

06-0332
Penalty & Interest
Signed 02/13/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 AND PETITIONER 2,)	
)	ORDER
Petitioner,)	
)	Appeal No. 06-0332
v.)	
)	Account No. #####
AUDITING DIVISION,)	
UTAH STATE TAX COMMISSION,)	Tax Type: Penalty & Interest
)	
Respondent.)	Presiding: Jensen

Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 2

For Respondent: RESPONDENT REPRESENTATIVE 1, from the Auditing Division
RESPONDENT REPRESENTATIVE 2, from the Auditing Division

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing in accordance with Utah Code Ann. §59-1-502.5 on August 22, 2006.

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(11).

DISCUSSION

Petitioner is appealing interest assessed on an underpayment of tax for the 2002 tax year. The Auditing Division (“Division”) conducted an audit of the Petitioner’s 2002 Utah state tax

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return and determined that the Petitioner had underpaid Utah state income tax by \$\$\$\$ for the 2002 tax year. In addition to the unpaid taxes, the Division also assessed interest in connection with the audit that was \$\$\$\$ as of February 9, 2006. As of the date of the hearing, the Division had assessed no penalty in connection with this audit.

Petitioner explained that there was no dispute regarding the taxes and that the underpayment resulted from an oversight when the Petitioners were preparing the 2002 tax return. The Petitioner did not indicate error by Tax Commission personnel in causing the underpayment.

Utah State Tax Commission Publication 17 explains when the Commission will waive penalties and interest. It is available online at <http://tax.utah.gov/forms/pubs/pub-17.pdf> and explains circumstances that form the good cause necessary to waive penalties. It also explains that the grounds for waiving interest are more stringent than for waiving penalties. For a taxpayer to receive a waiver of interest, the taxpayer needs to show Tax Commission error.

In this matter the Petitioner did not allege or prove Tax Commission error in causing an underpayment in connection with the tax return at issue and thus is not entitled to a waiver of interest.

DECISION AND ORDER

Based upon the foregoing, the Commission finds that sufficient cause has not been shown to justify a waiver of the interest associated with the Petitioner's 2002 state tax return. 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

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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

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

DATED this _____ day of _____, 2007.

Clinton Jensen
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 _____, 2007.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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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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