out in Schedule 1 to this decision. Huntingdon further submits that, because HMRC had extended the statutory time limit for the Applicants to make an appeal to 60 days from the date of assessment, their 10 February 2021 appeal to HMRC was not out of time.

6. Mr Taylor’s letter of 10 February 2021, quoted at 4(19) above, does not explicitly state that Huntingdon is appealing the Huntingdon Assessments and Closure Notices. However, as acknowledged in the HMRC manual at ARTG2140 an Appellant does not have to use the word “appeal” in order for it to be an appeal.

7. Mr Taylor clearly states in his letter of 10 February 2021 that he is continuing to review the Huntingdon figures.

8. In his letter of 9 July 2021 Officer Charles states that:

“The Group did not request any additional time to review the Abbey Healthcare (Huntingdon) Ltd assessments and offered no reason why it might require additional time.”

9. However this statement is not supported by the documentary evidence because in Mr Taylor’s letter of 10 February 2021 he both informs Officer Charles that he will need more time to review the Huntingdon assessments and explains why as follows:

“We do however continue to review the additional charges relating to the Abbey Healthcare (Huntingdon) Limited adjustments, as this did not form part of the Group Relief claim.... Our previous tax advisors have still not provided us with the information to support this adjustment.”

10. Further, Officer Charles acknowledges that Mr Taylor is still reviewing the Huntingdon Assessments and Closure Notices when he states in his letter of 12 February 2021 to Mr Taylor:

“Subject to you checking the non group relief adjustments for Abbey Healthcare (Huntingdon) Limited your schedule reconciles with the assessments and closure notices...”

11. I find therefore that Mr Taylor’s letter of 10 February 2021 is either:

- (1) a request for a further extension of time to review the Huntingdon Assessments and Closure Notices, which Officer Charles granted in his letter of 12 February 2021, without stipulating how long that extension would be. The appeal letter dated 8 July 2021 is therefore in time with respect to the Huntingdon Assessments and Closure Notices; or
- (2) an appeal against the Huntingdon assessments and closure notices.

12. In my view the better analysis, based on the documentary evidence before me, is that the letter of 10 February 2021 is a request for an extension of time with regard to the Huntingdon Assessments and Closure Notices, to which Officer Charles agreed, as set out in 11(1) above, and HMRC must therefore accept the 8 July 2021 appeal against the Huntingdon Assessments and Closure Notices.

13. However, if the letter of 10 February 2021 were the actual appeal to HMRC against the Huntingdon Assessments and Closure Notices it would be late as it was due on 31 January 2021 and 9 February 2021 respectively. For completeness I have therefore also determined an application for permission to allow an appeal against the Huntingdon Assessments and Closure notices late in [36] – [47] below.

#### **PERMISSION TO APPEAL TO HMRC LATE**

14. Where HMRC do not agree to accept a late appeal, section 49(2) of the Taxes Management Act 1970 provides that the Tribunal may give permission to an Applicant to make a late appeal to HMRC. When considering such an application the tribunal is, unlike HMRC, not limited to considering whether the Applicant had a reasonable excuse for giving notice of his appeal to HMRC late. This was set out in the decision in *R (oao Browallia Cal Ltd) v General Commissioners of Income Tax* [2004] STC 296 where the Administrative Court stated:

“[12] It is submitted before me by the taxpayer that s 49, when properly construed, confers upon the General Commissioners, on reference to them of an application to an inspector for permission to lodge an appeal out of time, a wider discretion than that which the Inspector himself had. That discretion is not confined, as the Inspector's discretion is confined, to determining whether there was a reasonable excuse for the failure to lodge the appeal within time but would also embrace such considerations as the lack of any prejudice to the Commissioners as a result of failing to lodge an appeal in time, and

demonstrable injustice to the taxpayer if such an appeal is not permitted to be lodged out of time.

[13] I accept that submission. It seems to me that this is a proper construction of the Act. It is apparent from sub-s (1) of s 49 that it contemplates two stages, the first stage being an application to the Inspector who can, if he can discern a reasonable excuse, properly allow an appeal to be lodged out of time thus saving the necessity of reference to General Commissioners for that permission to be granted; but that if he does not find that there was reasonable excuse, the second stage then arises, which is a reference of the application by the Inspector to the General Commissioners for them to determine.

[14] The section does not purport to guide the General Commissioners in any way as to how that discretion to permit appeals to be lodged out of time should be exercised. It seems to me, therefore, to follow that the General Commissioner's discretion is at large and they can consider the sort of matters which I have referred to which an Inspector of Taxes had no power to take into account.”

15. The decision of the Upper Tribunal in *Martland v HMRC* [2018] UKUT 0178 (TCC) (*Martland*) sets out how the Tribunal should exercise its discretion in deciding whether to allow an Applicant to submit an appeal to HMRC out of time. Paragraph [44] of that decision reads as follows:

“When the [First-tier Tribunal] FTT is considering an applications for permission to appeal out of time, therefore, it must be remembered that the starting point is that permission should not be granted unless the FTT is satisfied on balance that it should be. In considering that question, we consider the FTT can usefully follow the three-stage process set out in Denton:

(1) Establish the length of the delay. If it was very short (which would, in the absence of unusual circumstances, equate to the breach being "neither serious nor significant"), then the FTT "is unlikely to need to spend much time on the second and third stages" - though this should not be taken to mean that applications can be granted for very short delays without even moving on to a consideration of those stages.

(2) The reason (or reasons) why the default occurred should be established.

(3) The FTT can then move onto its evaluation of "all the circumstances of the case". This will involve a balancing exercise which will essentially assess the merits of the reason(s) given for the delay and the prejudice which would be caused to both parties by granting or refusing permission.”

## **Abbey Healthcare Companies**

### **Step 1 – Length of the delay**

16. HMRC extended the statutory time limit for the Applicants to appeal against the ETL Assessments until 31 January 2021. The request for permission to make a late appeal to HMRC was submitted on 8 July 2021, over 5 months late. This is clearly a serious and significant delay in the context of a 60 day time limit.

### **Step 2 – Reasons for the delay**

17. The reason given for the delay is that the Abbey Healthcare Companies agreed the figures in the ETL Assessments and at the relevant time they were not aware of any other basis on which they could appeal against these assessments.



18. The ETL Assessments were issued more than 6 years after the end of the accounting periods to which they related. HMRC is only permitted to make assessments this long after the accounting period to which they relate if the loss of tax has been “brought about deliberately by the company (or a related person)” (paragraph 46(2A) of Schedule 18 to the Finance Act 1998 (“FA 98”).

19. Mr Sodhi had been found guilty of deliberate behaviour and Mr Taylor, who did not have a detailed knowledge of the criminal proceedings, assumed that HMRC was relying on the same deliberate behaviour to issue the extended time limit assessments.

20. It was only after HMRC issued penalty warning letters to the Applicants, four months after they had notified the Applicants that they were looking into the penalty position, and Mr Taylor instructed Mr Summers to review the penalties, that Mr Summers informed Mr Taylor that the deliberate behaviour required for HMRC to issue the ETL Assessments was different to that which Mr Sodhi had been found guilty of in the criminal proceedings.

21. HMRC did state in their letter of 23 November 2020 that the deliberate behaviour on which they relied to issue the ETL Assessments was:

“that when the company submitted its tax return, the director, Mr P S Sodhi knew that the shares in the claimant and surrendering companies were not owned by Lansbury Limited and therefore [X Limited] was not entitled to use the losses of [£Y] against its profits.”

22. However, HMRC did not explain that this was a different deliberate behaviour to that relied on in the criminal proceedings and that it was in fact a behaviour that prosecutors had specifically asserted in the criminal proceedings did not exist.

23. In my view HMRC should have, at the least, alerted the Applicants to this discrepancy. Given their failure to do so, it was not unreasonable for the Applicants to assume that HMRC was relying on the same facts as those on which Mr Sodhi had been convicted and that they therefore could not dispute the deliberate behaviour on which HMRC relied to issue the ETL Assessments.

24. Once the Applicants became aware of this discrepancy, having taken advice following the penalty warning letters, they wrote to HMRC requesting permission to make late appeals against the ETL Assessments.

25. In the circumstances I consider that the Applicants reason for the five month delay has some merit.

### **Step 3 – All the circumstances of the case**

26. When considering the overall circumstances of a case it is necessary to consider the prejudice to both parties of granting or refusing the permission, taking into account the importance of meeting time limits in litigation. As stated in *Martland* at paragraph 34:

“...the purpose of the time limit is to bring finality, and that is a matter of public interest, both from the point of view of the taxpayer in question and that of the wider body of taxpayers.”

27. Further in *HMRC v Hafeez Katib* [2019] 0189 UKUT (TCC) (“Katib”), the Upper tribunal held at paragraph 17, that the First-tier Tax Tribunal had made an error of law;

“in failing to...give proper force to the position that, as a matter of principle, the need for statutory time limits to be respected was a matter of particular importance to the exercise of its discretion.”

28. The Court of Appeal in *BPP Holdings Limited v HMRC* [2016] EWCA Civ 121 also found that compliance ought to be expected unless there was “good reason to the contrary.”

29. Another factor to consider in the overall circumstances is, as stated in the *Martland* decision at paragraph 46;

“any obvious strength or weakness of the applicant's case; this goes to the question of prejudice - there is obviously much greater prejudice for an applicant to lose the opportunity of putting forward a really strong case than a very weak one. It is important however that this should not descend into a detailed analysis of the underlying merits of the appeal.”

30. The Applicants have accepted the figures in the ETL Assessments but wish to appeal against them on the basis that the statutory criteria to issue these assessments over 6 years after the end of the year of assessment is not met. This is because the loss of tax was not “brought about” by the deliberate behaviour of the Applicants and that this fact was acknowledged by the prosecution in the criminal proceedings against Mr Sodhi. From the evidence before me I do not consider this ground to be weak or without any merit.

31. In considering all the circumstances of the case I consider that it is also relevant to take into account the fact that HMRC have delayed considerably in issuing the ETL Assessments. HMRC opened an enquiry into all the Applicants’ company tax returns on 13 November 2013. The Applicants’ representative at that time, MHA MacIntyre Hudson, responded on 5 December 2013 acknowledging that the company returns had been prepared erroneously based on a misunderstanding of the group structure. HMRC were therefore alerted at this point to the potential loss of corporation tax, but they did not issue any assessments for a further 7 years.

32. It is because of this considerable delay that HMRC only has the statutory power to issue the ETL Assessments if the loss of tax was “brought about” by the deliberate behaviour of the Applicants. The Applicants’ 5 month delay in bringing their appeals, must be considered in the context of HMRC’s 7 year delay in issuing the assessments.

33. HMRC assert that they will be prejudiced if the appeals are allowed to go ahead because it will require a complete reworking of the case to consider allowable reliefs and allowances.

34. However, the Applicants accept that the figures assessed in the ETL Assessments are correct and the Abbey Healthcare Companies are not appealing against the closure notices. The Applicants only challenge the facts on which HMRC rely to issue the ETL Assessments so long after the end of the accounting periods to which they relate. The facts that will need to be established to decide this issue are largely the same as those that will need to be determined in the penalty appeals. In that context the prejudice to HMRC in allowing the Applicants permission to make their appeals to HMRC out of time is much reduced because HMRC will not be put to a great deal of additional work in litigating these appeals than they are anyway having to do in the context of the penalty appeals.

35. Having weighed up the Applicants’ five months delay in making their appeal to HMRC and the relatively small prejudice to HMRC in granting permission against the fact that there is some merit to their reason for the delay and the significant prejudice to the Applicants if they are denied permission and having considered all the other circumstances as set out above, I grant the Applicants’ permission to notify their late appeals to HMRC against the Extended Time Limit Assessments set out in Schedule 2 to this decision.

### **Huntingdon**

36. I have already determined above that the 8 July 2021 letter from Huntingdon to HMRC is an in date appeal to HMRC against the Huntingdon Assessments and Closure Notices. However for completeness only I consider below the position if the letter of 10 February 2021 is an appeal against the Huntingdon Assessments and Closure Notices.

### **Step 1 – Length of the delay**

37. The time limit for Huntingdon to submit their appeal to HMRC against the Assessments was 31 January 2021 and against the Closure Notices was 9 February 2021. The 10 February 2021 appeal would therefore be between 1 and 10 days late.

38. A delay of between 1 and 10 days in the context of a 60 day time limit is relatively short.

### **Step 2 – Reason for the delay**

39. Huntingdon has offered no reason for this delay, asserting only that the appeal was not late. However in the letter from Mr Taylor dated 9 December 2020 requesting an extension of time to respond to the Assessments and Closure Notices, Mr Taylor makes the following statements:

“The letters re-assess the corporation tax liability for periods ranging from June 2007 to December 2013. Please be aware none of the current management team were with the company at the time of these group relief claims were made.

The current senior management team has a duty to ensure that the amounts paid are correct. To do so we need further information and time to verify the amounts assessed and prior to paying the liability due. We therefore request an extension of the time limit to allow proper consideration of the assessments with our advisors. We would request an extension to mid-February to allow this given the number of returns and complexity involved, as well as taking into account the impact of Covid and Christmas.”

40. From this letter it is clear that Mr Taylor considered that he needed until mid-February to carry out a review and he then reverted to HMRC before that mid-February deadline.

### **Step 3 – All the circumstances of the case**

41. When considering all the circumstances of the case it is necessary to weigh up the prejudice to both parties of granting or refusing the permission, as well as the length of and reasons for the delay.

42. In the case of the Huntingdon appeals there was only a short delay of a matter of days and therefore HMRC could only have reasonably considered the matter closed for that short period of time. In HMRC’s letter to Mr Taylor dated 12 February 2021, Mr Charles stated;

“subject to your checking the non-group relief adjustments for AH Huntingdon your schedule reconciles with the assessments and closure notices issued to the companies on 2 December and 11 December”.

43. This suggests that Mr Charles had accepted the appeal against the Huntingdon Assessments and Closure notices (notwithstanding that they were late by a few days) and accepted that these were not therefore final.

44. Mr Charles did go on to say in this letter;

“As none of the assessments or closure notices have been appealed against these are now final.”

However given Officer Charles’ acknowledgment that Mr Taylor was still checking the Huntingdon adjustments this statement can only be in reference to the Abbey Healthcare Companies’ liabilities.

45. The prejudice to HMRC is therefore minimal in allowing the appeal against the Huntingdon assessments and closure notices to be submitted to HMRC slightly late.

46. Mr Taylor submits that the correct figures for the Huntingdon appeals are that the tax liability should be reduced by £278,037 and produce a loss to carry forward of £1,005,120. I have not been provided with any evidence from which to assess the merits of this assertion and I make no finding on the strength or weakness of either parties case on this aspect of the substantive appeal. However, denying Huntingdon the right to appeal against the quantum of these figures because they were days later in submitting their appeal to HMRC would clearly be very prejudicial to Huntingdon.

47. Weighing up the short delay and minimal prejudice to HMRC of granting the permission, against the significant prejudice to Huntingdon of refusing the permission, I would therefore grant Huntingdon permission to appeal late to HMRC against the assessments and closure notices set out in Schedule 1.

### **Conclusion**

48. I confirm that the appeals that Huntingdon made in its letter to HMRC dated 8 July 2021, against the Huntingdon Assessments and Closure Notices are in time.

49. I grant permission to the Abbey Healthcare Companies to notify their appeals to HMRC late against the Extended Time Limit Assessments.

50. 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.

**Release date: 04<sup>th</sup> JULY 2025**

**SCHEDULE 1**

<b>Company Name</b>	<b>Date</b>	<b>Description</b>	<b>Period Ending</b>	<b>Amount</b>
Abbey Healthcare (Huntingdon) Limited	02.12.20	Assessment	Jun-07	£14,161.51
	02.12.20	Assessment	Dec-07	£16,464.90
	02.12.20	Assessment	2009	£22,881.04
	02.12.20	Assessment	2010	£97,127.80
	11.12.20	Closure Notice	2011	£77,485.32
	11.12.20	Closure Notice	2012	£71,541.00
	11.12.20	Closure Notice	2013	£20,665.00
	11.12.20	Adjustment	2014	£34,621.00

**SCHEDULE 2**

<b>Company Name</b>	<b>Date</b>	<b>Description</b>	<b>Period Ending</b>	<b>Amount</b>
Abbey Healthcare (East Kilbride) Limited	02.12.20	Assessment	2007	£2,092.79
	02.12.20	Assessment	2010	£59,241.28
	11.12.20	Closure Notice	2011	£24,922.64
	11.12.20	Closure Notice	2012	£102,137.68
	02.12.20	Assessment	2013	£61,388.83
Abbey Healthcare (Farnworth) Limited	11.12.20	Closure Notice	2011	£68,164.62
	11.12.20	Closure Notice	2012	£110,424.86
	02.12.20	Assessment	2013	£38,991.54
Abbey Healthcare (Kendal) Limited	02.12.20	Assessment	Jun-07	£42,714.00
	02.12.20	Assessment	Dec-07	£35,533.50
	02.12.20	Assessment	2008	£55,673.40
	02.12.20	Assessment	2010	£102,001.48
	11.12.20	Closure Notice	2011	£107,363.00
	11.12.20	Closure Notice	2012	£8,977.58
	11.12.20	Closure Notice	2013	£65,255.04
Abbey Healthcare Homes Limited	02.12.20	Assessment	2010	£25,258.80
	11.12.20	Closure Notice	2013	£9,949.00
Barleycroft Care Home Limited	02.12.20	Assessment	2011	£2,170.03
Trees Park (Callards) Limited	02.12.20	Assessment	2010	£47,416.60
	02.12.20	Assessment	2011	£51,785.90
	02.12.20	Assessment	2013	£15,479.37
Abbey Healthcare (Festival) Limited	11.12.20	Closure Notice		£0.00