UPPER TRIBUNAL
TAX AND CHANCERY CHAMBER

Neutral Citation Number: [2026] UKUT 00330 (TCC)

Applicant: Jordan Lyden	**Tribunal Ref**: UT-2025-000065
Respondent: The Commissioners of His Majesty's Revenue and Customs	

APPLICATION FOR PERMISSION TO APPEAL

1. Mr Lyden applies to the Upper Tribunal (Tax and Chancery Chamber) for permission to appeal against the decision of the First-tier Tribunal (Tax Chamber) ("FTT") released on 13 February 2025 ("the Decision") refusing an application to be allowed to make a late appeal against closure notices determining an increase in his income tax liability in relation to two tax years. In a decision dated 12 June 2025 the FTT refused permission to appeal against the Decision.

2. Mr Lyden renewed his application to the Upper Tribunal, and I refused permission to appeal on paper in a decision released on 21 July 2026. This decision follows an oral hearing of the application on 25 August 2026 at which David Parker of Parkers Accountancy appeared for the Mr Lyden.

3. Section 11(1) Tribunals, Courts and Enforcement Act 2007 provides for a right of appeal to the Upper Tribunal "[…] on any point of law arising from a decision made by the First-tier Tribunal". I should only grant permission to appeal on a particular ground if I am satisfied that it is arguable, with a realistic prospect of success, that there is a material error of law in the Decision.

4. In summary, the notice of appeal was filed more than four months late. The reasons given for the delay were:

(1) Mr Lyden's accountant being ill and unable to work for a lengthy period,

(2) Mr Lyden suffering a career ending injury in consequence of which his mental health suffered, and he went to Australia for a lengthy period to recuperate with his family,

(3) Mr Lyden mental health issues meant that his capacity to deal with his tax affairs was limited,

(4) Mr Lyden's accountant was under considerable work pressure on his return to work and because of that, and Mr Lyden's absence from the UK, he did not contact Mr Lyden. The accountant acknowledged that he could have made greater efforts to do so.

5. In applying the *Martland* criteria, the FTT accepted that Mr Lyden's accountant was absent from work for an extended period for health reasons, and acknowledged that this would have constituted good grounds for the delay, for the fact that his absence only started when the appeal was already two months late.

6. The FTT found that the state of Mr Lyden's mental health and his absence in Australia were not good grounds for the delay. The FTT noted that the state of Mr Lyden's health was challenged by HMRC, and there was no evidence presented to substantiate the state of his health, and there was evidence that Mr Lyden was able to deal with his agent during this period. The FTT decided that Mr Lyden's absence in Australia was not a barrier to communication with his accountant. Finally, the FTT noted that a taxpayer cannot delegate entire responsibility for the conduct of their tax affairs to their accountant, and a taxpayer has some responsibility to ensure that their accountant deals with their affairs on a timely basis, and follows-up if filings are delayed.

7. The FTT gave no weight to submissions by HMRC that Mr Lyden's appeal was "doomed to fail".

8. In evaluating all the circumstances, the FTT held that Mr Lyden had not established a good reason for the delay and in all the circumstances it was not appropriate to give permission for a late appeal.

9. The grounds of appeal can be summarized as follows:

(1) The FTT failed to conduce a holistic assessment of "good reasons" for delay and so erred in law in applying the "*Martland*" framework;

(2) The FTT applied insufficient weight to the Appellant's prejudice, and its exercise of discretions was therefore flawed;

(3) The FTT's scrutiny of the underlying merits was insufficient, and it gave inadequate reasons for its decision; and

(4) The FTT disregarded relevant principles of contextual fairness.

10. Grounds 1 and 2 relate to the application of the principles established by *Martland* and the weight to be given to the various factors in reaching its decision. It is trite law that it is for the primary fact-finding tribunal to decide how much weight to give to relevant factors in performing a multi-factorial evaluation and that an appellant tribunal should be slow to interfere with the decision of the lower tribunal unless the latter took into account irrelevant factors or ignored relevant factors. Whilst Mr Lyden clearly disagrees with the weight placed by the FTT on the evidence before it, Mr Parker was unable to point to the FTT considering irrelevant factors or ignoring relevant factors in reaching its decision. The FTT expressly stated in its Decision that the prejudice suffered by Mr Lyden in not being able to pursue his appeal weighed in support of allowing the late appeal. The FTT in its decision set out its reasons for the weight it gave to the evidence before it, and there is no basis for this Tribunal to interfere with those findings. I find that there is no realistic prospect of success in relation to either ground 1 or 2.

11. Ground 3 can be split into two elements. The first is that the FTT did not adequately scrutinize the underlying merits of the Mr Lyden's case. This is the flip side of the coin to the

weight given by the FTT to the evidence before it. The Decision went on to state that HMRC had not convinced the FTT that Mr Lyden's appeal was "doomed to fail", but Mr Parker had also not convinced the FTT that Mr Lyden's case was very strong – and for these reasons the FTT did not consider that the likely merits of the underlying appeal weighed strongly in either direction. I therefore find that there is no realistic prospect of an appeal on this part of ground 3 succeeding.

12. The second element of ground 3 relates to the reasons given by the FTT for its decision. The FTT's decision extends to 36 paragraphs over five pages. It sets out the applicable law. summarises the submissions of the parties, and sets out the reasons for its decision based on the law and the submissions by the parties. I am satisfied that the FTT's decision sets out its reasons for its decision in adequate detail. The Senior President's Practice Direction on Reasons for Decisions of 4 June 2024 (https://www.judiciary.uk/guidance-and-resources/practice-direction-from-the-senior-president-of-tribunals-reasons-for-decisions/) requires that Tribunals are not required to elaborate at length on their conclusions on any issue of law, or to express every step of their reasoning: "The reasons provided for any decision should be proportionate, not only to the resources of the Tribunal, but to the significance and complexity of the issues that have to be decided. […] Stating reasons at any greater length than is necessary in the particular case is not in the interests of justice." I am satisfied that the FTT's decision more than meets this standard and find that there was no error of law as regards the adequacy of its reasons.

13. Ground 4 relates to the fact that taxpayers are held to a 30-day timescale to appeal against closure notices or assessments, whereas HMRC are not subject to such strict time limits. Whilst I understand the frustration that the Applicant has in relation to this, it forms part of the statutory scheme for appeals, and would not, of itself, be a factor to weigh in the *Martland* assessment.

14. For these reasons, I find that there are no realistic prospects of success for an appeal, and I therefore refuse permission.

Signed: Judge Nicholas Aleksander **Date: 25 August 2026** **Upper Tribunal Judges**
Issued to the parties on: 26th August 2026