

06-1033
Penalty and Interest
Signed 01/09/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)		
	)	ORDER	
Petitioner,)		
	)	Appeal No.	06-1033
v.)		
	)	Account No.	#####
TAXPAYER SERVICES DIVISION,	)	Tax Type:	Income Tax
UTAH STATE TAX COMMISSION,	)	Tax Period:	2005
)		
Respondent.	)	Presiding:	Robinson

Presiding:

R. Spencer Robinson, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, *pro se*

For Respondent: RESPONDENT REPRESENTATIVE, from the Taxpayer Services Division

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing on October 3, 2006 in accordance with Utah Code Ann. §59-1-502.5. The Petitioner appealed a decision by the Taxpayer Services Division (the "Division") denying waiver of interest for late payment of his 2005 Utah State income tax. The Division did not seek a penalty in this case.

Petitioner sent in his Utah income tax return with a company check, paying half the amount due, and an (X) voucher. Because the Division does not have the capability to accept credit card information submitted on a paper voucher, it did not accept Petitioner's (X) voucher. As a result, Petitioner's payment was late.

Because of the circumstances, the Division did not impose a penalty. However, it did assess interest on the unpaid portion of Petitioner's state income tax. At the time the Division sent notice to Petitioner, the interest was \$\$\$\$\$.

Petitioner pointed out he is able to use his credit card to pay his motor vehicle registration. He also makes tax payments to Utah County with his credit card. He said he telephoned the Division and made payment over the telephone with his credit card. He argued it makes no sense to allow him to use his credit card to pay motor vehicle taxes and fees, and to make credit card payments over the telephone, but not allow him to submit a credit card voucher.

The Division argued there is no procedure for using credit card vouchers. When someone appears in person to use a credit card, or uses one over the telephone, no document with all the information is created. In contrast, when there is a document with all the information, that document would stay with other documents in a hard file, where it could be readily accessed. For security reasons, the Division does not have a process for accepting credit card vouchers.

APPLICABLE LAW

The Tax Commission is granted the authority to waive, reduce, or compromise penalties and interest upon a showing of reasonable cause. Utah Code Ann. §59-1-401(11).

DISCUSSION

While Petitioner may have assumed his credit card voucher could be processed for payment, it could not. Petitioner did not rely on advice from a Tax Commission employee that he could submit a credit card voucher as payment. Because the Division could not process the voucher, Petitioner's credit card was not charged. Petitioner had the time value of the money until he paid his taxes.

DECISION AND ORDER

Based upon the foregoing, the Commission finds Petitioner has not established reasonable cause for a waiver of interest in this case. The Commission sustains the Division's assessment of interest. 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

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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.

DATED this _____ day of _____, 2007.

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 _____, 2007.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Notice: If the Petitioner does not request a Formal Hearing within the thirty-days as discussed above, failure to pay the amount of deficiency that results from this order may result in an additional penalty.

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