

06-0839  
Audit  
Signed 10/30/2006

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER 1 & PETITIONER 2,	)	
	)	<b>ORDER</b>
Petitioners,	)	
	)	Appeal No. 06-0839
v.	)	
	)	Account No. #####
AUDITING DIVISION OF	)	
THE UTAH STATE TAX	)	Audit Period: 2003
COMMISSION,	)	Tax Type: Income Tax
	)	
Respondent.	)	Judge: Robinson

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**Presiding:**

R. Spencer Robinson, Administrative Law Judge

**Appearances:**

For Petitioners: PETITIONER 1, *pro se*, via telephone

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 on September 12, 2006. It was originally scheduled for a Telephone Status Conference, but was converted to an Initial Hearing by agreement of the parties.

On May 23, 2006, Respondent sent Petitioners a Notice of Audit Change, notifying them that an audit had determined they did not qualify for the At-Home Parent Credit found in §59-10-108.1. Petitioners filed a Petition for Redetermination on June 16, 2006.

During the status conference, PETITIONER 1 agreed neither he nor PETITIONER 2 qualified for the credit, as both made more than \$\$\$\$ during 2003. He agreed to repay the \$\$\$\$ credit. However, because ( X ) apparently allowed the credit in the return it

created, and because of the time between the filing of their 2003 tax return and the audit, Petitioners ask that the interest be waived. Respondent opposed this request, stating it was not responsible for the error and had no jurisdiction over ( X ).

APPLICABLE LAW

Utah Code Ann. §59-1-401(11) “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.”

DISCUSSION

There is no evidence that Petitioners or ( X ) relied on erroneous advice from a Tax Commission employee. The audit was within the allowable three year period, including the time allowed for extensions. See Utah Code §59-10-536 and §59-10-516. The Petitioners had the time value of the money through no fault of the Commission. The facts of this case do not establish reasonable cause to waive the interest.

DECISION AND ORDER

Petitioners are responsible for payment of the interest. Their request for a waiver of the interest is denied. 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. 06-0839

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 \_\_\_\_\_, 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

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