

APPEAL #: 22-1925
TAX TYPE: PROPERTY TAX
TAX YEAR: 2022
DATE SIGNED: 4/18/2023
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>CENTRALLY ASSESSED DIVISION¹ OF THE UTAH STATE TAX COMMISSION,</p> <p style="text-align: center;">Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 22-1925</p> <p>Tax Type: Property Tax Tax Year: 2022</p> <p>Judge: Phan</p>
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER'S REP-1, Controller, TAXPAYER
For Respondent: RESPONDENT'S REP-1, Tax Examiner, Manager
RESPONDENT'S REP-2, Centrally Assessed Valuation

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing on January 31, 2023 in accordance with Utah Code Sec. 59-1-502.5. Petitioner ("Taxpayer") is appealing the penalty assessed by the Respondent ("Division") under Utah Code Ann. §59-2-207, for the late filing of the annual property tax statement for the 2022 tax year. Procedurally, this matter was initiated by a request to appeal the penalties filed by the Taxpayer on DATE. Because of a number of factors, including that the Taxpayer had sent an email regarding a valuation appeal on the DATE deadline and there was an error with the Notice of Penalty not getting posted to the Taxpayer's account until DATE, the Division did not

¹ Due to a reorganization at the Tax Commission, the name of the Tax Commission division that was the Respondent in this matter has been changed.

request dismissal of the appeal for late filing. Therefore, the hearing before the Commission was on the merits of whether or not the penalty should be waived.

APPLICABLE LAW

A statement of the Taxpayer is required to be filed by March 1 of each year, as provided in Utah Code Ann. §59-2-207(1), set forth below in pertinent part:

- (a) A person, or an officer or agent of that person, owning or operating property described in Subsection (1)(b) shall file with the commission, on a form prescribed by the commission, a sworn statement on or before March 1 of each year...

The assessment and waiver of any penalty imposed for the failure to file the statement, is governed by Utah Code Ann. §59-2-207(3), as follows:

- (a) Except as provided in Subsection (3)(c), the commission shall assess a person a penalty as provided in Subsection (3)(b), if the person, or an officer or agent of that person, fails to file:
 - (i) the statement required under Subsection (1)(a) on or before the later of:
 - (A) March 1; or
 - (B) if the commission allows an extension under Subsection (1)(c) for filing the statement, the day after the last day of the extension period; or
 - (ii) any other information the commission determines to be necessary to:
 - (A) establish valuations for assessment purposes; or
 - (B) apportion an assessment.
- (b) The penalty described in Subsection (3)(a) is an amount equal to the greater of:
 - (i) 10% of the person's estimated tax liability under this chapter for the current calendar year not to exceed \$50,000; or
 - (ii) \$100.
- (c) (i) Notwithstanding Subsections (3)(a) and (4), the commission may waive, reduce, or compromise a penalty imposed under this section if the commission finds there are reasonable grounds for the waiver, reduction, or compromise.
 - (ii) If the commission waives, reduces, or compromises a penalty under Subsection (3)(c)(i), the commission shall make a record of the grounds for waiving, reducing, or compromising the penalty.

DISCUSSION

The Taxpayer’s representative explained at the hearing that he had obtained extensions and the extensions provided a due date for the 2022 annual property tax statement to be submitted electronically by DATE, by midnight. The Taxpayer's representative explained that he was working on the statement and it was complicated because there were two different plants, so it took him just a little longer than he thought it would. He stated he filed the statement between 1:00 and 2:00 a.m., so it was filed less than two hours late.

The Division pointed out that the Taxpayer had filed the statement late four times in the past six years. The Division also noted that late penalties had been assessed each time and none of the penalties had been waived. The Division stated that the Taxpayer requested a waiver of the penalty one year, but the appeal request was filed late so the appeal was dismissed and the penalty was not waived. The Division pointed out that the Taxpayer had not requested a waiver of the penalties for any other period. The penalty amount is 10% of the taxes due and it was a substantial amount. In addition, because the taxes due for tax year 2022 had increased substantially from prior years, the amount of the penalty for tax year 2022 was substantially higher than for any of the prior years. The Division provided the following account history to show the amount of the taxable value, the years when the annual property tax statement had been filed late and the penalty amount for some of the years when the penalty was imposed as follows:

Year	When Filed	Taxable Value	Penalty Amount
2022	Filed Late	\$\$\$\$\$	\$\$\$\$\$
2021	Filed on Time	\$\$\$\$\$	None
2020	Filed Late	\$\$\$\$\$	\$\$\$\$\$
2019	Filed on Time	\$\$\$\$\$	None
2018	Filed Late	\$\$\$\$\$	Penalty Amount Not Provided
2017	Filed Late	\$\$\$\$\$	Penalty Amount Not Provided

Pursuant to Utah Code Ann. §59-2-207(3)(c) the Commission may waive, reduce, or compromise a penalty imposed under this section if the commission finds there are “reasonable grounds for the waiver,

reduction, or compromise.” The statute does not address what constitutes “reasonable grounds” and there is no Tax Commission administrative rule that provides guidance on “reasonable grounds” for this type of penalty. The Commission has often found a first time late filing error to be reasonable grounds. This is not the Taxpayer’s first time error. However, the Taxpayer did not request waiver of the first late filing penalty, which had occurred in 2017. It is apparent from the information that the Division provided that the 2022 assessment and the penalty amount was much higher than any of the prior years’ penalties. Additionally, the amount of the penalty, \$\$\$\$\$, is significant in relation to the fact that the statement was filed within two hours after a midnight deadline. Because this was not the first time the Taxpayer filed late, the Commission does not find sufficient reasonable grounds for waiver of the penalty in full, but concludes there are reasonable grounds based on all of the factors noted to reduce the penalty to the amount of the most recent prior year penalty of \$\$\$\$\$. The Commission cautions the Taxpayer that it will be more difficult for the Commission to find reasonable grounds to waive another penalty and that the Taxpayer needs to comply with deadlines to file the annual property tax statement going forward.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission reduces the penalty assessed under Utah Code Ann. §59-2-207 for tax year 2022 to the amount of \$\$\$\$\$. It is so ordered.

This Decision does not limit a party's right to a Formal Hearing. Any party to this case may file 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 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 by Email to:
taxappeals@utah.gov

Appeal No. 22-1925

Failure to request a Formal Hearing will preclude any further administrative appeal rights in this matter. In that event, the Property Tax Division is ordered to adjust its records in accordance with this order. The Property Tax Division is also ordered to calculate the final adjustments to the values apportioned to tax districts as a result of this order and to deliver that information to the affected counties on behalf of the Commission. The auditors of the affected counties are ordered to use the information so provided to adjust their tax roles in accordance with this order.

DATED this ____ day of ____, 2023.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner