

03-1675
INCOME
TAX YEAR: 2002
SIGNED: 04-26-2004

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 AND PETITIONER 2,)		
)	ORDER	
Petitioners,)		
)	Appeal No.	03-1675
v.)		
)	Tax Year:	2002
AUDITING DIVISION OF)	Tax Type:	Income Tax
THE UTAH STATE TAX)		
COMMISSION,)	Judge:	Robinson
)		
Respondent.)		

Presiding:

R. Spencer Robinson, Administrative Law Judge

Appearances:

For Petitioners: PETITIONER 1, *pro se*

For Respondent: RESPONDENT REP., Assistant Attorney General

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 February 24, 2004. PETITIONER 1 provided additional written information on March 5, 2004.

Petitioner is appealing an audit deficiency of additional income tax for the 2002 tax year. For the 2002 tax year, Respondent disallowed Petitioners' deduction in the amount of \$\$\$\$ for health care premiums paid by Petitioners. Respondent denied a total of \$\$\$\$\$. \$\$\$\$\$ was denied on the grounds that it was reimbursed or funded by a Civil Service Annuity from the Office of

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Personnel Management. Respondent denied a deduction of \$\$\$\$ on the grounds it was a Medicare premium funded by the BOARD. Respondent denied a deduction of \$\$\$\$ for co-payments to pharmacies for prescriptions. Respondent allowed a deduction of \$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §59-10-114(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 . . .

(i) for:

- (A) the taxpayer;
- (B) the taxpayer's spouse; and
- (C) the taxpayer's dependents

59-10-114(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 in 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

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. The amount that Petitioner

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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). 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.

As noted earlier, there is no provision for deducting co-payments for prescriptions.

Based on the foregoing, the audit deficiency of tax and interest for the 2002 tax year 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 _____, 2004.

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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

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