

07-0426
Income Tax / Penalty & Interest
Signed 09/10/2007

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p style="text-align: center;">Petitioner,</p> <p>vs.</p> <p>TAXPAYER SERVICES DIVISION, UTAH STATE TAX COMMISSION,</p> <p style="text-align: center;">Respondent.</p>	<p>ORDER</p> <p>Appeal No. 07-0426</p> <p>Tax Type: Income Tax / Penalty & Interest Account No. ##### Tax Year: 1999</p> <p>Judge: Robinson</p>
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Presiding:

R. Spencer Robinson, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, *pro se*, present at the hearing

For Respondent: RESPONDENT REPRESENTATIVE, from the Taxpayer Services 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 June 14, 2007. This appeal arises from the Division's decision on Petitioner's waiver request for the 1999 tax year.

The Division sent notice of its decision declining his waiver request on March 9, 2007. Petitioner filed a Petition for Redetermination on April 8, 2007.

Petitioner, a former dentist and recovering alcoholic, reentered treatment in September of 1999. He had lost his dentist license, and had turned everything over to an accountant. Petitioner did not sign a 1999 return in time for filing it.

Petitioner filed his 1999 return in 2006. The balance of the tax due is paid. What remains are penalties of \$\$\$\$\$ for failure to file, and \$\$\$\$\$ for failure to pay, plus interest. As of the date of the hearing, the total due was \$\$\$\$\$, of which \$\$\$\$\$ was penalties.

APPLICABLE LAW

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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

In this case, Petitioner's request appears to be based on financial hardship. Financial hardship is not one of the bases for waiver listed in Publication 17, *Waivers – Reasonable Cause*.

Interest is generally not waived unless there is Commission error. There is no Commission error that caused the Petitioner to not pay the proper amount of tax within the proper time. There is no reasonable cause for waiving interest.

DECISION AND ORDER

Based upon the foregoing, the Commission sustains the penalty and 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 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.

The Commission notes that, while this appeal is pending, the Offer in Compromise Unit in Taxpayer Services may not review a request from Petitioner for reduction in the amount he will be expected to pay, or to negotiate a payment schedule. Once the appeal is closed, whether by withdrawal of the appeal or conclusion of the appeals process, Petitioner may contact the Offer in Compromise Unit in an effort to negotiate more favorable terms.

DATED this _____ day of _____, 2007.

R. Spencer Robinson
Administrative Law Judge

Appeal No. 07-0426

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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