

05-0589
Refund Request
Signed 09/29/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,	)	ORDER	
)		
Petitioners,	)	Appeal No.	05-0589
)		
v.	)	Account No:	#####
)		#####
TAXPAYER SERVICES	)	Tax Type:	Individual Income Tax
DIVISION OF THE UTAH	)	Tax Year:	1999, 2000
STATE TAX COMMISSION,)		
	)	Judge:	Chapman
Respondent.)		

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1 (by telephone)

For Respondent: RESPONDENT REPRESENTATIVE 1, Assistant Attorney General
RESPONDENT REPRESENTATIVE 2, from Taxpayer Services
Division
RESPONDENT REPRESENTATIVE 3, from Taxpayer Services
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 30, 2005.

At issue is the Petitioners' request for a refund of taxes withheld and remitted for the 1999 and 2000 tax years. The Petitioners did not remit Utah individual income tax returns for the years in question until March 15, 2005. The returns indicate that the Petitioners may have been due a refund of Utah income tax for each of the years at issue.

The Division contends that the Petitioners' request for a refund of taxes withheld and remitted in 1999 and 2000 is beyond the statute of limitations for such refunds as found in Utah law. The Division claims that the statute of limitation provides that a request for a refund for the 1999 tax year must be made by October 15, 2003 and that such a request for the 2000 tax year must be made by October 15, 2004. Because the Petitioners' March 15, 2005 requests occurred after both of these dates, the Division contends that Utah law does not allow for the refund of the taxes at issue.

The Petitioners counter that federal law allows a taxpayer a longer period of time to request a refund than the period allowed under Utah law and that Utah should recognize the longer period in order to be consistent with federal law.

APPLICABLE LAW

Utah law provides that an individual income tax return "shall be filed with the commission . . . on or before the 15th day of the fourth month following the last day of the taxpayer's taxable year[.]" UCA §59-10-514(1). State law also provides that the Commission shall allow an extension of time for filing returns, but that the extension may not exceed six months. UCA §59-10-516(1).

UCA §59-10-529(7)(a) provides that a taxpayer has a limited period to request a refund of excess tax withheld and remitted by a taxpayer's employer, as follows:

7) (a) If a refund or credit is due because the amount of tax deducted and withheld from wages exceeds the actual tax due, a refund or credit may not be made or allowed unless the taxpayer or his legal representative files with the commission a tax return claiming the refund or credit:

- (i) within three years from the due date of the return . . . ; or
- (ii) within two years from the date the tax was paid, whichever period is later.

(b) . . . in other instances where a refund or credit of tax which has not been deducted and withheld from income is due, a credit or refund may not be allowed or made after three years from the time the tax was paid, unless, before the expiration of the period, a claim is filed by the taxpayer or his legal representative.

DISCUSSION

It appears that the amount of Utah individual income tax paid by the Petitioners during the 1999 and 2000 tax years may have exceeded their liability for each of the two years. Under such circumstances, Section 59-10-529(7)(a) entitles the Petitioners to a refund of the excess tax if the refund request (i.e., return) is submitted within three years from the due date of the return or within two years from the date the tax was paid.

Pursuant to Sections 59-10-514(1) and 59-10-516(1), a 1999 Utah individual income tax return was originally due on April 15th, 2000. A six-month extension would have extended the due date to October 15, 2000. Section 59-10-529(7)(a)(i) provides that a refund may be issued pursuant to a return if it is filed within three years of its due date. The Petitioners submitted their 1999 tax return on March 15, 2005, which is more than three years beyond the statutory deadline dates. Accordingly, the Petitioners did not file their 1999 Utah tax return within the permitted time to receive a refund pursuant to subsection 529(7)(a)(i).

Similarly, a 2000 Utah individual income tax return was originally due on April 15th, 2001. A six-month extension would have extended the due date to October 15, 2001. Because the Petitioners also submitted their 2000 tax return on March 15, 2005, which is more

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than three years beyond the statutory deadline dates, the Petitioners did not file their 2000 tax return within the permitted time to receive a refund pursuant to subsection 529(7)(a)(i).

Nor did the Petitioners show that the March 15, 2005 refund requests were made within two years of the date that the 1999 and 2000 taxes were paid, in which case a refund may have been paid pursuant to subsection 529(7)(a)(ii). As a result, neither circumstance provided by law under which the Commission may refund overpaid income tax for the 1999 or 2000 tax year exists in this matter.

Furthermore, Utah's statutes of limitation concerning refunds pertain only to Utah state income taxes, while any federal income tax statute of limitation concerning refunds would pertain to federal taxes, but not to Utah taxes. For these reasons, the Commission sustains the Division's denial of the refunds at issue and denies the Petitioners' appeal.

DECISION AND ORDER

Based upon the foregoing, the Commission denies the Petitioners' appeal and sustains the Division's denial of the Petitioners' refund requests concerning the 1999 and 2000 tax years. 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:

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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.

Kerry R. Chapman
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
KRC/05-0589.int

Marc B. Johnson
Commissioner