

14-2143  
TAX TYPE: INCOME TAX  
TAX YEARS: 2011 and 2012  
DATE SIGNED: 5-21-2015  
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. PERO  
EXCUSED: D. DIXON  
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p style="padding-left: 40px;">Petitioner,</p> <p>vs.</p> <p>AUDITING DIVISION OF THE  UTAH STATE TAX COMMISSION,</p> <p style="padding-left: 40px;">Respondent.</p>	<p><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 14-2143</p> <p>Account No. #####</p> <p>Tax Type: Income Tax</p> <p>Tax Year: 2011 and 2012</p> <p>Judge: Nielson-Larios</p>
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**Presiding:**  
Aimee Nielson-Larios, Administrative Law Judge

**Appearances:**  
For Petitioner: TAXPAYER, by telephone  
For Respondent: RESPONDENT, Auditing Division, in person

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission on April 6, 2015 for an Initial Hearing in accordance with Utah Code § 59-1-502.5. On October 15, 2014, Respondent (“Division”) issued Petitioner (“Taxpayer”) Notices of Deficiency and Audit Change (“Notices of Deficiency”) for the 2011 and 2012 tax years. Through those Notices of Deficiency, the Division changed for Utah tax purposes both the number of exemptions from 1 to 0 and the “personal exemption deduction” to \$0. The Notices of Deficiency reflect the following amounts:

<u>Year</u>	<u>Audit Tax Due</u>	<u>Interest</u>	<u>Penalties</u>	<u>Audit Total Due</u>
2011	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$
2012	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

Interest was calculated through November 14, 2014. Generally, interest continues to accrue on any unpaid balance. The Taxpayer asserts that the Notices of Deficiency are incorrect and that he is entitled to claim a personal exemption on his Utah returns for those years. The Division asserts the 2012 Notice of Deficiency is correct. For the 2011 Notice of Deficiency, the Division asserts the Utah credit for a personal exemption was correctly disallowed but the Taxpayer is entitled to a Utah credit for taxes

withheld. The disallowance of the Utah credit for a personal exemption combined with the Utah credit for taxes withheld of \$\$\$\$ results in a \$\$\$\$ refund, which the Division stated it would refund.

APPLICABLE LAW

Utah Code § 59-1-1417(1) (2014) states, “In a proceeding before the commission, the burden of proof is on the petitioner [taxpayer] . . .”

Utah Code § 59-10-104 (2011-2012) imposes a state income tax as follows:

- (1) For taxable years beginning on or after January 1, 2008, a tax is imposed on the state taxable income of a resident individual as provided in this section.
- (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:
  - (a) the resident individual's state taxable income for that taxable year; and
  - (b) 5%.

....

Utah Code § 59-10-103(1) (2011-2012) defines adjusted gross income and state taxable income, as follows:

As used in this chapter:

- (a) "Adjusted gross income":
  - (i) for a resident or nonresident individual, is as defined in Section 62, Internal Revenue Code . . .
- ....
- (w) "Taxable income" or "state taxable income":
  - (i) subject to Section 59-10-1404.5, for a resident individual, means the resident individual's adjusted gross income after making the:
    - (A) additions and subtractions required by Section 59-10-114; and
    - (B) adjustments required by Section 59-10-115;

....

Utah Code § 59-10-1018(2) (2011-2012) provides taxpayers a Utah nonrefundable credit that is calculated using the taxpayers' federal standard or itemized deduction and using the taxpayers' federal personal exemption deduction. In particular, § 59-10-1018(2)(b) (2011) provides the amount of the Utah credit relating to the federal personal exemption deduction, as follows:

the product of:

- (i) 75% of the total amount the **claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return** for that taxable year; and
- (ii) 6%.

(Emphasis added.)

Section 59-10-1018(2)(b) (2012) includes the language cited above for § 59-10-1018 (2011) and also includes additional language allowing a supplementary amount for a disabled dependent. The disabled

dependent situation does not apply to this appeal, so the applicable language found in § 59-10-1018 (2012) and § 59 10-1018 (2011) is identical for this appeal.<sup>1</sup>

#### DISCUSSION

The Taxpayer explained that in 2011 and 2012 he was single and in school in Utah. He explained that his parents helped him with tuition and other expenses so his father claimed an exemption for him on his father's federal return. The Taxpayer explained that his parents lived in STATE, which does not have a state income tax, so they were not subject to STATE income tax. He also explained his parents did not have Utah taxable income, so they were not subject to Utah income tax, either. Based on these facts, the Taxpayer explained his parents claimed no state exemption for him.

The Taxpayer explained that on his 2011 and 2012 federal returns, he did not claim a personal exemption for himself because his father had claimed him on his father's return. The Taxpayer also explained that because his father had not claimed an exemption for him on any state return, the Taxpayer claimed an exemption for himself on his 2011 and 2012 Utah returns.

The Taxpayer explained he believes someone should be able to claim him as an exemption on a state return. The Taxpayer thinks for young people in his situation it does not make sense that no one might be allowed to claim state exemptions for them. He thinks these young people should be allowed to claim their own exemptions for state tax purposes.

The Division submitted as evidence copies of the Taxpayer's 2011 and 2012 Utah tax returns. The 2011 Utah return shows the Taxpayer claimed 0 exemptions and a \$0 amount for Line 11: Exemption Calculation. That 2011 Utah return indicated on line 43 the Taxpayer was owed a \$\$\$\$\$ refund after receiving a \$\$\$\$\$ credit for Utah tax withheld, reported on line 33. During the hearing and through a letter after, the Division explained that when the Taxpayer's 2011 Utah return was received, the Processing Division incorrectly processed it to allow one exemption instead of zero and to disallow the \$\$\$\$\$ credit for Utah tax withheld. Through the letter issued after the hearing, the Auditing Division explained that it would issue the \$\$\$\$\$ refund that the Taxpayer had claimed on his 2011 Utah return as filed.

Unlike the 2011 Utah return, the Taxpayer's 2012 Utah return shows the Taxpayer claimed 1 exemption and a \$\$\$\$\$ amount on Line 11: Exemption Calculation. The 2012 Utah return indicated the

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<sup>1</sup> In prior years ending with the 2007 tax year, Utah's treatment of personal exemptions was found in § 59-10-114(1)(d). In these prior years, the calculation of state taxable income started with federal taxable income, instead of with federal adjusted gross income, as it does now. In those prior years, under § 59-10-114(1)(d) taxpayers added "25% of the personal exemptions, as defined and calculated in the Internal Revenue Code" to their federal taxable income, along with making other adjustments, to arrive at their Utah taxable income. Thus, there has been an extended history of Utah tying the personal exemptions claimed on the Utah returns to the personal exemptions claimed on the federal returns.

Taxpayer neither owed money nor was owed a refund. The Division asserts the Processing Division made no error when it received and processed the Taxpayer's 2012 Utah tax return.

The Division explained that, in general, the calculation of Utah taxable income begins with a taxpayer's federal adjusted gross income, which is found on the taxpayer's federal return. The Division further explained that the taxpayer's federal adjusted gross income is adjusted by the additions and subtractions found in § 59-10-114 to arrive at the taxpayer's Utah taxable income. The Division explained that § 59-10-1018(2)(b) allows the taxpayer a credit against their Utah income tax equal to "the product of: (i) 75% of the total amount the claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return for that taxable year; and (ii) 6%." The Division asserted that based on the above Utah's statutes and rules, the Taxpayer may not claim an exemption on his Utah return when he has not claimed an exemption on his federal return. The Division asserts that, instead, the Taxpayer's number of exemptions on his Utah returns must match the number of exemptions on his federal returns.

After reviewing the evidence, the audit for the 2012 tax year should be sustained. The Taxpayer is not entitled to claim a Utah credit for a personal exemption on his 2011 and 2012 Utah returns. Section 59-10-1018(2)(b) allows a credit amount equal to "the product of: (i) 75% of the total amount the claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return for that taxable year; and (ii) 6%." It is undisputed the Taxpayer did not have a personal exemption deduction on his federal tax return. Thus under § 59-10-1018(2)(b), the Taxpayer's Utah credit amount for a personal exemption must be \$0 as well; the Taxpayer's federal personal exemption deduction of \$0 multiplied by 75% and by 6% equals a Utah tax credit amount of \$0. For the 2012 tax year, the audit tax due of \$\$\$\$\$ and the related interest are correct.

For the 2011 tax year, however, the Taxpayer has a \$\$\$\$\$ overpayment. As explained in the paragraph above, the Taxpayer is not entitled to claim a Utah credit for a personal exemption on his 2011 Utah return when he has not claimed a personal exemption deduction on his federal return. Thus, the Division correctly disallowed the Utah credit for a personal exemption. The Utah tax relating to that disallowance is \$\$\$\$\$, which equals the Audit Tax Due showing on the Notice of Deficiency. However, the Taxpayer is entitled to a \$\$\$\$\$ credit for Utah tax withheld. The \$\$\$\$\$ audit tax due reduced by the \$\$\$\$\$ credit for Utah tax withheld results in a \$\$\$\$\$ overpayment for the 2011 tax year.

Aimee Nielson-Larios  
Administrative Law Judge

DECISION AND ORDER

For the 2012 tax year, the Commission sustains the Division's audit assessment in full.

For the 2011 tax year, the Commission finds as correct the Division's disallowance of the Utah credit for a personal exemption, which is calculated using the federal personal exemptions deduction. However, the Commission also finds that the Taxpayer is entitled to a \$\$\$\$ credit for Utah tax withheld, which results in an overpayment of \$\$\$\$ for the 2011 tax year. 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, or emailed, 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

or emailed to:  
taxappeals@utah.gov

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

John L. Valentine  
Commission Chair

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner

Robert P. Pero  
Commissioner

**Notice of Payment Requirement: Any balance due as a result of this order must be paid within thirty (30) days of the date of this order, or a late payment penalty could be applied.**