

07-0528  
Property Tax/Centrally Assessed  
Signed 06/12/2007

BEFORE THE UTAH STATE TAX COMMISSION

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|                              |   |              |                                 |
|------------------------------|---|--------------|---------------------------------|
| PETITIONER,                  | ) |              |                                 |
|                              | ) | <b>ORDER</b> |                                 |
| Petitioner,                  | ) |              |                                 |
|                              | ) | Appeal No.   | 07-0528                         |
| v.                           | ) |              |                                 |
|                              | ) | Tax Type:    | Property Tax/Centrally Assessed |
| PROPERTY TAX DIVISION OF THE | ) | Tax Year:    | 2007                            |
| UTAH STATE TAX COMMISSION,   | ) | Judge:       | Phan                            |
|                              | ) |              |                                 |
| Respondent.                  | ) |              |                                 |

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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

|                 |                             |
|-----------------|-----------------------------|
| For Petitioner: | PETITIONER REPRESENTATIVE 1 |
|                 | PETITIONER REPRESENTATIVE 2 |
| 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 June 6, 2007. Petitioner is appealing the penalty assessed pursuant to Utah Code Sec. 59-2-207, for Petitioner's late filing of the 2007 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

Appeal No. 07-0528

required under Subsection (1)(a) on or before the later of: (a) March 1; or (B) if the commission allows an 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 explained that she had always filed the returns timely in the past. However, in February 2002 she was dealing with the illness and then death of a family member and forgot about filing the return. She filed the return as soon as she had received the reminder notice. The return had been filed only about two weeks late.

Respondent confirmed that Petitioner had filed prior returns in a timely manner. Based on the circumstances, it was Respondent's recommendation that this penalty be waived. The Commission accepts Respondent's recommendation in this matter.

#### DECISION AND ORDER

Based on the foregoing, the Commission waives 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

Appeal No. 07-0528

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

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

D'Arcy Dixon Pignanelli

Appeal No. 07-0528

Commissioner  
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Commissioner