

07-0370
Property Tax/Centrally Assessed
Signed 06/04/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)		
)	ORDER	
Petitioner,)		
)	Appeal No.	07-0370
v.)		
)	Tax Type:	Property Tax/Centrally Assessed
PROPERTY TAX DIVISION)	Tax Year:	2007
OF THE UTAH STATE TAX)		
COMMISSION,)	Judge:	Phan
)		
Respondent.)		

Presiding:
Jane Phan, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER REPRESENTATIVE, Office Manager
For Respondent: RESPONDENT REPRESENTATIVE 1
RESPONDENT REPRESENTATIVE 2

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 30, 2007. Petitioner is appealing the penalty assessed pursuant to Utah Code Sec. 59-2-207, for late filing of the 2007 annual property tax report.

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).)

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

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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 described in Subsection (3)(a) is an amount equal to the greater of: (i) 10% of the person's estimated tax liability under this chapter for the current calendar year not to exceed \$50,000; or (ii) \$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's representative states that she was not able to find the 2007 annual property report, it had been misplaced in the office. She states that she had called Respondent about the report and had been told how to pull a new one from the Internet. Her telephone call, however, had been made after the report was due on March 1, 2007. She mailed the report in to the Tax Commission on March 16, 2007. Petitioner's representative also explained that it was difficult to file by March 1 on an ongoing basis, because of year-end filings that were due around that time.

Respondent pointed out that this was the third late filing in three years. Respondent also indicated that the property report is mailed by certified mail and PETITIONER REPRESENTATIVE was the one who had signed for it on January 8, 2007. Respondent's representatives did explain the process of requesting an extension, but the request needed to be made prior to March 1.

Upon consideration of the information presented the Tax Commission finds no cause for waiver of this penalty. The filing dates are set by statute and filing by March 1. Respondent needs the

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information so it can meet its deadlines, which are also set by statute. The account history in this matter indicates a pattern of noncompliance and the penalties are warranted.

DECISION AND ORDER

Based on the foregoing, the Commission sustains the penalty assessed pursuant to Utah Code Sec. 59-2-207. It is so ordered.

This decision does not limit a party's right to a Formal Hearing or the right of an affected county to show cause pursuant to Section 59-2-1007 why the Commission should not adjust the values in accordance with this order. 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 _____, 2007.

Jane Phan
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

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