

04-1043  
Audit  
Signed 02/01/2005

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	
	)	<b>ORDER</b>
Petitioner,	)	
	)	Appeal No. 04-1043
v.	)	Account No. #####
	)	
AUDITING DIVISION	)	Tax Type: Withholding/
OF THE UTAH STATE TAX	)	Interest
COMMISSION,	)	Tax Period: 2001
	)	
Respondent.	)	Judge: Robinson

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**Presiding:**

R. Spencer Robinson, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER, via telephone

For Respondent: RESPONDENT REPRESENTATIVE, Auditing Division

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 October 4, 2004. Petitioner requests a waiver of interest assessed on a \$\$\$\$ discrepancy in withholding tax payments for 2001.

Petitioner submitted a check in the amount of \$\$\$\$\$, dated December 30, 2001, to the Tax Commission. Petitioner intended the payment to be applied to withholding tax. Petitioner sent the check with a Utah Corporation Franchise/Income Tax Payment Coupon.

On September 16, 2002, \$\$\$\$\$ was applied to tax payments that should have accompanied the coupon. On February 10, 2003, a check was sent to Petitioner in the amount of \$\$\$\$\$. Petitioner did not request this refund.

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A subsequent audit of the 2001 taxes revealed a discrepancy. Utah state withholding shown on W-2's was \$\$\$\$\$. The amount of withholding reported on Form TC-96R for the same period was \$\$\$\$\$. The difference of \$\$\$\$\$ is apparently what Petitioner attempted to pay, but submitted with the improper form. He later received a refund of \$\$\$\$\$, plus a payment of \$\$\$\$\$ and refunded interest of \$\$\$\$\$. The total returned to Petitioner was \$\$\$\$\$.

#### 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(10).

#### DECISION AND ORDER

Petitioner originally erred when he submitted his payment with the incorrect form. Thus, the payment was not credited to the proper account. Petitioner received a refund that included a payment of \$\$\$\$\$ and interest of \$\$\$\$\$. As all of this resulted from Petitioner's error, Petitioner is responsible for paying penalty and 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

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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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 \_\_\_\_\_, 2005.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Palmer DePaulis  
Commissioner

Marc B. Johnson  
Commissioner

*RSR/ssw/04-1043.int*