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**BEFORE THE UTAH STATE TAX COMMISSION**

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PETITIONER,	<b>HEARING ON MOTION TO DISMISS TAXPAYER'S APPEAL</b>
Petitioner,	Appeal Number:    09-1242
vs.	Account Number:    #####
AUDITING DIVISION OF THE UTAH STATE TAX COMMISSION,	Tax Type:          INCOME
Respondent.	Judge:            CHAPMAN

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The Auditing Division has filed a Motion to Dismiss this appeal on the basis that the Petition for Redetermination was not filed within thirty (30) days of the date of the Statutory Notice of Assessment. The Motion to Dismiss raises a threshold jurisdictional issue that must be resolved before a hearing on the underlying audit issues can be set. **The Status Conference currently set for 28 July 2009 is hereby canceled and a hearing on the merits of the Division's Motion to Dismiss is scheduled for the time set forth below.**

**A Hearing on Motion to Dismiss will take place as follows:**

**DATE: 28 July 2009**  
**TIME: 8:30 a.m. Mountain Time**  
**PLACE: Utah State Tax Commission**  
210 North 1950 West  
Salt Lake City, Utah 84134-6200

At the hearing, both parties will be allowed to present their arguments, after which a written decision will be issued whether to grant or deny the Motion to Dismiss. An order to deny the Division's motion will be issued if the evidence and testimony show the appeal was filed within the 30 day deadline or, if filed late, whether extraordinary circumstances exist that would justify the Commission's acceptance of the late filed appeal, such as some act or omission on the part of the Auditing Division that interfered with the taxpayer's rights of due process. In this situation, the underlying appeal on the audit issue will

continue and further proceedings will be set. Otherwise, an order to grant the Division's motion will be issued and the taxpayer's appeal will be dismissed.

The parties must mail, fax, or deliver copies of any documents, which will be introduced as evidence at the hearing to the Tax Commission Appeals Unit and to the opposing party no later than 10 days prior to the hearing. Failure to provide the documents in accordance with this order may result in the exclusion of such evidence from consideration.

The parties may appear at the hearing by telephone conference call. To appear by telephone any party must call fifteen minutes prior to the hearing at (801) 297-2282 and leave a number where he or she can be reached for the hearing.

A taxpayer may, at his or her option, submit a written response to the Motion to Dismiss at least ten (10) days prior to the hearing date. A response should outline any arguments the taxpayer would like to make in opposition to the Motion to Dismiss. Failure to appear in person or by telephone at the motion hearing may result in the dismissal of this appeal, even if a taxpayer submits a written response.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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Administrative Law Judge