

03-0690
Audit
Signed 01/12/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,)	
)	
)	ORDER
Petitioners,)	
v.)	Appeal No. 03-0690
)	Account Nos. #####
)	#####
AUDITING DIVISION OF)	Tax Type: Income Tax
THE UTAH STATE TAX)	Tax Year: 1999
COMMISSION,)	
)	
Respondent.)	Judge: Robinson

Presiding:
R. Spencer Robinson, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER REPRESENTATIVE
For Respondent: RESPONDENT REPRESENTATIVE 1, from the Auditing Division
RESPONDENT REPRESENTATIVE 2, from the Auditing Division

STATEMENT OF THE CASE

On May 18, 2004, 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. Based on information from the IRS, the Division changed Petitioners' state return. Petitioners attempted to file an amended federal return. The IRS rejected it.

FINDINGS OF FACT

In 2003, the Respondent conducted an audit of Petitioners' 1999 tax return. The audit was based on information received from the Internal Revenue Service.

Petitioners' 1999 Utah resident tax return listed a federal adjusted gross income of \$\$\$\$\$, an itemized deduction of \$\$\$\$\$, and a federal tax deduction of \$\$\$\$\$. Information from the IRS showed

Appeal No. 03-0690

Petitioners' federal adjusted gross income as \$\$\$\$\$, with itemized deductions totaling \$\$\$\$\$ and federal tax of \$\$\$\$\$. \$\$\$\$\$ (half of the federal tax paid) is deductible on the Utah tax return.

Following receipt of the information from the IRS, Respondent made changes and issued a Statutory Notice of Audit Change on April 2, 2003. It informed Petitioners that the result was an additional \$\$\$\$\$ in state income tax due, along with interest in the amount of \$\$\$\$\$, as of May 2, 2003. Petitioners disputed the claim.

Petitioners also filed an amended return with the IRS, which declined to accept it on the grounds it was not timely filed. The declination is on appeal. It may take a year before the IRS responds to the appeal.

Respondent's position is consistent with the current IRS information. Neither party offered a legal reason as to why a decision should not be issued.

DECISION AND ORDER

Based on the foregoing, the Tax Commission denies Petitioners claims and affirms Respondent's position. Petitioners are responsible to pay \$\$\$\$\$, plus interest. 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

Appeal No. 03-0690

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

DATED this _____ day of _____, 2004.

R. Spencer Robinson
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 _____, 2004.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

RSR/03-0690.int