

07-0575
Income Tax / Penalty & Interest
Signed 09/17/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,

Petitioner,

vs.

AUDITING DIVISION,
UTAH STATE TAX COMMISSION,

Respondent.

ORDER

Appeal No. 07-0575

Tax Type: Income Tax / Penalty & Interest

Account No. #####

Tax Year: 2000, 2003

Judge: Robinson

Presiding:

R. Spencer Robinson, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, *pro se*, via telephone

For Respondent: RESPONDENT REPRESENTATIVE, 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 August 7, 2007. This appeal arises from the Division's decision on Petitioner's waiver request for 2000 and 2003. The Division declined to waive penalty and interest for both years.

In the late 90's, Petitioner suffered from substance abuse. Because of substance abuse, he had no regard for anything. He lost his family and his employment. In 2000, he began to turn his life around. In 2003, he sought treatment. He said he is now clean.

Petitioner graduated in May of 2007 from (X) University with a degree in computer science. He is seeking employment in his field. He has made payments to the IRS and the State.

Petitioner is newly married, and works part-time. Presently, his funds are limited. He requests a waiver because he has changed his life and will not be in the same predicament.

Petitioner has not filed returns for the years in question. The Division estimated his tax liability. Petitioner has paid the estimated tax of \$\$\$\$\$ for 2000 and \$\$\$\$\$ for 2003. He said he had no basis for disputing the estimate. A penalty of \$\$\$\$\$ for 2000 remains. The Division did not assess a penalty for 2003. The Division assessed interest on both years.

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's basis for his requested waiver is economic hardship. Under his current financial circumstances, it would be difficult for him to pay the penalty and interest. Economic hardship is not listed in Publication 17 as reasonable cause. Additionally, with regard to the interest, Petitioner had the time value of the money through no fault of the Commission. Petitioner did not rely on erroneous information from the Commission.

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. 07-0575

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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