

06-0579  
Centrally Assessed Property  
Signed 08/16/2006

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	
	)	<b>ORDER</b>
Petitioner,	)	
v.	)	Appeal No. 06-0579
	)	Account No. #####
PROPERTY TAX DIVISION	)	
OF THE UTAH STATE TAX	)	Tax Type: Property Tax/Centrally Assessed
COMMISSION,	)	Tax Year: 2006
	)	
Respondent.	)	Judge: Robinson

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**Presiding:**

R. Spencer Robinson, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER REPRESENTATIVE  
For Respondent: RESPONDENT REPRESENTATIVE 1, Property Tax Division  
RESPONDENT REPRESENTATIVE 2, Property Tax 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 June 28, 2006. Petitioner is appealing the penalty assessed pursuant to §59-2-207 relating to late filing of Petitioner's Annual Tax Report for the tax year 2006.

APPLICABLE LAW

A person, or an officer or agent of that person, owning or operating property described in Subsection (1)(b) shall file with the commission, on a form prescribed by the commission, a sworn statement on or before March 1 of each year. (Utah Code Ann. 59-2-207 (1)(a).)

Except as provided in Subsection (3)(c), the commission shall assess a person a penalty as provided in Subsection (3)(b), if the person, or an officer or agent to that person, fails to file: (i) the statement required under Subsection (1)(a) on or before the later of: (a) March 1; or (B) if the commission allows an extension under Subsection (1)(c) for filing the statement, the day after the last day of the extension period or (ii) any other information the commission determines to be necessary. . . (Utah Code Ann. 59-2-207 (3)(a).)

The penalty is equal to the greater of 10% of the estimated tax due not to exceed \$50,000; or \$100. (Utah Code Ann. 59-2-207 (3)(b).)

(i) Notwithstanding Subsections (3)(a) and (4), the commission may waive, reduce, or compromise a penalty imposed under this section if the commission finds there are reasonable grounds for the waiver, reduction or compromise. (ii) If the commission waives, reduces, or compromises a penalty under Subsections (3)(c)(i), the commission shall make a record of the grounds for waiving, reducing, or compromising the penalty. (Utah Code Ann. 59-2-207 (3)(c).)

### DISCUSSION

Petitioner is appealing the penalty assessed pursuant to Utah Code Ann. 59-2-207 relating to late filing of Petitioner's Annual Tax Report for the tax year 2006. The return is due March 1 of each year. Respondent sent a letter on March 9, 2006 notifying Petitioner it had not filed a return. Petitioner filed a return on March 17, 2006. Petitioner's representative, PETITIONER REPRESENTATIVE, explained that inexperienced, new employees did not recognize the return when it arrived and filed it in a drawer. Respondent sent notice of the

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penalty on May 1, 2006. Petitioner responded on May 9, 2006. Respondent said Petitioner has not been delinquent in previous years. Respondent took no position on the issue of waiver, saying it would defer to the Commission.

### DECISION AND ORDER

After reviewing the circumstances in this matter, the Commission waives the penalty. It is so ordered.

This decision does not limit a party's right to a Formal Hearing or the right of an affected county to show cause pursuant to section 59-2-1007 why the Commission should not adjust the values in accordance with this order. However, this Decision and Order will become the Final Decision and Order of the Commission unless an affected party 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 administrative appeal rights in this matter. In that event, the Property Tax Division is ordered to adjust its records in accordance with this order. The Property Tax Division is also ordered to calculate the final adjustments, if any, to the values apportioned to tax districts as a result of this order and to deliver that information to the affected counties on behalf of the Commission. The auditors of

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the affected counties are ordered to use the information so provided to adjust their tax roles in accordance with this order.

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

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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

*RSR/06-0579.int*