

06-0799
Penalty & Interest
Signed 02/15/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,)	
)	ORDER
Petitioner,)	
)	Appeal No. 06-0799
v.)	
)	Account No. #####
TAXPAYER SERVICES DIVISION,)	
UTAH STATE TAX COMMISSION,)	Tax Type: Penalty & Interest
)	
Respondent.)	Presiding: Jensen

Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1
PETITIONER 2
PETITIONER REPRESENTATIVE, Counsel for Petitioners

For Respondent: RESPONDENT REPRESENTATIVE 1, Assistant Utah Attorney
General
RESPONDENT REPRESENTATIVE 2, from the Taxpayer Services
Division
RESPONDENT REPRESENTATIVE 3, from the Taxpayer Services
Division

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing in accordance with Utah Code Ann. §59-1-502.5 on September 6, 2006.

APPLICABLE LAW

The Tax Commission is granted the authority to waive, reduce, or compromise penalties and interest upon a showing of reasonable cause. Utah Code Ann. § 59-1-401(11).

DISCUSSION

Petitioner is appealing penalties assessed for late payment of Utah state income taxes for 2001, 2002, 2003, and 2004. The penalty amounts for each of these years are as follows:

2001	\$\$\$\$\$
2002	\$\$\$\$\$
2003	\$\$\$\$\$
2004	\$\$\$\$\$

The Petitioner had penalties assessed prior to 2001 that are not a part of this appeal because the parties have determined that years prior to 2001 are beyond the statute of limitation.

Petitioner's representative explained that PETITIONER 1 and PETITIONER 2 have had extensive medical expenses for their children, which totaled over \$\$\$\$\$ for the period 2000 through 2005. The Petitioner argued that although the serious health problems causing these expenses were chronic in nature, there was nevertheless good cause to waive the penalties at issue because the medical problems continued in a serious manner throughout the time period at issue.

Tax Commission Publication 17, available at <http://tax.utah.gov/forms/pubs/pub-17.pdf>, explains the factors that the Commission will consider in reviewing waiver requests. This publication lists serious illness as a reason to waive penalties, but explains that the "illness must have occurred on or immediately prior to the due date of the return." In this case, the parties agree that the health conditions at issue are long standing and did not emerge at the time of tax filings. Thus the health problems, while severe, do not constitute good cause to waive penalties in this case.

DECISION AND ORDER

Based upon the foregoing, the Commission finds that sufficient cause not been shown

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to justify a waiver of the penalties associated with 2001, 2002, 2003, and 2004. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this _____ day of _____, 2007.

Clinton Jensen
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION:

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this _____ day of _____, 2007.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

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Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Notice: If the Petitioner does not request a Formal Hearing within the thirty-days as discussed above, failure to pay the amount of deficiency that results from this order may result in an additional penalty.

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