

02-1158
INCOME TAX
TAX YEARS: 1998, 1999, 2000
SIGNED: 01-23-2003

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	
)	ORDER
Petitioner,)	
)	Appeal No. 02-1158
v.)	
)	
AUDITING DIVISION OF)	Tax Type: Income Tax
THE UTAH STATE TAX)	
COMMISSION,)	Judge: Phan
)	
Respondent.)	

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REP., Manger, Income Tax Auditing

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on November 25, 2002.

Petitioner is appealing an audit deficiencies of additional income tax for the tax years 1998, 1999 and 2000. The deficiencies resulted from three types of changes or disallowances made by Respondent during the audit. For 1998 Petitioner had filed as head of household on his Utah return, while he had filed with a joint return status on his federal return. This discrepancy caused a tax adjustment for that year. An issue with the 1998, 1999 and 2000

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returns was the state tax add back. A third issue, which was the one contested by Petitioner, pertained only to the 2000 tax year. For the 2000 tax year, Respondent disallowed Petitioner's deduction in the amount of \$\$\$\$ for health care premiums paid by Petitioner.

APPLICABLE LAW

(1) There shall be added to federal taxable income of a resident or nonresident individual: (a) the amount of any income tax imposed by this or any predecessor Utah individual income tax law and the amount of any income tax imposed by the laws of another state, the District of Columbia, or a possession of the United States, to the extent deducted from federal adjusted gross income, as defined by Section 62, Internal Revenue Code, in determining federal taxable income. (Utah Code Ann. Sec. 59-10-114(1)(a).)

(2) There shall be subtracted from federal taxable income of a resident or nonresident individual: . . . (h) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during the taxable year for health care insurance . . . (Utah Code Ann. Sec. 59-10-114(2)(h).)

(3)(e) For purposes of Subsection (2)(h), a subtraction for an amount paid for health care insurance as defined in Title 31A, Chapter 1, General Provisions, is not allowed: (i) for an amount that is reimbursed or funded in whole or part by the federal government, the state, or an agency or instrumentality of the federal government or the state; and (ii) for a taxpayer who is eligible to participate in a health plan maintained and funded in whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.

DECISION AND ORDER

In looking at the issue of the state tax add back, the federal government allows a deduction for state and local income taxes paid during the year so that amount is deducted from the federal taxable income. Utah taxable income starts with federal taxable income. Since Utah does not allow a deduction for state income taxes, those amounts are added back in determining the amount of Utah taxable income.

Petitioner in this matter was mostly concerned with the disallowance of the deduction for the amount he had paid out of pocket for health insurance premiums. He explained that he was a federal government retiree. He was able to maintain his federal government health insurance but he had to pay a portion of the health care insurance premium. The federal government also paid a portion. The amount that Petitioner deducted was only that portion that Petitioner had actually paid out-of-pocket towards the premium. Petitioner did not feel it was right that he could not deduct the portion that he paid out of pocket. The deduction for the health care premiums is statutory and the Tax Commission must follow the law as it is written by the Utah Legislature. The applicable statute is Utah Code Ann. Sec. 59-10-114(2)(h) and (3)(e). The provision is understandably difficult for taxpayers to follow as subsection (2)(h) appears to allow the deduction but does indicate that it is limited by subsection (3)(e). Subsection (3)(e) clearly disallows the deduction in Petitioner's case, as well as for many other

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taxpayers. It would take a statutory revision on the part of the Utah Legislature for Petitioner's out-of-pocket expense for insurance premium to qualify for the deduction.

Based on the foregoing, the audit deficiency of tax and interest for the tax years 1998, 1999 and 2000 is sustained. 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 _____, 2003.

Jane Phan
Administrative Law Judge

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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 _____, 2003.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

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