

05-1638  
Audit  
Signed 10/30/2006

BEFORE THE UTAH STATE TAX COMMISSION

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|                       |   |              |            |
|-----------------------|---|--------------|------------|
| PETITIONER,           | ) |              |            |
|                       | ) | <b>ORDER</b> |            |
| Petitioner,           | ) |              |            |
|                       | ) | Appeal No.   | 05-1638    |
| v.                    | ) |              |            |
|                       | ) | Acct No.     | #####      |
| AUDITING DIVISION,    | ) |              |            |
| OF THE UTAH STATE TAX | ) | Tax Type:    | Income Tax |
| COMMISSION,           | ) | Tax Year:    | 2002       |
|                       | ) |              |            |
| Respondent.           | ) | Judge:       | Robinson   |

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**Presiding:**

R. Spencer Robinson, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER, *pro se*, by telephone  
For Respondent: RESPONDENT REPRESENTATIVE 1, Auditing Division  
RESPONDENT REPRESENTATIVE 2, Auditing Division

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing on April 27, 2006. Petitioner is appealing the Statutory Notice of Audit Change issued by Respondent on October 18, 2005.

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

Petitioner came to Utah in 1987. He was stationed at ( X ). He retired from the ( X ) in 1996. Three months prior to his retirement, his wife was diagnosed with cancer. She lived two more years.

Petitioner said he “got into bill trouble.” He also became disabled. In 2002 he was in the hospital and his daughter did his tax return. The return did not report his social security income.

The IRS picked up the social security income and made changes to Petitioner’s federal return. Upon receiving information regarding the change from the IRS, Respondent notified Petitioner that his federal adjusted gross income had been changed from \$\$\$\$\$ to \$\$\$\$\$. This resulted in an increase in his state tax liability of \$\$\$\$\$. Interest is also accruing.

Petitioner agrees with the audit. He said he has been caring for his 96 year old mother, that he is disabled, and that he cannot work. He requests understanding of his situation.

Respondent did not assess a penalty. It asks only that the tax and interest be paid. It said there was no Commission error in this case. Therefore, Respondent declined to waive the interest.

DECISION AND ORDER

Based on the foregoing, the Commission finds Petitioner is liable for the tax and the interest. While they are unfortunate, Petitioner’s circumstances do not provide a legal reason for waiving the interest. Petitioner also owes the tax assessed. However, once the appeal is final, whether by Petitioner’s acceptance of this decision or exhaustion of the appeals process, he may contact the Taxpayer Services Division at ##### to discuss a payment schedule or an offer in compromise.

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

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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 appeal rights in this matter. Petitioner is informed that if he chooses not to pursue an appeal of this decision, he may approach the Offer in Compromise Section of Taxpayer Services Division to request a payment plan or to negotiate payment of an amount less than the total amount due.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
R. Spencer Robinson  
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

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner