

07-0721
Centrally Assessed/Property Tax
Signed 06/29/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	)	ORDER	
)		
Petitioner,	)	Appeal No.	07-0721
)		
v.	)	Account No.	#####
	)	Tax Year	2007
PROPERTY TAX DIVISION,	)	Tax Type:	Centrally Assessed/Property Tax
UTAH STATE TAX COMMISSION,	)		Penalty
)		
Respondent.	)	Judge:	Chapman

This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. The rule prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. However, pursuant to Utah Admin. Rule R861-1A-37, the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE (by telephone)
For Respondent: RESPONDENT REPRESENTATIVE 1, from Property Tax Division
RESPONDENT REPRESENTATIVE 2, from Property tax Division

STATEMENT OF THE CASE

This matter came before the Tax Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on June 27, 2007. The Petitioner is appealing the \$\$\$\$ penalty that the Division assessed pursuant to Utah Code Ann. §59-2-207, for late filing of the 2007 annual property tax report.

APPLICABLE LAW

Pursuant to Utah Admin. Code §59-2-207(1)(a), a centrally assessed taxpayer shall, on or before March 1 of each year, file with the Division a statement:

- (i) showing in detail all real property and tangible personal property located in the state that the person owns or operates; and
- (ii) containing any other information the commission requires.

Pursuant to Subsection 59-2-207(1)(c), extensions to the March 1 filing deadline are allowed,

as follows:

(c) (i) The commission may allow an extension for filing the statement under Subsection (1)(a) for a time period not exceeding 30 days, unless the commission determines that extraordinary circumstances require a longer period of extension.

(ii) The commission shall grant a person, or an officer or agent of that person, an extension for filing the statement under Subsection (1)(a) for a time period not exceeding 15 days if:

(A) a federal regulatory agency requires the taxpayer to file a statement that contains the same information as the statement under Subsection (1)(a); and

(B) the person, or an officer or agent of that person, requests the commission to grant the extension.

For a taxpayer that does not file its statement within the statutory timeframe, a penalty is

imposed pursuant to Subsection 59-2-207(3), as follows:

(3)(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 of 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 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 to:

(A) establish valuations for assessment purposes; or

(B) apportion an assessment.

(b) 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.

(c) (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 Subsection (3)(c)(i), the commission shall make a record of the grounds for waiving, reducing, or compromising the penalty.

DISCUSSION

The Petitioner admits that it submitted its annual statement approximately three days late. The Petitioner had been granted a two-week extension to file its annual statement pursuant to Subsection 59-2-207(1)(c), which resulted in a due date of March 16th. However, the Petitioner did not postmark the envelope containing its annual statement until approximately March 21st. For these reasons, the Commission finds that the Petitioner did not timely submit its annual statement.

Furthermore, the Division proffers that it calculated the \$\$\$\$ penalty as follows. The Division multiplied the Petitioner's assessed value of \$\$\$\$ by the 2006 tax rate for the tax area in which the Petitioner's property is located, resulting in an estimated 2007 tax liability of \$\$\$\$\$. Applying a 10% penalty to the estimated tax liability resulted in a penalty in the amount of \$\$\$\$\$. Given these circumstances, the Commission finds that the Division properly imposed a penalty of \$\$\$\$\$, pursuant to Section 59-2-207(3).

The Petitioner, however, asks the Commission to waive the penalty as being excessive and because it has never been late in submitting its annual statement before. Pursuant to Section 59-2-207(3)(c), the Commission is authorized to waive, reduce, or compromise the penalty upon a finding of reasonable grounds. The Division states that it would not object to the Commission waiving the penalty under the circumstances. Because the 2007 tax year is the first year that the Petitioner was late in submitting its annual report to the Division, the Commission finds that reasonable grounds exist to waive the penalty.

DECISION AND ORDER

After reviewing the circumstances in this matter, the Commission finds reasonable grounds to

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waive the \$\$\$\$ penalty at issue. 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.

Kerry R. Chapman
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
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D'Arcy Dixon Pignanelli
Commissioner