

15-1291

TAX TYPE: INCOME TAX / REFUND

TAX YEAR: 2009 & 2010

DATE SIGNED: 12-18-2015

COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. PERO, R. ROCKWELL

GUIDING DECISION

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BEFORE THE UTAH STATE TAX COMMISSION

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TAXPAYER,  Petitioner,  v.  TAXPAYER SERVICES DIVISION OF THE UTAH STATE TAX COMMISSION,  Respondent.	<b>INITIAL HEARING ORDER</b>  Appeal No.    15-1291  Account No.   2261 Tax Type:     Income Tax / Refund Tax Year:     2009 & 2010  Judge:        Chapman
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**Presiding:**

Kerry R. Chapman, Administrative Law Judge

**Appearances:**

For Petitioner:    TAXPAYER, Taxpayer

For Respondent:    RESPONDENT-1, from Taxpayer Services Division  
                    RESPONDENT-2,, from Taxpayer Services Division

STATEMENT OF THE CASE

TAXPAYER (“Petitioner” or “taxpayer”) is appealing Taxpayer Services Division’s (“Respondent” or “Division”) denials of his requests for refunds or credits of 2009 and 2010 income taxes. 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 December 7, 2015.

On June 26, 2015, the taxpayer filed original 2009 and 2010 Utah individual income tax returns, on which he claimed refunds of \$\$\$\$ for the 2009 tax year and \$\$\$\$ for the 2010 tax year. On June 29, 2015 and July 14, 2015, the Division issued Notices of Expired Refund or Credit (“Notices”), in which it informed the taxpayer that the time to claim a refund or credit for 2009 and 2010 had expired. The Notices informed the

taxpayer that “Utah law limits the time allowed to claim a refund or credit to the later of three years from the due date of the return, plus the extension period, or two years from the payment date.”

The Division states that the deadlines to claim refunds or credits of taxes were October 15, 2013 for the 2009 tax year and October 15, 2014 for the 2010 tax year. Because the June 26, 2015 date on which the taxpayer filed his 2009 and 2010 returns occurred after these deadlines, the Division contends that Utah law precludes the refunds from being issued.

The taxpayer explained that beginning in 2003, he suffered physical problems that took a number of years to resolve. He also explained that because of these physical problems, he began to suffer from A MEDICAL DISORDER. As a result, he claims that he was unable, until recently, to file tax returns for tax years 2009 through 2014. He also asks the Commission to consider that he has never received any notice that he might lose the right to claim his refunds if the claims were not filed within a specific period of time. For these reasons, the taxpayer asks the Commission to waive the statutory deadlines to request refunds for 2009 and 2010.

The Division stated that the statute of limitations to request a refund or credit cannot be waived or extended because of the circumstances involving the taxpayer’s health. In addition, the Division stated that it is unaware of any statutory obligation of the Tax Commission or Division to notify a taxpayer of the statute of limitations to claim a refund. The Division stated that the duty lies with the taxpayer to know the law and that ignorance of the law is not a valid reason to waive or extend the statutory deadline to request a refund. As a result, the Division asks the Commission to sustain its actions to deny the taxpayer’s refund requests.

APPLICABLE LAW

UCA §59-10-514 provides for the filing of a Utah individual income tax return, as follows in pertinent part:

- (1) . . . .
  - (a) an individual income tax return filed for a tax imposed in accordance with Part 1, Determination and Reporting of Tax Liability and Information, shall be filed with the

commission:

- (i) except as provided in Subsection (1)(a)(ii), on or before the 15th day of the fourth month following the last day of the taxpayer's taxable year; . . . .

UCA §59-10-516(1) provides that the Commission shall allow an extension of time for filing an individual income tax return, as follows in pertinent part:

- (1) (a) The commission shall allow a taxpayer an extension of time for filing a return.
    - (b) (i) For a return filed by a taxpayer except for a partnership, the extension under Subsection (1)(a) may not exceed six months.
- . . . .

UCA §59-1-1410(8) addresses the general timeframe within which a taxpayer can request a refund or credit of overpaid taxes, as follows:

- (8) (a) Except as provided in Subsection (8)(b) or Section 19-12-203, 59-7-522, 59-10-529, or 59-12-110, the commission may not make a credit or refund unless a person files a claim with the commission within the later of:
  - (i) three years from the due date of the return, including the period of any extension of time provided in statute for filing the return; or
  - (ii) two years from the date the tax was paid.
- (b) The commission shall extend the time period for a person to file a claim under Subsection (8)(a) if:
  - (i) the time period described in Subsection (8)(a) has not expired; and
  - (ii) the commission and the person sign a written agreement:
    - (A) authorizing the extension; and
    - (B) providing for the length of the extension.

UCA §59-1-1417 provides that the burden of proof is generally upon the petitioner in proceedings before the Commission, with limited exceptions as follows in pertinent part:

- (1) In a proceeding before the commission, the burden of proof is on the petitioner except for determining the following, in which the burden of proof is on the commission:
  - (a) whether the petitioner committed fraud with intent to evade a tax, fee, or charge;
  - (b) whether the petitioner is obligated as the transferee of property of the person that originally owes a liability or a preceding transferee, but not to show that the person that originally owes a liability is obligated for the liability; and
  - (c) whether the petitioner is liable for an increase in a deficiency if the increase is asserted initially after a notice of deficiency is mailed in accordance with Section 59-1-1405 and a petition under Part 5, Petitions for Redetermination of Deficiencies, is filed, unless the increase in the deficiency is the result of a change or correction of federal taxable income:
    - (i) required to be reported; and

(ii) of which the commission has no notice at the time the commission mails the notice of deficiency.

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### DISCUSSION

Section 59-1-1410(8)(a) provides that a taxpayer is entitled to receive a refund or credit of overpaid taxes within three years from the due date of the return (including any statutory extension) or within two years from the date the tax was paid. For the 2009 tax year, all taxes were withheld and paid on or before April 15, 2010. Two years from this date is April 15, 2012. The due date of a 2009 return, with extensions, is October 15, 2010. Three years from this date is October 15, 2013. As a result, a request for a refund or credit of 2009 taxes is timely under Section 59-1-1410(8)(a) only if the request is made by October 15, 2013. Because the Tax Commission did not receive the taxpayer's request for a refund or credit of 2009 taxes until June 26, 2015, the 2009 request was made after the statutory deadline.

For the 2010 tax year, all taxes were withheld and paid on or before April 15, 2011. Two years from this date is April 15, 2013. The due date of a 2010 return, with extensions, is October 15, 2011. Three years from this date is October 15, 2014. As a result, a request for a refund or credit of 2010 taxes is timely under Section 59-1-1410(8)(a) only if the request is made by October 15, 2014. Because the Tax Commission did not receive the taxpayer's request for a refund or credit of 2010 taxes until June 26, 2015, the 2010 request was also made after the statutory deadline.

Historically, the Commission has strictly honored the statute of limitations period to claim a refund and has not waived or extended the period except where the Tax Commission itself was somehow responsible for a taxpayer filing his or her claim late. In fact, the Commission has consistently ruled in refund cases that it "does not have discretion to extend limitations periods."<sup>1</sup> The taxpayer suggests that the Tax Commission is at least

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<sup>1</sup> See *USTC Appeal No. 13-835* (Findings of Fact, Conclusions of Law, and Final Decision Oct. 27, 2014). See also *USTC Appeal No. 05-1414* (Order Feb. 13, 2006). Redacted copies of these and other selected

partially responsible for his late refund requests because the Tax Commission does not alert taxpayers of the statute of limitations period to claim a refund. The Commission, however, is unaware of any requirement imposing a duty on the Tax Commission to notify taxpayers of the statutory deadline to claim a refund. Accordingly, the Tax Commission was not responsible for the taxpayer's failure to file his 2009 and 2010 refund requests within the statutory periods.

Furthermore, the Commission is not aware of any Utah court ever finding that the limitations period to claim a tax refund can be waived or extended. The taxpayer, who has the burden of proof, has not provided any court decision or other precedent to suggest otherwise. Finally, the Legislature has provided that the limitations period to claim a refund may be extended under a single circumstance, specifically where the Tax Commission and a taxpayer sign a written statement to extend the limitations period before it has expired and by a specific amount of time.<sup>2</sup> The Legislature has not provided that the statutory period to claim a refund can be waived or extended for circumstances such as those that affected the taxpayer. For these reasons, the Commission should strictly honor the statute of limitations periods at issue in this case and sustain the Division's actions denying the taxpayer's refund requests.

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Kerry R. Chapman  
Administrative Law Judge

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decisions can be viewed on the Commission's website at <http://www.tax.utah.gov/commission-office/decisions>.

<sup>2</sup> See Section 59-1-1410(8)(b).

DECISION AND ORDER

Based upon the foregoing, the Commission sustains the Division's actions to deny the taxpayer's requests for refunds or credits of taxes for the 2009 and 2010 tax years. 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

Michael J. Cragun  
Commissioner

Robert P. Pero  
Commissioner

Rebecca L. Rockwell  
Commissioner