

05-1469
Audit
Signed 05/30/3006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	05-1469
)		
v.	)	Account No.	#####
	)	Tax Type:	Income Tax
AUDITING DIVISION OF THE	)	Tax Years:	2002
UTAH STATE TAX COMMISSION,)		
	)	Judge:	Chapman
Respondent.)		

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE, Representative (by telephone)

For Respondent: RESPONDENT REPRESENTATIVE, Auditing 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 May 24, 2006.

Petitioner appealed the assessment of additional income tax for the 2002 tax year. Auditing Division (“Division”) imposed the assessment in a Statutory Notice of Audit Change dated October 5, 2005, after it received information from the Internal Revenue Service (“IRS”) that the IRS had increased the Petitioner’s federal adjusted gross income for the 2002 tax year. Although the Division did not charge penalties, it did assess interest on the unpaid income tax.

The Petitioner’s representative explains that he is in agreement with the Division’s assessment and does not object to the Commission sustaining the assessment in this decision.

APPLICABLE LAW

Pursuant to Utah Code Ann. §59-10-536(5), a taxpayer must file an amended Utah tax return in the event the Internal Revenue Service adjusts the amount of federal taxable income, as follows in pertinent part:

- (a) If a change is made in a taxpayer's net income on his or her federal income tax return, either because the taxpayer has filed an amended return or because of an action by the federal government, the taxpayer must notify the commission within 90 days after the final determination of such change. The taxpayer shall file a copy of the amended federal return and an amended state return that conforms to the changes on the federal return. No notification is required of changes in the taxpayer's federal income tax return that do not affect state tax liability.

DECISION AND ORDER

Based on the foregoing, the Commission sustains the Division's audit assessment and denies the Petitioner's appeal. 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

Appeal No. 05-1469

Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this _____ day of _____, 2006.

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 _____, 2006.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

Notice: If a Formal Hearing is not requested as discussed above, failure to pay the balance resulting from this order within thirty (30) days from the date of this order may result in a late payment penalty.

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