

06-1070
Income
Signed 05/29/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)		
)	INITIAL HEARING ORDER	
Petitioners,)		
)	Appeal No.	06-1070
v.)		
)		
AUDITING DIVISION OF)	Tax Type:	Income
THE UTAH STATE TAX)	Tax Years:	2003
COMMISSION,)	Judge:	Jensen
)		
Respondent.)		

Presiding:
Clinton Jensen, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER
 PETITIONER REPRESENTATIVE
For Respondent: RESPONDENT REPRESENTATIVE 1, Manager, Income Tax Auditing
 RESPONDENT REPRESENTATIVE 2, From the Auditing 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 Sec. 59-1-502.5, on May 17, 2007. At issue is the Division's audit to the Petitioner's 2003 tax return. The audit resulted in an increase in the Petitioner's Utah Taxable Income as a result of the Division counting debt cancellation income. Although the audit also gave the Petitioner additional credit for an increase in federal taxes paid, the audit changes resulted in \$\$\$\$ in additional Utah income taxes and interest through the date of the Division's August 28, 2006 statutory notice.

At the hearing, the Petitioner indicated that she did not have any defenses to the audit except that payment of these taxes would be a hardship since she would be asked to pay over \$\$\$\$ in taxes. As evidence of this, the parties reviewed the Petitioner's taxable income without the debt cancellation income. That taxable income was \$\$\$\$ for the 2003 tax year. The hearing officer explained that at this stage of the

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appeal, the Commission could only consider the validity of the audit. The Petitioner agreed that she did not have a defense to the audit but requested information to gain relief on account of the financial hardship that would come from payment of these taxes.

DECISION AND ORDER

Based upon the information presented at the hearing, the Commission upholds the results of the audit for the 2003 tax year. Although inability to pay the audit is not a defense to the audit, it may be basis for the Commission to accept an offer in compromise to lessen the amount of taxes, to arrange a payment plan, or a combination of these remedies. The Petitioner is directed to contact the Taxpayer Services Division of the Tax Commission to make application for an offer in compromise and any other relief that the Petitioner may see fit. The Commission directs the Petitioner to TAX COMMISSION EMPLOYEE at ##### to make this application for relief.

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.

DATED this _____ day of _____, 2007.

Clinton Jensen
Administrative Law Judge

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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 a Formal Hearing is not requested, failure to pay the balance due as determined by this order within thirty days of the date hereon, may result in a late payment penalty.

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