

05-0723
Locally Assessed Property Tax
Signed 07/26/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)		
)	ORDER	
Petitioner,)		
v.)	Appeal No.	05-0723
)	Tax Type:	Property Tax/Centrally Assessed
PROPERTY TAX DIVISION)	Tax Year:	2005
OF THE UTAH STATE TAX)		
COMMISSION,)	Judge:	Phan
)		
Respondent.)		

Presiding:
Jane Phan, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER REPRESENTATIVE
For Respondent: RESPONDENT REPRESENTATIVE

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 July 19, 2005. The issue before the Commission was whether the penalty assessed for late filing of the annual property tax return should be waived.

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; 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 property tax report for the tax year 2005. Petitioner's representative, PETITIONER REPRESENTATIVE, explained Petitioner is a small, two person business which she and her spouse operate. PETITIONER REPRESENTATIVE indicates that she performs the office and bookkeeping functions and he handles the rock production. She explained that she had overlooked filing the return for 2005 due to a family medical emergency, which kept her out of the office for considerable periods of time.

It was Respondent's position that Petitioner had been timely in filing the reports in the past and that this appeared to be the first time a fine was assessed. It was the representative for Respondent's position that the penalty could be waived on the basis of first time error.

DECISION AND ORDER

After reviewing the circumstances in this matter, and considering that this was a first time error on the part of Petitioner, the Commission finds sufficient cause for waiver of the penalty. It is so ordered.

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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

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