

06-0441
Individual Income Tax
Signed 05/29/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,	)	ORDER	
)		
Petitioners,	)	Appeal No.	06-0441
)		
v.	)	Tax Type:	Individual Income Tax
	)	Account Nos:	#####-1
AUDITING DIVISION OF THE	)		#####-2
UTAH STATE TAX COMMISSION,	)	Tax Years:	1999, 2000, 2001, 2002, 2003
)		
Respondent.	)	Judge:	Chapman

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE, Attorney
PETITIONER 1
PETITIONER 2
For Respondent: RESPONDENT REPRESENTATIVE 1, Assistant Attorney General
RESPONDENT REPRESENTATIVE 2, from the 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 17, 2007.

On March 10, 2006, Auditing Division (“Division”) issued Statutory Notices of Audit Change for the 1999, 2002, and 2003 tax years and Statutory Notices of Estimated Income Tax for the 2000 and 2001 tax years (cumulatively referred to as “Statutory Notices”) to the Petitioners. In the Statutory Notices, the Division imposed additional tax, penalties, and interest for these years, as follows:

<u>Year</u>	<u>Tax</u>	<u>Penalties</u>	<u>Interest</u>	<u>Total</u>
1999	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
2000	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
2001	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
2002	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
2003	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
				\$\$\$\$\$

APPLICABLE LAW

Domicile. Under Utah Code Ann. §59-10-104(1), “a tax is imposed on the state taxable income . . . of every resident individual.” For purposes of Section 104(1), a “resident individual” is defined in UCA §59-10-103(1)(v)¹ to mean:

- (A) an individual who is domiciled in this state for any period of time during the taxable year, but only for the duration of the period during which the individual is domiciled in this state; or
 - (B) an individual who is not domiciled in this state but:
 - (I) maintains a permanent place of abode in this state; and
 - (II) spends in the aggregate 183 or more days of the taxable year in this state.
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Utah Admin. Rule R865-9I-2 (“Rule 2”) further explains when a person is “domiciled” in Utah for income tax purposes. For the 1999, 2000 and 2001 tax years and for almost all of the 2002 tax year (i.e., until the Commission amended the rule on December 9, 2002), Section D. of Rule 2 provided as follows:

"Domicile" means the place where an individual has a true, fixed, permanent home and principal establishment, and to which place he has (whenever he is absent) the intention of returning. It is the place in which a person has voluntarily fixed the habitation of himself and family, not for a mere special or temporary purpose, but with the present intention of making a permanent home. After domicile has been established, two things are necessary to create a new domicile: first, an abandonment of the old domicile; and second, the intention and establishment of a new domicile. The mere intention to abandon a domicile once established is not of itself sufficient to create a new domicile; for before a person can be said to have changed his domicile, a new domicile must be shown.

Effective December 9, 2002 and relevant from that date through the remainder of the audit period, Rule 2 provides as follows in pertinent part:

¹ Although this subsection was renumbered and restructured during the audit period, it did not substantively change during the audit period.

A. Domicile.

1. Domicile is the place where an individual has a permanent home and to which he intends to return after being absent. It is the place at which an individual has voluntarily fixed his habitation, not for a special or temporary purpose, but with the intent of making a permanent home.

2. For purposes of establishing domicile, an individual's intent will not be determined by the individual's statement, or the occurrence of any one fact or circumstance, but rather on the totality of the facts and circumstances surrounding the situation.

a) Tax Commission rule R884-24P-52, Criteria for Determining Primary Residence, provides a non-exhaustive list of factors or objective evidence determinative of domicile.

b) Domicile applies equally to a permanent home within and without the United States.

3. A domicile, once established, is not lost until there is a concurrence of the following three elements:

a) a specific intent to abandon the former domicile;

b) the actual physical presence in a new domicile; and

c) the intent to remain in the new domicile permanently.

4. An individual who has not severed all ties with the previous place of residence may nonetheless satisfy the requirement of abandoning the previous domicile if the facts and circumstances surrounding the situation, including the actions of the individual, demonstrate that the individual no longer intends the previous domicile to be the individual's permanent home, and place to which he intends to return after being absent.

B. Permanent place of abode does not include a dwelling place maintained only during a temporary stay for the accomplishment of a particular purpose. For purposes of this provision, temporary may mean years.

Utah Admin. Rule R884-24P-52(E) ("Rule 52") sets forth a non-exhaustive list of factors or

objective evidence that is determinative of domicile, as follows:

E. Factors or objective evidence determinative of domicile include:

1. whether or not the individual voted in the place he claims to be domiciled;

2. the length of any continuous residency in the location claimed as domicile;

3. the nature and quality of the living accommodations that an individual has in the location claimed as domicile as opposed to any other location;

4. the presence of family members in a given location;

5. the place of residency of the individual's spouse or the state of any divorce of the individual and his spouse;

6. the physical location of the individual's place of business or sources of income;

7. the use of local bank facilities or foreign bank institutions;
8. the location of registration of vehicles, boats, and RVs;
9. membership in clubs, churches, and other social organizations;
10. the addresses used by the individual on such things as:
 - a) telephone listings;
 - b) mail;
 - c) state and federal tax returns;
 - d) listings in official government publications or other correspondence;
 - e) driver's license;
 - f) voter registration; and
 - g) tax rolls;
11. location of public schools attended by the individual; or the individual's dependents;
12. the nature and payment of taxes in other states;
13. declarations of the individual:
 - a) communicated to third parties;
 - b) contained in deeds;
 - c) contained in insurance policies;
 - d) contained in wills;
 - e) contained in letters;
 - f) contained in registers;
 - g) contained in mortgages; and
 - h) contained in leases.
14. the exercise of civil or political rights in a given location;
15. any failure to obtain permits and licenses normally required of a resident;
16. the purchase of a burial plot in a particular location;
17. the acquisition of a new residence in a different location.

Burden of Proof. UCA §59-10-543 provides that the taxpayer bears the burden of proof, with limited exceptions, in proceedings involving individual income tax before the Tax Commission, as follows:

In any proceeding before the commission under this chapter, the burden of proof shall be upon the petitioner except for the following issues, as to which the burden of proof shall be upon the commission:

- (1) whether the petitioner has been guilty of fraud with intent to evade tax;
- (2) whether the petitioner is liable as the transferee of property of a taxpayer, but not to show that the taxpayer was liable for the tax; and
- (3) whether the petitioner is liable for any increase in a deficiency where such increase is asserted initially after a notice of deficiency was mailed and a petition under Title 59, Chapter 1, Part 5 is filed, unless such increase in

deficiency is the result of a change or correction of federal taxable income required to be reported, and of which change or correction the commission had no notice at the time it mailed the notice of deficiency.

Waiver of penalties and interest. UCA §59-1-401(11) authorizes the Commission to waive, reduce, or compromise penalties and interest upon a showing of reasonable cause.

DISCUSSION

The primary issue in this matter is whether PETITIONER 1 was domiciled in STATE 1, as the Petitioners contend, or in Utah, as the Division contends, for the tax years at issue. The parties agree that PETITIONER 2 was domiciled in Utah for all years at issue.

Facts about Petitioners. The Petitioners completed their own tax returns for the years at issue and proffer that PETITIONER 1 only filed Utah tax returns for years in which he earned income in Utah. The Division proffered the Petitioners' Utah and U.S. federal tax returns for the tax years at issue, which show the following:

- 1) 1999 Tax Year. PETITIONER 1 filed a separate 1999 Utah non-resident return in April 2003 showing his address to be ADDRESS 1, CITY 1, STATE 1 ("STATE 1 address"). The Petitioners filed a joint 1999 federal return in April 2000, which also shows the STATE 1 address.
- 2) 2000 Tax Year. In 2005, the Division contacted the Petitioners because it did not show that they had filed a Utah tax return for the 2000 tax year. The Petitioners then submitted a joint 2000 Utah non-resident return showing their address to be at ADDRESS 2, CITY 2, Utah ("Utah address"). Their joint 2000 federal return also shows the Utah address.

- 3) 2001 Tax Year. The Petitioners have not filed a 2001 Utah return. Their joint 2001 federal return, which is undated, shows the STATE 1 address.
- 4) 2002 Tax Year. PETITIONER 1 filed a separate 2002 Utah non-resident return in April 2003 showing the STATE 1 address. Their joint 2002 federal return, though undated, shows the Utah address.
- 5) 2003 Tax Year. PETITIONER 1 did not file a Utah return for this tax year. PETITIONER 2, however, filed a separate 2003 Utah resident return in April 2004, which shows the Utah address. At the hearing, the Petitioners proffered that their joint 2003 federal return also shows the Utah address.

In 2005, the Division contacted the Petitioners concerning the 2000 tax year because it did not have a Utah return on file for them for this year. Upon receiving the Petitioners' 2000 tax returns, the Division determined that both Petitioners were domiciled in Utah not only for that year, but also for the other tax years at issue. The Petitioners proffer that PETITIONER 2 takes care of the Petitioners' finances and that she completed and filed all tax returns on their behalf for the tax years at issue. The Petitioners admit that their tax returns for these years may be inconsistent in some aspects, but believe that a consideration of all factors shows that PETITIONER 1 was domiciled in STATE 1, not Utah, during these five years.

The Petitioners married in 1970 and had four children. The Petitioners and their children made their home in CITY 3, Utah, until 1990, when PETITIONER 1 moved to STATE 1 for employment. PETITIONER 2 and the Petitioners' children, however, remained in Utah. In 1991, the Petitioners divorced. At the time of their divorce, the Petitioners owned a double-wide mobile home in CITY 3, which PETITIONER 1 received in the divorce settlement and still owns. From 1991 to the present, PETITIONER 1

has not lived in the CITY 3 property, but has rented it out and allowed various family members to live in it at various times.

PETITIONER 1 moved in 1990 to CITY 1, STATE 1, where his parents, brother, and sisters lived and where his mother, brother, and one sister continue to live. In that year, PETITIONER 1 began to work for COMPANY A, ("COMPANY A"), a construction company that is located in CITY 1 and is owned by his brother. A January 26, 2006 letter from WITNESS indicates that PETITIONER 1 "has continually rented and maintained living quarters at our CITY 1 facility, located at ADDRESS 1 in CITY 1, from July 1990 through present." PETITIONER 1' "living quarters" at the facility consists of a mobile home that is approximately 80' by 12' in size and has one bedroom and one bath. The mobile home also has its own mailbox, at which PETITIONER 1 continues to the present day to receive mail. The Petitioner has a telephone at the mobile home, in addition to cable television and Internet service. The Petitioner pays the gas, cable and Internet charges, but the other utilities are paid by COMPANY A.

After the Petitioners' 1991 divorce, both remarried new spouses. PETITIONER 2 continued to live in Utah after her marriage, and PETITIONER 1 lived with his new wife in STATE 1. PETITIONER 1 and his second wife rented a home in CITY 1, STATE 1 until they separated around 1993, at which time PETITIONER 1 moved back to the mobile home he had maintained at COMPANY A. PETITIONER 1 and his second wife's divorce was finalized somewhere between 1993 and 1995. By 1999, both Petitioners had divorced their respective second spouses, and they remarried each other in September 1999. In February 2000, the Petitioners purchased the home in CITY 2, Utah, which they show as their address on some of their tax returns.

PETITIONER 1 is an electrician and construction worker. Since moving to STATE 1 in 1990, PETITIONER 1 has worked for several employers in STATE 1, including COMPANY A. Because

there is little construction work in STATE 1 in the winter, PETITIONER 1 often works in other states several months of each year, including states to which his STATE 1 employers have sent him on assignment and states, including Utah, in which he has accepted additional employment. In August 1999, the Petitioner became a member of the International Brotherhood of Electrical Workers (“IBEW”) in CITY 1, STATE 1. Since that time, he has attended IBEW meetings in CITY 1 whenever he is working in STATE 1.

From July 1990 through 1995, PETITIONER 1 proffers that he rarely visited Utah and did not work in Utah at all during these years. In 1996, the Petitioner proffers that COMPANY A, his STATE 1 employer, was experiencing problems, which caused him to seek employment and work in Utah for a majority of 1996, a short period in 1997, and a majority of 1998. (The Petitioner filed a 1998 Utah resident return, but maintains that he still considered himself domiciled in STATE 1 for these three years). While working in Utah during this period, the Petitioner would rent a furnished apartment (which included towels and sheets) on a month-to-month basis in CITY 4, Utah, which he would relinquish each time he returned to STATE 1. However, when PETITIONER 1 was away from STATE 1 and in Utah, he never relinquished the mobile home he was renting there.

The Petitioner proffers that he was able to join the IBEW union in 1999, which increased his opportunities for work in STATE 1 and gave him an opportunity to build a pension for retirement. In addition, by 1999, COMPANY A’s situation had improved. For each of the five tax years at issue, the Petitioner estimates that the approximate amount of time he worked and lived in STATE 1, Utah, and STATE 2 (where his STATE 1 employer sent him) to be as follows:

<u>Year</u>	<u>Time in STATE 1</u>	<u>Time in Utah</u>	<u>Time in STATE 2</u>
1999	8 months	4 months	
2000	6 months	2 months	4 months
2001	7 or 8 months	3 or 4 months	less than 1 month
2002	10 months	2 months	

2003

10 months

2 months

PETITIONER 1 was registered to vote in Utah prior to moving to STATE 1 in 1990. PETITIONER 1 proffers that at the latest, he registered to vote in STATE 1 in 1992 and that he has remained registered to vote in STATE 1 until the present time. He last voted in STATE 1 in the fall of 2006.

STATE 1 provides a state-issued dividend for those STATE 1 residents who meet certain qualifications. PETITIONER 1 first applied for and received the dividend in 1991. However, a resident absent from the state for more than 90 days a year does not qualify for the dividend. PETITIONER 1 stated that during the 1990's, he qualified for the dividend some years, but not other years because of the time he spent working outside of STATE 1. PETITIONER 1 states that he has not applied for the dividend since 1997 because of the amount of time he has spent in other states, because one must wait a year and remit a fee to reapply after there is a lapse in receiving the dividend, and because the dividend, which is less than \$\$\$\$ per year, is relatively small compared to the income he can generate by working outside of STATE 1 during the winter months.

After moving to STATE 1 in 1990, the Petitioner relinquished his Utah driver's license and obtained an STATE 1 driver's license. While working in Utah in 1996, the Petitioner states that he was stopped by the police and told that he would have to get a Utah driver's license because he was working in Utah. PETITIONER 1 obtained a Utah driver's license in March 1996, but surrendered it when he obtained a new STATE 1 driver's license in October 1999.

In 1990, the Petitioner opened a bank account at the BANK 1, which was later purchased by BANK 2. During the five tax years at issue, PETITIONER 1 received most of his mail concerning his financial interests (e.g., bank accounts, credit card statements, etc.) at the Petitioner's Utah address because PETITIONER 2 takes care of the couple's finances and paperwork. During the audit period, PETITIONER 1

received, and continues to receive to today, trade publications, IBEW union information, magazines, STATE 1 jury duty notices, STATE 1 Department of Revenue notices and U.S. Social Security Statements at his STATE 1 address. Also during the five years at issue, those IRS W-2 Forms issued to PETITIONER 1 by STATE 1 and STATE 2 employers were sent to his STATE 1 address, while the W-2 Forms issued to him by Utah employers were sent to his Utah address.

Upon moving to STATE 1 in 1990, the Petitioner drove company-issued vehicles until he married his second wife in STATE 1, at which time he purchased and registered a vehicle in his own name in STATE 1. After divorcing his second wife, however, the Petitioner had only driven company-issued vehicles in STATE 1 until 2004, when he purchased a vehicle and registered it in STATE 1.

From 1991 to 1995, PETITIONER 1 purchased vehicles for his children in Utah to drive and registered those vehicles in Utah. However, he did not drive the vehicles. From 1996 through 1998, when he worked in Utah a majority of the time, PETITIONER 1 purchased a vehicle in Utah for his own use. This vehicle was registered in Utah, and he would store it in Utah for those periods when he was working in STATE 1. Since the Petitioners remarried in 1999, PETITIONER 1 has, at any one time, owned and registered two vehicles in Utah.

At the time the Petitioners remarried in 1999, PETITIONER 2 was still living in COUNTY 1, Utah, where she rented an apartment. In early 2000, the Petitioners purchased a home in CITY 2, Utah, near the CITY 5 airport, and proffer that they purchased the home so that it would be more convenient for the couple to visit each other. The Petitioners' four children and 11 grandchildren all live in Utah. Two of their children continue to live in COUNTY 1, Utah, while the other two live in the CITY 5 area.

PETITIONER 2 explains that she did not move to STATE 1 when she remarried PETITIONER 1 because she had a job in Utah as an office manager that paid \$\$\$\$ per year, because her

youngest daughter was living with her and was about to have a baby in 2000, and because her parents, who lived in Utah, were in poor health. PETITIONER 1 explains that after his remarriage to PETITIONER 2, he continued to work and live in STATE 1 for a majority of each year because he likes to work there and because it benefits him and his family financially to do so. PETITIONER 1 also explains that after his father passed away in 1999, he has been partly responsible for managing the finances of his mother, who still lives in STATE 1. PETITIONER 1 plans to continue working in STATE 1 for another 15 years, but the Petitioners have not decided whether to live in STATE 1, in Utah or in another state after his retirement.

PETITIONER 1 proffers that he does not have a permanent doctor or dentist. He explains that his health insurance, which he obtains through IBEW in STATE 1, pays for a portion of his medical costs. Since 1998, PETITIONER 1 has primarily seen doctors in STATE 1 for medical care. However, because dental costs in STATE 1 are approximately double the cost of similar services in Utah, he has seen Utah dentists whenever he has had dental needs.

Parties' Positions. The Division asks the Commission to determine that PETITIONER 1 was domiciled in Utah under either of two arguments, specifically: 1) PETITIONER 1 never established a new domicile in STATE 1 upon moving there in July 1990 and, thus, has always remained a Utah domiciliary, including the five tax years at issue; or 2) even if the Petitioner established a new domicile in STATE 1 in 1990, he abandoned that domicile and established a new domicile in Utah in 1996, where he had been domiciled ever since, including the years at issue.

The Division acknowledges that PETITIONER 1 has a number of ties with STATE 1, but asks the Commission to determine that he was domiciled in Utah during the years at issue by placing the most weight on three factors that support a finding of Utah domicile, specifically: 1) PETITIONER 1 owns two dwellings in Utah, but owns no real property in STATE 1; 2) since remarrying PETITIONER 2 in 1999,

PETITIONER 1' wife, children, and grandchildren have all been located in Utah, where he visits a majority of the time when he is not working in STATE 1; and 3) PETITIONER 1' living conditions in STATE 1 (i.e., a mobile home) are more "spartan" than his living conditions in Utah (i.e., a house). The Division also points out that PETITIONER 1 is registered as a "master electrician" in states other than STATE 1, including Utah and STATE 3. The Division further notes that PETITIONER 1 receives a significant amount of mail at his Utah address and owns vehicles registered in Utah.

The Petitioners argue that a preponderance of the facts and evidence shows that PETITIONER 1 was domiciled in STATE 1 for the five tax years at issue. They argue that PETITIONER 1 abandoned his Utah domicile and established a new domicile in STATE 1 in July 1990 and that he has maintained this domicile ever since. Even were the Commission to accept the Division's argument that PETITIONER 1 reestablished his domicile in Utah in 1996, the Petitioners argue that he abandoned his Utah domicile and reestablished domicile in STATE 1 in 1999, when he became a member of the IBEW union, renewed his STATE 1 driver's, and once again began to live and work in STATE 1 for approximately eight months a year.

Analysis. Utah appellate courts have addressed whether a person is domiciled in Utah for state income tax purposes² and have determined that a person's actions may be accorded greater weight in determining his or her domicile than a declaration of intent.³ Although the Division argues otherwise, the Commission believes it is clear that the Petitioner changed his domicile to STATE 1 in the early 1990's, when he moved there for work, remarried, and lived there with his second wife. The Commission also believes that

2 The issue of domicile for Utah individual income tax purposes has been considered by the Utah Supreme Court and the Court of Appeals. See *Lassche v. State Tax Comm'n*, 866 P.2d 618 (Utah Ct. App. 1993); *Clements v. State Tax Comm'n*, 839 P.2d 1078 (Utah Ct. App. 1995), *O'Rourke v. State Tax Comm'n*, 830 P.2d 230 (Utah 1992), and *Orton v. State Tax Comm'n*, 864 P.2d 904 (Utah Ct. App. 1993).

3 See *Clements v. Utah State Tax Comm'n*, 893 P.2d 1078 (Ct. App. 1995); and *Allen v. Greyhound Lines, Inc.*, 583 P.2d 613, 614 (Utah 1978).

it is clear that he maintained his STATE 1 domicile until at least 1996, the year he began to work in Utah again. Accordingly, to rule in favor of the Division, the Commission must find that prior to or in 1999, PETITIONER 1 took steps to change the place where he intended to make his permanent home from STATE 1 to Utah.

In 1996, PETITIONER 1 began to work in Utah again, obtained a Utah driver's license, and purchased a vehicle that he registered in Utah. However, he explained that he considered himself to still be domiciled in STATE 1 and only took work in Utah because of the lack of work in STATE 1 during this period. Furthermore, he explains that he only obtained a Utah driver's license after being told to do so by a Utah law enforcement officer. PETITIONER 1's position is supported by the facts that he rented a furnished apartment in Utah during these years on a month-to-month basis, which he relinquished during the months he returned to STATE 1., and that he maintained the mobile home in STATE 1 even during those periods he was working in Utah.

In 1999, PETITIONER 1 remarried PETITIONER 2 and, in 2000, they purchased a home together in Utah. On the other hand, however, during 1999 PETITIONER 1 joined the IBEW union in STATE 1, renewed his STATE 1 driver's license, and worked in STATE 1 for a majority not only of that year but also for all years at issue. When the facts are considered as a whole, the Commission does not find that PETITIONER 1 abandoned his STATE 1 domicile and reestablished a Utah domicile at any time since he first established his STATE 1 domicile in the early 1990's. The Commission believes that the Petitioner's presence in Utah in 1996 and 1998 was for a temporary purpose; i.e., to obtain work when employment conditions in STATE 1 were difficult. The Commission believes this finding is further supported by the fact that in 1999 and subsequent years, PETITIONER 1 has spent a majority of his time working in STATE 1, even though he had additional incentive after his remarriage in 1999 to spend more, and not a lesser amount of, time in Utah

than he did in 1996 and 1998. Furthermore, the Commission notes that PETITIONER 1 has been registered to vote in STATE 1 since 1992, is a member of a union and obtains health insurance in STATE 1, and receives a good portion of his personal mail in STATE 1. Moreover, the Petitioner has significant family ties and obligations in STATE 1. For these reasons, the Commission finds that for the five tax years at issue, PETITIONER 1 was not a Utah domiciliary and, accordingly, not a Utah resident individual for income tax purposes. On the other hand, the Commission finds that for the five years at issue, PETITIONER 2 was a Utah resident individual for income tax purposes.

DECISION AND ORDER

Based upon the foregoing, the Commission finds that PETITIONER 1 was domiciled in STATE 1, not Utah, for the five tax years at issue. Accordingly, the Commission finds that PETITIONER 1 was not a Utah resident individual for income purposes for these five years. To the extent the Division's assessments are based on PETITIONER 1 being a Utah resident individual for these years, the assessments are overturned. On the other hand, the Commission finds that PETITIONER 2 was a Utah resident individual for the five years at issue. To the extent the Division's assessments are based on PETITIONER 2 being a Utah resident individual for these years, the assessments are sustained. 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

Appeal No. 06-0441

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.

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 _____, 2007.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Notice: If a Formal Hearing is not requested as discussed above, failure to pay any remaining 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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