

06-0600
Audit
Signed 09/27/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,)		
	)	ORDER	
Petitioners,)		
	)	Appeal No.	06-0600
v.)		
	)	Account No.	#####
AUDITING DIVISION OF THE)		#####
UTAH STATE TAX COMMISSION,	)	Tax Type:	Income
	)	Tax Period:	2003
Respondent.	)	Judge:	Phan

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE
For Respondent: RESPONDENT REPRESENTATIVE 1, Manager, Income Tax Auditing
RESPONDENT REPRESENTATIVE 2, Senior Auditor

STATEMENT OF THE CASE

This matter came before the Commission for a Telephone Status Conference on September 20, 2006. The conference was converted to the Initial Hearing so the matter could be resolved. Petitioners are appealing the interest assessed with the audit of their 2003 income tax. The amount of interest was \$\$\$\$.

APPLICABLE LAW

Upon making a record of its actions, and upon reasonable cause shown the commission may waive, reduce or compromise any of the penalties or interest imposed under this part. Utah Code Sec. 59-1-401(11).

DISCUSSION

Appeal No. 03-1161

The representatives for both parties agreed that the interest was a result of a Tax Commission employee error. Petitioners had prepared and filed a Utah Individual Income Tax Return stating the amount of the federal tax deduction correctly. However, a data entry employee keypunched in an incorrect, higher, amount for the federal tax deduction. This resulted in the return being processed with the deduction increased to an erroneous amount and an erroneous refund issued to Petitioners. Later when the return was processed through auditing, the error was discovered and the audit required Petitioners' to repay the tax amount that the Tax Commission had given to Petitioners in error.

Interest is assessed when taxes are not paid or are underpaid to compensate the state for the time value of money. Interest is generally waived only in the event the Tax Commission, or Tax Commission employee error gave rise to the late payment or underpayment.

DECISION AND ORDER

Based upon the foregoing, the Commission finds that sufficient cause has been shown to justify a waiver of the interest associated with the audit of Petitioner's individual income tax for tax year 2003.

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
Salt Lake City, Utah 84134

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

Appeal No. 03-1161

DATED this _____ day of _____, 2006.

Jane Phan
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

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