

04-1481
Audit
Signed 08/09/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	
)	ORDER
Petitioner,)	
)	Appeal No. 04-1481
v.)	
)	Acct. No. #####
AUDITING DIVISION OF)	
THE UTAH STATE TAX)	Tax Type: Income Tax
COMMISSION,)	Tax Year: 1998
)	
Respondent.)	Judge: Robinson

Presiding:

R. Spencer Robinson, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, *pro se*
For Respondent: RESPONDENT REPRESENTATIVE 1, Auditing Division
RESPONDENT REPRESENTATIVE 2, Auditing Division

STATEMENT OF THE CASE

This matter came before the Tax Commission for an Initial Hearing, pursuant to the provisions of Utah Code Ann. §59-1-502.5, on May 10, 2005. Petitioner is appealing the assessment of interest on his 1998 Utah income tax.

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 (11).

DISCUSSION

Respondent received information from the Internal Revenue Service regarding a change made to the Petitioner's 1998 federal return. The IRS made the change in November of 2000. Respondent cannot pinpoint the date it received the information, but states it made the adjustment to Petitioner's State income tax return within six years of the IRS change. Based on the IRS information, Respondent issued a Statutory Notice

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of Audit Change on December 10, 2004. Petitioner said he does not recall any adjustments made by the IRS to his federal return.

Petitioner argued this matter was nearly seven years old. He said he was unaware of the change in his federal return. Because of the delay, he asks that interest be waived. He did not appeal the tax assessed.

Respondent did not assess a penalty for late filing. It asks only that the tax and interest be paid. It said there was no division error in this case. Therefore, it declined to waive the interest.

Utah Code Ann. §59-10-536 (5)(a) requires taxpayers to notify the Commission within ninety days of a final change in his or her federal income tax return. Additionally, taxpayers are required to file a copy of the amended federal return, and an amended State return conforming to the changes in the federal return. Utah Code Ann. §59-10-536-(5)(b) provides a period of six years in which to make an assessment if the taxpayer fails to make the required correction.

The IRS adjusted Petitioner's federal return. Petitioner did not submit the required amended returns. Respondent acted within six years of the IRS change, which occurred in 2000. Petitioner has had the use of the money that was lawfully due and payable to the Commission. Money has time value, expressed in the form of interest. There is no Commission error in this case. The circumstances do not establish reasonable cause for a waiver of the interest.

DECISION AND ORDER

Based on the foregoing, the Commission denies Petitioner's request for a waiver of the 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

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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 _____, 2005.

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

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