

05-0854
Refund Request
Signed 09/28/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	05-0854
)		
v.	)	Account No:	#####
)		
TAXPAYER SERVICES	)	Tax Type:	Individual Income Tax
DIVISION OF THE UTAH)		
STATE TAX COMMISSION,	)	Tax Year:	2000
)		
Respondent.	)	Judge:	Chapman

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REPRESENTATIVE, 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 September 14, 2005.

At issue is a refund of Utah individual income tax for the 2000 tax year.

Although PETITIONER, the Petitioner, earned Utah taxable income in 2000, he did not file a 2000 Utah income tax return until April 28, 2005. His return showed that the amount of Utah income tax withheld by his employer exceeded his Utah tax liability for the year at issue. The Division, however, informed PETITIONER that it would not refund the overpaid tax because the refund request (i.e., the filing of the return) was beyond the statute of limitations permitting such refunds.

PETITIONER filed an appeal requesting the Commission to overturn the Division's decision. Although PETITIONER states that he was aware of the Internal Revenue Service's statute of limitation concerning refunds, he adds that he was unaware that the State of Utah had a similar statute concerning refunds and believes that this knowledge has not been adequately disseminated to the public because it is not noticed on the Utah state tax return. In addition, PETITIONER explains that he is disabled and receives disability benefits from Social Security, so he has little employment and receives little income. For these reasons, he believes the Commission should refund the taxes that he overpaid.

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

PETITIONER'S employer withheld and paid his 2000 Utah individual income tax during the 2000 calendar year. The amount of tax paid exceeded the Petitioner's 2000 income tax liability, as shown on his 2000 Utah tax return filed on April 28, 2005. Under such circumstances, Section 59-10-529(7)(a) entitles the Petitioner 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 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. 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 Petitioner submitted his 2000 tax return on April 28, 2005, which is more than three years beyond the statutory deadline dates. Accordingly, the Petitioner did not file his 2000 Utah tax return within the permitted time to receive a refund pursuant to subsection 529(7)(a)(i).

Nor did the Petitioner show that the April 28, 2005 refund request was made within two years of the date that the tax was withheld and paid in 2000, in which case a refund may have been paid pursuant to subsection 529(7)(a)(ii). As a result, neither circumstance

Appeal No. 05-0854

provided by law under which the Commission may refund overpaid income tax for the 2000 tax year exists in this matter.

Furthermore, a taxpayer is presumed to know the law and any lack of knowledge on PETITIONER'S behalf concerning the statute of limitation does not negate the law, even if the information was not disclosed on the Utah state tax return, as PETITIONER claims. In addition, while the Commission is sympathetic to PETITIONER'S disability and economic situation, the Commission is unaware of any precedent that allows for waiver of the statute of limitations under such circumstances. Accordingly, the Commission is required to deny the refund request.

DECISION AND ORDER

Based upon the foregoing, the Commission denies PETITIONER'S appeal and sustains the Division's denial of his refund request concerning the 2000 tax year. 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:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

Appeal No. 05-0854

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

Marc B. Johnson
Commissioner

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