

05-0564
Centrally Assessed Property Tax
Signed 08/23/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)		
)	ORDER	
Petitioner,)		
)	Appeal No.	05-0564
v.)		
)	Tax Year:	2005
PROPERTY TAX DIVISION)	Tax Type:	Property Tax/Centrally Assessed
OF THE UTAH STATE TAX)		
COMMISSION,)	Judge:	Phan
)		
Respondent.)		

Presiding:
Jane Phan, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER REPRESENTATIVE
For Respondent: RESPONDENT REPRESENTATIVE 1, Property Tax Division
RESPONDENT REPRESENTATIVE 2, Property Tax 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 August 9, 2005.

APPLICABLE LAW

A person, or an officer or agent of that person, owning or operating property described in Subsection(1)(b) shall, on or before March 1 of each year, file with the Tax Commission a signed statement in a form prescribed by the Tax Commission. (Utah Code Ann. 59-2-202(1).)

The Commission shall assess a penalty as provided in Subsection (3)(b) if one required to file the statement fails to file the statement required under Subsection (1)(a), or any other information the Commission determines to be necessary to establish value and apportion the assessment, on or before the later

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of March 1, or if the Property Tax Division allows an extension, the day after the last day of the extension period. (Utah Code Ann. §59-2-202(3).)

The penalty is equal to the greater of 10% of the estimated tax due not to exceed \$50,000; or \$100. (Utah Code Ann. §59-2-202(3).)

DISCUSSION

Petitioner is appealing the penalty assessed pursuant to Utah Code Ann. §59-2-202 relating to the late filing of Petitioner's Annual Property Tax Report for the tax year 2005. The report should have been filed on March 1, 2005, and was not filed by Petitioners until May 5, 2005.

Petitioner's representatives state that there were two factors contributing to the late filing. First, this was the first time Petitioners had been required to file an Annual Property Tax Report. They had started the (X) under (X) in March 2004. Second, Petitioner explained that the bookkeeper was on maternity leave when the report form had been mailed to the company.

Respondent's representatives indicated that since this was a first time filing, they did not object to waiver of the penalty, but indicated in the future the return must be timely.

DECISION AND ORDER

After reviewing the circumstances in this matter, and the fact that this was a first time filing situation, the Commission waives the penalty in this matter. It is so ordered.

This decision does not limit a party's right to a Formal Hearing or the right of an affected county to show cause pursuant to section 59-2-1007 why the Commission should not adjust the values in accordance with this order. However, this Decision and Order will become the Final Decision and Order of the Commission unless an affected party 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 administrative appeal rights in this matter. In that event, the Property Tax Division is ordered to adjust its records in accordance with this order. The Property Tax Division is also ordered to calculate the final adjustments to the values apportioned to tax districts as a result of this order and to deliver that information to the affected counties on behalf of the Commission. The auditors of the affected counties are ordered to use the information so provided to adjust their tax roles in accordance with this order.

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

Marc B. Johnson

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Commissioner

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Commissioner