

05-1158
Audit
Signed 12/23/2005

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	
)	ORDER
Petitioner,)	
)	Appeal No. 05-1158
v.)	
)	Account No. #####
AUDITING DIVISION,)	
UTAH STATE TAX COMMISSION,)	Tax Type: Income Tax
)	
Respondent.)	Presiding: Phan

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REPRESENTATIVE, Manager, Income Tax Auditing

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing on December 13, 2005, pursuant to Utah Code Ann. §59-1-502.5. The matter had originally been scheduled for a Telephone Status Conference and was converted to the Initial Hearing. Petitioner had filed an appeal of the audit deficiency issued for tax year 2002. The Statutory Notice of Audit Change had been issued on July 21, 2005. The amount of additional tax was \$\$\$\$\$. The amount of interest as of the date of the notice was \$\$\$\$\$.

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. §59-1-401(10).

DISCUSSION

Respondent indicated in this matter that upon review of the Utah Individual Income Tax Return filed by Petitioner for the 2002 tax year, Petitioner had claimed \$\$\$\$\$, the correct amount of the federal adjusted gross income. However, there had been a data entry error on the part of the employee who processed the return who had entered only \$\$\$\$\$, which resulted in an erroneous refund to Petitioner.

The law requires the Utah tax to be based on the federal adjusted gross income and as far as the additional tax assessment, an error on the part of a Tax Commission employee is not basis to set aside the audit. However, it is sufficient grounds to waive the interest assessed.

DECISION AND ORDER

Based upon the foregoing, the Commission sustains the audit deficiency as it pertains to the amount of the tax. However, sufficient cause been shown to justify a waiver of the interest. 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. 05-1158

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

Notice: If the Petitioner does not request a Formal Hearing within the thirty-days as discussed above, failure to pay the amount of deficiency that results from this order may result in an additional penalty.

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