

05-0658
Audit
Signed 09/08/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,)		
	)	ORDER	
Petitioner,)		
	)	Appeal No.	05-0658
v.)		
	)	Account No.	#####, #####
AUDITING DIVISION OF THE	)	Tax Year:	2002
UTAH STATE TAX COMMISSION,	)	Tax Type:	Income
)		
Respondent.	)	Judge:	Phan

Presiding:
Jane Phan, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER REPRESENTATIVE
For Respondent: RESPONDENT REPRESENTATIVE 1, Manager, Income Tax Auditing
RESPONDENT REPRESENTATIVE 2, Senior Auditor

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing on August 31, 2005. The matter had been set for a Hearing on Motion but was converted to an Initial Hearing after Respondent's representatives indicated they withdrew their Motion to Dismiss as the matter concerning the tax amount had been paid and resolved. Petitioners, however, contested the interest of approximately \$\$\$\$ and wanted a hearing on the issue.

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. 359-1-401(10).

DISCUSSION

Petitioners' representative explained that Petitioners had originally filed their 2002 Utah Individual Income Tax return on a timely basis and paid the correct amount of tax. They indicated on the

return, on line 27, the correct amount of the total tax due and correctly accounted for withholding in determining they needed to pay an additional \$\$\$\$ with the return. However, they had made an error on the front of the return filling in numbers on Line 11 and Line 12 that should have been inputted on Line 12 and Line 14 respectively. When the return was processed the amounts as indicated on the return on page 1 indicated a different balance. The result was a refund issued to Petitioners with a letter from the Tax Commission indicating they had calculated their tax balance in error. Petitioners thought the Tax Commission must be correct so they kept the refund. They repaid as soon as they were notified that there had been a mistake.

The Commission would note that interest is generally only waived if their had been a Tax Commission error. In this matter there had been an error on part of the return, although the tax liability and tax amount due was correctly calculated and paid. Processing does not perform a full review when inputting the return and correcting what it would have considered to be more of an additional or typographical error. However, Petitioners did have the correct amount of total deductions listed on Line 14 of the return and this amount was ignored in the system.

DECISION AND ORDER

Based upon the foregoing, the Commission finds that sufficient cause has been shown to justify a waiver of the interest associated with Petitioners 2002 income tax filing. 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:

Appeal No. 05-0658

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.

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
Commissioner

Marc B. Johnson
Commissioner

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