# Scilly Flowers cuts down £48k VAT penalty with reasonable excuse

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12 Mar 2026
Published online by Business & Accountancy Daily

**Flower partnership wins dispute over VAT penalty as had reasonable excuse after little known rule change to niche VAT rule, explains Julie Butler FCA**

The taxes surrounding farming are complicated across the board and diversification has only helped pile on the complication. The case of *Julian & Anor v Revenue and Customs* [2026] UKFTT 159 at the First Tier Tribunal (FTT) highlights not just the complexity of VAT rules but the need for HMRC to notify changes.

The *Julian* case involved a farming partnership which consists of Andrew Julian and his wife Hilary, son Ben and wife Zoe, and Amy, the Julian's daughter Amy, who is a partner but does not work in the business.

The Julian partnership grows flowers outdoors year round on 14 hectares of land rented from the Duchy of Cornwall on the small island of St Martin's in the Isles of Scilly, which are sold as gifts and posted to customers. The family also runs a small beef herd and two holiday cottages.

The flower operation is a classic form of farm diversification. The Julian family has run the farming business on the Isles of Scilly for the best part of 40 years, growing flowers and

raising cattle. They used a local Cornish accountant, who was acknowledged as diligent but did not claim to be an expert in specialist farming taxes.

The Julians went to the FTT to dispute a VAT penalty related to their use of the agricultural flat-rate scheme (AFRS), which is an alternative to VAT registration for farmers and switched to the simplified arrangements designed to reduce the administrative burden on smaller agricultural businesses. The couple had been VAT registered since 1987 and using the AFRS system since 1995.

At the tribunal, HMRC submitted the Scilly partnership was liable for penalties of £43,438 for failure to notify liability to register for VAT. However, the appellant argued this was due to a little publicised change to the AFRS.

Under the AFRS, businesses apply a 4% addition to qualifying sales to VAT-registered customers but do not claim input tax. The scheme suits certain circumstances and it is understood to be used by about 2,000 farming businesses. The farmers should carry out the calculations of advantages/disadvantages.

**The change to the AFRS rules**

In January 2021, measures included in the spring Budget 2020 came into effect which changed the ‘entry and exit’ criteria for the AFRS. These changes made a business ineligible for the scheme if the total value of taxable supplies within a certain annual period was more than £230,000.

It also introduced an obligation on a user of the AFRS scheme to notify HMRC if the £230,000 threshold was exceeded. The changes were made in technical Value Added Tax (Amendment) Regulations 2020, which included a power for HMRC to withdraw an AFRS certificate in certain circumstances, including where supplies exceed the limit.

By chance, the Julian’s accountant became aware of the change in the rules in April 2023 when she was researching other farming reliefs. She immediately informed the Julians and they promptly instructed her to contact HMRC in order to register the business for VAT and let them know of the failure to notify liability to register.

VAT arrears were agreed at £500,000 which perhaps shows how AFRS can work with low inputs, and a 20-month time to pay agreement was negotiated with HMRC.

As a result, Mr and Mrs Julian Senior made a large loan to the partnership from their retirement savings, so the VAT owed was repaid within 12 months. A penalty was also charged by HMRC of £43,438 for late notification.

**The penalty appeal – lack of publicity of the change**

At tribunal, the penalty of £43,438 charged by HMRC was overturned. The arguments were that the Julian Partnership themselves were unaware of the 2020 Budget changes lowering the threshold for exit.

The FTT had to consider solely whether the Julians had a reasonable excuse for failing to notify their liability to register, in which case they would not be liable for the penalty. The tribunal found in favour of the family business, on the basis that there had been very little publicity about the changes to the AFRS rules by HMRC.

It was decided that these were not set out in the Finance Act, nor were they in the Budget press releases. HMRC's litigator, Victor Olamide, was unable to provide the source of the announcement of the changes.

The partnership's accountant, who the tribunal found had operated in a diligent manner as mentioned, became aware of the changes by chance in April 2023. HMRC argued that the farming family and their accountants should have known about the change.

The tribunal strongly disagreed, saying the update was so poorly publicised that it was reasonable not to know. This decision makes it harder for HMRC to justify penalties where rule changes are unclear or hidden, and does hopefully highlight the need for HMRC to publicise the detail of the Budgets, not just the headline grabbing highlights.

This case is a win against the lack of publicity for the detail of the changes. HMRC's case stated that it was unreasonable for HMRC to be expected to contact individual taxpayers about changes in legislation and that it is the taxpayer's duty to keep abreast of tax changes affecting their business, or to employ a suitable professional to do so.

HMRC maintained that the changes to the legislation were in the public domain. Perhaps HMRC should widen its publicity of such changes?

The main principle of the case was essentially a battle with HMRC that in general terms, has existed a long time, on what constitutes a 'reasonable excuse', given it is not defined in legislation. HMRC's guidance generally deals with 'unforeseen circumstances'.

In this case, HMRC took a strict approach and failed to recognise that the law change was difficult to find and not easily accessible to the taxpayer or even a generalist accountant. This case highlights the need for more publicity by HMRC of changes to the detail of rules, in specialist, farm and wider national media to explain the impact for farmers and tax advisers, and more widely to ensure that detail is covered.

The Julian family and their adviser acted in good faith, especially with regard to repaying extra VAT due. Therefore the HMRC approach on the penalty is perhaps harsh but it does highlight that they will try to impose a penalty. It is also a wake up call to advisers of the complexity of farming.

**About the author**

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