

08-0025
AUDIT
06-29-09

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2, Petitioners, v. AUDITING DIVISION OF THE UTAH STATE TAX COMMISSION, Respondent.	INITIAL HEARING ORDER Appeal No. 08-0025 Account No. ##### Tax Type: Income Tax Year: 2004 Judge: Chapman
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Presiding:

Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1, Taxpayer
For Respondent: RESPONDENT REP, from Auditing Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on June 23, 2009.

PETITIONER 1 & PETITIONER 2 (the “Petitioners” or “taxpayers”) are appealing Auditing Division’s (the “Division”) assessment of individual income tax for the 2004 tax year. On December 12, 2007, the Division issued a Notice of Deficiency and Audit Change (“First Statutory Notice”) to the taxpayers, in which it imposed additional tax and interest (as of January 11, 2008), as follows:

<u>Year</u>	<u>Tax</u>	<u>Penalties</u>	<u>Interest</u>	<u>Total</u>
2004	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

In its First Statutory Notice, the Division informed the taxpayers that the assessment was due primarily to the Internal Revenue Service (“IRS”) decreasing their itemized deductions from \$\$\$\$\$ to \$\$\$\$\$.

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On July 15, 2007, the Division issued a Second Statutory Notice, which reflected the fact that the IRS had changed the taxpayers' itemized deductions back to the original amount of \$\$\$\$\$. However, the Division imposed additional tax due in the Second Statutory Notice because the IRS had since disallowed one of the seven exemptions that the taxpayers originally claimed. The Division revised its assessment in the Second Statutory Notice to reflect six exemptions, imposing additional tax and interest (as of August 14, 2008), as follows:

<u>Year</u>	<u>Tax</u>	<u>Penalties</u>	<u>Interest</u>	<u>Total</u>
2004	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

The taxpayers claim that they are entitled to the seven exemptions, as originally claimed. They filed an amended return with the IRS to show that they were entitled to the seven exemptions. However, the IRS responded that it would not consider the exemption at issue because the taxpayers had missed the deadline to file an amended return for the 2004 tax year.

The taxpayers provided the Division with the IRS letter concerning the missed deadline. Upon receiving the IRS letter, the Division investigated the exemption at issue and determined that the IRS would have allowed the exemption had it considered the taxpayers' information. As a result, the Division states that it is reversing the assessment in its Second Statutory Notice. The Division also states that the taxpayers do not owe any additional tax for the 2004 tax year.

DECISION AND ORDER

Based on the foregoing, the Commission finds that the taxpayers do not owe any additional tax for the 2004 tax year. The Commission reverses all assessments that the Division issued in this matter. 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

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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.

DATED this _____ day of _____, 2009

Kerry R. Chapman
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 _____, 2009

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

NOTICE: Failure to pay any balance due as a result of this order within the thirty days from the date hereon may result in an additional penalty.

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