

06-1100
Penalty and Interest
Signed 03/14/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2,)	
)	ORDER
Petitioners,)	
)	Appeal No. 06-1100
v.)	
)	Account Nos. #####-1
AUDITING DIVISION,)	#####-2
UTAH STATE TAX COMMISSION,)	Tax Type: Penalty & Interest
)	
Respondent.)	Presiding: Jensen

Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 2

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 in accordance with Utah Code Ann. §59-1-502.5 on November 2, 2006.

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

Petitioner is appealing interest added in connection with an audit of the Petitioner's 2003 tax return. At hearing, the parties agreed on all facts that control interest and taxes in this

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matter. The Petitioner's 2003 Utah tax return had two errors. One was a Commission employee's error; one was the Petitioner's error. The parties agree that both errors understated tax and that the Petitioner should pay the corrected higher amount, but that the Petitioner should not have to pay any interest on the part of the underpayment that was not the Petitioner's fault.

As of the date of the hearing, the portion of interest on the Petitioner's error was \$\$\$\$\$. Because this was the Petitioner's error in mistakenly listing too much on the line for "one-half of the federal tax," there is no basis for waiving this interest. But the portion of interest that was \$\$\$\$\$ as of the hearing date resulted from an error in entering two exemptions when the Petitioner's return listed only one exemption. This was not the Petitioner's fault and thus there is good cause to waive interest associated with this error. The Division was correct in not assessing any penalty in connection with this audit.

DECISION AND ORDER

Based upon the foregoing, the Commission finds that sufficient cause has been shown to justify a waiver of any interest associated with the underpayment of taxes resulting from inputting two exemptions on the Petitioner's 2003 return when the original return indicated one exemption. 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:

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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

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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