

06-0646
Property Tax
Signed 07/17/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)		
)	ORDER	
Petitioner,)		
)	Appeal No.	06-0646
v.)		
)	Tax Type:	Property Tax/Centrally Assessed
PROPERTY TAX DIVISION)	Tax Year:	2006
OF THE UTAH STATE TAX)		
COMMISSION,)	Judge:	Phan
)		
Respondent.)		

Presiding:
Jane Phan, Administrative Law Judge

Appearances:
For Petitioner:
For Respondent: RESPONDENT REPRESENTATIVE, Property Tax Appraiser

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing pursuant to the provisions of Utah Code Sec. 59-1-502.5, on July 13, 2006. Although notified of the date, time and location of the Initial Hearing, Petitioner failed to appear. Rather than issue a default against Petitioner the matter proceeded to a hearing. Petitioner is appealing the imposition of a penalty for failure to timely file the annual property tax report form.

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 Sec. 59-2-207(1)(a).)

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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 Sec. 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 Sec. 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 Sec. 59-2-207(3)(c).)

DISCUSSION

Petitioner is appealing the penalty assessed pursuant to Utah Code Sec. 59-2-207 relating to Petitioner's failure to timely file its property tax report for the tax year 2006. On the Appeal Form for Penalty, submitted by Petitioner in this matter, Petitioner's representative indicates that they had sent all the documents to their accountant and had thought they were filed timely.

Respondent's representative indicated that this was a first time error, that Petitioner had been cooperative and Respondent did not object to waiver of the penalty.

DECISION AND ORDER

Based on the fact that this was the first time the penalty had been assessed and the other circumstances explained in this matter, the Commission finds reasonable cause for waiver of the penalty for tax year 2006. It is so ordered. The Commission cautions Petitioner that criteria for waiver for subsequent periods is more stringent.

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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 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 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 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.

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