

05-0607  
Centrally Assessed Property Tax  
Signed 08/15/2005

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)		
	)	<b>ORDER</b>	
Petitioner,	)		
v.	)	Appeal No.	05-0607
	)	Tax Type:	Property Tax/Centrally Assessed
PROPERTY TAX DIVISION	)	Tax Year:	2005
OF THE UTAH STATE TAX	)		
COMMISSION,	)	Judge:	Phan
	)		
Respondent.	)		

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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner:     PETITIONER REPRESENTATIVE 1, Office Manager  
                          PETITIONER REPRESENTATIVE 2, Bookkeeper

For Respondent:    RESPONDENT REPRESENTATIVE 1, Section Manager, Property Tax  
                          Division  
                          RESPONDENT REPRESENTATIVE 2, Analyst

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 file with the commission, on a form prescribed by the commission, a sworn statement on or before March 1 of each year. (Utah Code Ann. 59-2-207(1)(a).)

Except as provided in Subsection (3)(c), the commission shall assess a person a penalty as provided in Subsection (3)(b), if the person, or an officer or agent to that person, fails to file: (i) the statement required under Subsection (1)(a) on or before the later of: (a) March 1; or (B) if the commission allows an

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extension under Subsection (1)(c) for filing the statement, the day after the last day of the extension period or (ii) any other information the commission determines to be necessary . . . (Utah Code Ann.  59-2-207(3)(a).)

The penalty is equal to the greater of 10% of the estimated tax due not to exceed \$50,000; or \$100. (Utah Code Ann.  59-2-207(3)(b).)

(i) Notwithstanding Subsections (3)(a) and (4), the commission may waive, reduce, or compromise a penalty imposed under this section if the commission finds there are reasonable grounds for the waiver, reduction or compromise. (ii) If the commission waives, reduces, or compromises a penalty under Subsections (3)(c)(i), the commission shall make a record of the grounds for waiving, reducing, or compromising the penalty. (Utah Code Ann.  59-2-207(3)(c).)

#### DISCUSSION

Petitioner is appealing the penalty assessed pursuant to Utah Code Ann.  59-2-207 relating to Petitioner's late filing of the Annual Property Tax Report for the tax year 2005.

Petitioner's representatives state that Petitioner had made a good faith effort to comply with the filing requirement. They explain there were mitigating circumstances. This was the first time the business was required to file the return. They did not know how to prepare the return and so they gave it to their accountant on January 20, 2005. The accountant did not do anything with it. They called the accountant and took the return back in April 2005. At that point they called RESPONDENT REPRESENTATIVE 2 of the Property Tax division who helped them complete the form.

Respondent's representatives acknowledge that this was the first time Petitioner had been required to file the property tax return. In addition, Respondent's representative indicated that Petitioner had been very cooperative in getting the return filed after he had spoken with them.

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DECISION AND ORDER

After reviewing the circumstances in this matter, and considering that this was a first time filing error, the Commission waives the penalty. Petitioner should be aware that criteria for waiver of a subsequent penalty is more stringent. 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

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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

*JKP/ckl/05-0607.int*