

16-157

TAX TYPE: INCOME TAX

TAX YEAR: 2010 & 2011

DATE SIGNED: 5-30-2017

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

EXCUSED: R. PERO

GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER-1 & TAXPAYER-2,</p> <p style="text-align: center;">Petitioners,</p> <p>v.</p> <p>TAXPAYER SERVICES DIVISION OF THE UTAH STATE TAX COMMISSION,</p> <p style="text-align: center;">Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</p> <p>Appeal Nos. 16-157 & 16-211</p> <p>Account No. #####</p> <p>Tax Type: Income Tax</p> <p>Tax Years: 2010 & 2011</p> <p>Judge: Phan</p>
--	---

Presiding:

Rebecca Rockwell, Commissioner

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: TAXPAYER-1

For Respondent: RESPONDENT-1, Deputy Director, Taxpayer Services Division
RESPONDENT-2, Taxpayer Services Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on March 16, 2017, in accordance with Utah Code §59-1-1410(9) and §63G-4-201 et seq. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioners (“Taxpayers”) timely appealed the decision by Respondent (“Division”) to deny the Taxpayers’ requests for refund of Utah individual income tax withholding for tax years 2010 and 2011. The matter proceeded through the administrative hearing process to the Formal Hearing.

2. For the years at issue, Taxpayers did not file Utah Individual Income Tax Returns when the returns were due, which for tax year 2010 was April 15, 2011, and for tax year 2011 was April 15, 2012. They also did not file during the period for extension under Utah Code Subsection 59-10-516(1) which would have been October 15, 2011 for tax year 2010 and October 15, 2012 for tax year 2011.

3. Previous to the tax years at issue in this appeal, the Taxpayers had been residents of STATE-1 from 2002 through 2009. The Taxpayer, TAXPAYER-1, stated that they were unfamiliar with Utah filing requirements.

4. At some point after the returns were due, TAXPAYER-1 testified that he had made a call to the Tax Commission about filing returns because he was unaware of Utah tax filing provisions. He states that he was informed that if there was no tax due there would be no penalty. He testified that he had asked specifically because he was concerned about penalties. He states that he was not informed that there was a statute of limitations for refunds, but also acknowledged that he did not ask about refunds.

5. The Taxpayer explained the reason he did not file returns as they became due was that he was hired to work on the INTERSTATAE project in COUNTY-1, which required a lot of overtime through the end of 2012, and then he began working to construct a mine in the NAME-1 area. When in the NAME-1 area, which he described as being “in the middle of nowhere,” he resided in a worker’s camp during the week and could only return to his residence on weekends.

6. When the returns were eventually filed, they were filed as married filing joint returns for both Taxpayers. TAXPAYER-2 was not at the hearing. At the hearing, when asked why his wife did not file the returns, TAXPAYER-1 stated he was “the one who filed the returns.”

7. The Taxpayer was laid off from the job in the NAME-1 area in 2015 and he said after that he was able to file his returns. He filed the 2010 and 2011 joint tax returns on December 31, 2015. TAXPAYER-1 employers had withheld taxes on his behalf and paid the taxes to the State of Utah during the tax years. For both years, the withholding paid was more than the tax that the Taxpayers claimed on their joint filed returns. On their Utah Individual Income Tax Return for tax year 2010, they had claimed a refund in the amount of \$\$\$\$\$. For tax year 2011, they had claimed a refund in the amount of \$\$\$\$\$.

8. Shortly after the Taxpayers filed these returns, on January 5, 2016 and January 11, 2016, the Division issued Notices of Expired Refund or Credit, informing the Taxpayers that the time to claim a refund or credit had expired for the tax years 2010 and 2011.

9. It was the Division’s position that the statutory deadline, which is provided at Utah Code Subsection 59-1-1410(8), to claim a refund or credit was October 15, 2014 for tax year 2010 and October 15, 2015, for tax year 2011.

APPLICABLE LAW

The time limit for making a claim for refund is set forth in Utah Code §59-1-1410(8), below in pertinent part:

- (a) Except as provided in Subsection (8)(b) or Section 19-2-124, 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.

A person may appeal to the Tax Commission the denial of a refund claim by the Division under Utah Code §59-1-1410(9) as follows:

If the commission denies a claim for a credit or refund, a person may request a redetermination of the denial by filing a petition or request for agency action with the commission: (a)(i) within a 30-day period after the day on which the commission mails a notice of denial for the claim for credit or refund; or (ii) within a 90-day period after the day on which the commission mails a notice of denial for the claim for credit or refund, if the notice is addressed to a person outside the United States or the District of Columbia; and (b) in accordance with: (i) Section 59-1-501; and (ii) Title 63G, Chapter 4, Administrative Procedures Act.

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

- (1) Subject to Subsection (3):
 - (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...

An extension of time is allowed for filing an individual income tax return, under Utah Code Ann. §59-10-516(1), in relevant part, below:

- (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.
 - (ii) For a return filed by a partnership, the extension under Subsection (1)(a) may not exceed five months.

Under Utah Code Ann. §59-1-1417(1), the burden of proof is generally upon the petitioner in proceedings before the commission, as follows:

- (1) In a proceeding before the commission, the burden of proof is on the petitioner . . .

CONCLUSIONS OF LAW

1. Utah Law provides that the Commission may not issue a refund or make a credit unless a taxpayer files a claim within the later of three years from when the return was due, plus any extension period, or two years from the date the tax was paid. See Utah Code Subsection 59-1-1410(8). In this

matter, the later of the two options was three years from when the return was due plus the extension period. The deadline to claim a refund had expired on October 15, 2014 for tax year 2010. For tax year 2011, the period to claim a refund had expired on October 15, 2015. The Taxpayers failed to file their returns or otherwise make a claim for refund within the statutory deadline.

2. There are no provisions in the Utah Tax Code that would allow an extension of the deadline set at Utah Code Subsection 59-1-1410(8) for good cause or due to ignorance of the law. Because the Tax Commission lacks authority to extend the deadline for cause it does not evaluate the facts to determine if they, in fact, rise to the level of good cause. The Tax Commission has always strictly construed the filing deadlines set out in the Utah Tax Code and lacks statutory authority to exercise discretion to extend the deadlines in the circumstances described in this appeal. In addition, these limitation provisions for claiming a refund are similar to other taxing entities like the Internal Revenue Service and other states that assess income tax. Refund limitation periods are not unique to the State of Utah.

3. At the hearing, the Taxpayer argued that he is entitled to the return of his wages and that too much money had been withheld on his behalf. He also argued that the Tax Commission should apply the four-year deadline set out in the Judicial Code at Utah Code Sec. 78B-2-307. The provision of the Judicial Code applies to claims of action filed in court and Section 78B-2-307 appears to provide a four-year statute of limitations on certain types of claims that are specified therein, none of which are for a refund of overpaid Utah Individual Income Taxes. The Taxpayer also provided a copy of Utah Code Sec. 34-28-3. Title 34 of the Utah Code is Labor in General and Chapter 28 deals with payment of wages. This section does not specifically address individual income tax withholding or refunds of tax withholding. Neither of these code sections are applicable in this matter as the specific statute for filing a claim for refund is set out at Utah Code Subsection 59-1-1410(8) and the Taxpayers missed the deadline set out in that statute. In interpreting statutory provisions, the Utah Supreme Court has made it clear that a “more specific statute governs instead of a more general statute.” *Jensen v. IHC Hospitals Inc.*, 944 P.2d 327, 331 (1997). See also *Hall v. Utah State Department of Corrections*, 24 P.3d 958 (Utah 2001).

After review of the law that applies and the facts in this matter, the Division properly disallowed the claims for refund for the tax years 2010 and 2011 because the Taxpayers failed to file their claims within the period set out at Utah Code Subsection 59-1-1410(8).

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Tax Commission denies the Taxpayers' appeal regarding the refund request for tax years 2010 and 2011.

DATED this _____ day of _____, 2017.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Rebecca L. Rockwell
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §59-1-601 et seq. and §63G-4-401 et seq.