

05-0467
Audit
Signed 09/26/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,)	
)	ORDER
Petitioner,)	
)	Appeal No. 05-0467
v.)	
)	Acct Nos. #####
AUDITING DIVISION,)	#####
UTAH STATE TAX COMMISSION,)	Tax Type: Income Tax
)	Tax Year: 2000
Respondent.)	Judge: Robinson

Presiding:

R. Spencer Robinson, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 2, by telephone
For Respondent: RESPONDENT REPRESENTATIVE 1, Auditing Division
RESPONDENT REPRESENTATIVE 2, Auditing Division

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-2-501 on August 1, 2005. Petitioners are appealing the assessment of interest on their 2000 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 (10).

DISCUSSION

Respondent received information from the Internal Revenue Service regarding a change made to the Petitioners' 2000 federal return. Based on that information, Respondent issued a Statutory Notice of Audit Change on April 8, 2005, which it sent to Petitioner's last know address. Petitioners had moved before notice was sent.

Petitioner said she was unaware of any adjustments made by the IRS to her federal return. She said she received the correspondence from the Respondent, sent to Petitioners' former address, because Petitioners know the people living in their previous home.

Petitioner argued this matter was five years old. She said she was unaware of the change in her federal return. She asks that interest be waived. She 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 Commission error in this case. Therefore, it declined to waive the interest.

Petitioners agree they owe the tax. Thus, they had funds to which they were not legally entitled. While it appears this was unintentional, they nevertheless had the money, which has time-value. The time-value of money is expressed in interest. Because they had the money, and there was no Commission error causing them to have it, the assessment of interest is appropriate.

DECISION AND ORDER

Based on the foregoing, Petitioners' request for a waiver of the interest is denied. 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. 05-0467

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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