

05-0962  
Centrally Assessed Property Tax  
Signed 08/22/2005

BEFORE THE UTAH STATE TAX COMMISSION

---

PETITIONER,	)		
	)	<b>ORDER</b>	
Petitioner,	)		
	)	Appeal No.	05-0962
v.	)		
	)	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 1, Section Manager, Property Tax  
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 4, 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

Appeal No. 05-0962

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 for late filing of the Annual Property Tax Report for the tax year 2005.

Petitioner's representative states that she had mailed in the report in a timely manner. However, the report had not been processed by the Property Tax Division and there was no record that it had been received by the Tax Commission. Petitioner's representative stated that she had not kept a copy of the return and had no documentation that she had mailed it. She indicated that she had prepared the return for the prior year, but before that her daughter-in-law had been doing the books.

Respondent's representatives point out that this was not a first time error on the part of Petitioner. The return for 2003 had also been late. The penalty is necessary to ensure compliance and so that taxpayers place a high enough priority on the tax filings so that compliance is met. The fact that Petitioner had a new bookkeeper since its prior late filing does not mean this should be treated as a first time error. Petitioner's representative was unable to produce a copy or other evidence that the return had been prepared and mailed timely.

DECISION AND ORDER

After reviewing the circumstances in this matter, and considering that the statutory penalty provisions were adopted to encourage timely compliance and make the tax filing a priority, the Commission sustains the penalty in this matter. 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

Appeal No. 05-0962

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/05-0962.int*