

05-0764
Centrally Assessed Property Tax
Signed 09/13/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)		
)	ORDER	
Petitioner,)		
)	Appeal No.	05-0764
v.)		
)	Tax Type:	Property Tax/Centrally Assessed
PROPERTY TAX DIVISION)	Tax Year:	2005
OF THE UTAH STATE TAX)		
COMMISSION,)	Judge:	Robinson
)		
Respondent.)		

Presiding:

R. Spencer Robinson, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE

For Respondent: RESPONDENT REPRESENTATIVE 1, Section Manager
 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 July 19, 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

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statement required under Subsection (1)(a) on or before the later of: (a) March 1; or (B) if the commission allows an 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 REPRESENTATIVE stated she is not a corporate officer, and that one was not available. She also said she did not have a power of attorney allowing her to represent the Petitioner. As a matter of law, no one appeared on behalf of Petitioner.

There is no grace period. The form must be filed by the due date or an extension requested by the due date. Neither occurred in this case.

Respondent's representatives considered this a first time error. The return was eleven days late due to an oversight. The account is otherwise current. Respondent's representatives joined in recommending a waiver in this case.

DECISION AND ORDER

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After reviewing the circumstances in this matter, the fact that this was a first time error, and the account is otherwise current, the Commission waives the penalty. It is so ordered. Petitioner should be aware that criteria for a waiver of subsequent penalties are more stringent.

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.

R. Spencer Robinson
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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