

11-2218
TAX TYPE: INCOME TAX
TAX YEAR: 2003
DATE SIGNED: 4-26-2013
COMMISSIONERS: D. DIXON, M. CRAGUN, R. PERO
EXCUSED: B. JOHNSON

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER, Petitioner, vs. AUDITING DIVISION OF THE UTAH STATE TAX COMMISSION, Respondent.	ORDER ON TAXPAYER’S MOTION TO SET ASIDE ORDER OF DISMISSAL Appeal No. 11-2218 Account No. ##### Tax Type: Income Tax Tax Year: 2003 Judge: Marshall
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STATEMENT OF THE CASE

On April 16, 2013, a Telephone Status Conference was held for the limited purpose of determining in what manner the Taxpayer was “misinformed” of his appeal rights, in accordance with the Commission’s February 4, 2013 Order on Taxpayer’s Motion to Set Aside Order of Dismissal.

On September 26, 2012, the Taxpayer submitted a written request to withdraw the appeal. On October 5, 2012, the Commission issued an Order of Dismissal. The Taxpayer submitted a Petition for Redetermination on November 7, 2012 indicating that he did not request to cancel the prior appeal and that the fees were not disclosed. The November 7, 2012 Petition for Redetermination requests the fees and interest be removed because he is on a payment plan for the tax amount. The Taxpayer submitted a request on December 4, 2012 asking to have the Dismissal set aside because he was “misinformed” and “did not intend to withdraw the appeal”. The Commission determined that the appeal should be reopened for the limited purpose of determining in what manner the Taxpayer was “misinformed.”

The Taxpayer stated that he received a letter dated October 29, 2012 indicating that he owed \$\$\$\$\$ for the 2003 tax year. He claims that he was never informed of the penalties and interest assessed on the audit. However, the Division issued a Notice of Deficiency on May 2, 2011 showing tax due of \$\$\$\$\$, penalties of \$\$\$\$\$, and interest in the amount of \$\$\$\$\$. The Taxpayer timely filed an appeal of that Notice of Deficiency, thus it is not unreasonable to assume he received the Notice of Deficiency. He specifically checked the box on the Petition for Redetermination indicating that the appeal involved

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“individual income tax” and “penalty/interest.” It appears that the Taxpayer was informed of the penalties and interest assessed on the audit, and there is not reasonable cause to set aside the Order of Dismissal and re-open the appeal.

Once the Taxpayer has paid the tax liability, he may be request a waiver of penalties and interest through the Taxpayer Services Division.

ORDER

Based on the foregoing, the Taxpayer’s request to set aside the Order of Dismissal is denied, and the appeal shall be closed. It is so ordered.

DATED this _____ day of _____, 2013.

R. Bruce Johnson
Commission Chair

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner