

04-1376
Audit
Signed 05/05/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,)		
)	ORDER	
Petitioner,)		
)	Appeal No.	04-1376
v.)		
)	Account No.	#####
AUDITING DIVISION OF THE)		
UTAH STATE TAX COMMISSION,)	Tax Type:	Income
)		
Respondent.)	Judge:	Phan

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1
For Respondent: RESPONDENT REPRESENTATIVE 1, Manager, Income Tax Auditing
RESPONDENT REPRESENTATIVE 2, Senior Auditor

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing on April 21, 2005. The matter had been set for a Status Conference but was converted to an Initial Hearing. Petitioner is appealing an audit deficiency of tax and interest assessed for 2002. The amount of the income tax deficiency was \$\$\$\$\$. Interest assessed with the audit 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).

DISCUSSION

Petitioner indicates that he disagrees with the audit amount. He understood that the Utah state audit is based on information from the Internal Revenue Service. He had been trying to get the matter resolved with the Internal Revenue Service and it appeared to him that the IRS might have failed to correct an

error. He indicated that in the interest of saving time he would, however, be willing to pay the tax amount if the Commission would waive the small amount of interest.

Respondent's representative indicated interest was assessed pursuant to code and that he did not have the authority to waive interest in the manner requested by Petitioner. He did acknowledge that there did appear to be a discrepancy on the information forwarded to the State Tax Commission from the Internal Revenue Service.

Interest is assessed when taxes are not paid or underpaid to compensate the state for the time value of money. Interest is generally waived only in the event the Tax Commission, or Tax Commission employee error gave rise to the late payment or underpayment.

DECISION AND ORDER

Based upon the foregoing, although the amount seems inconsequential the Commission finds that sufficient cause has not been shown to justify a waiver of the interest associated with Petitioner's 2002 income tax. Sufficient information was not provided to abate the individual income tax assessment. 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. 04-1376

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

DATED this _____ day of _____, 2005.

Jane Phan
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

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