

APPEAL # 23-1290  
TAX TYPE: INDIVIDUAL INCOME TAX  
TAX YEAR: 2019  
DATE SIGNED: 5/13/2025  
COMMISSIONERS: J.VALENTINE, M.CRAGUN, AND J.FRESQUES  
EXCUSED/RECUSED: R.ROCKWELL

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>TAXPAYERS,</p> <p>Petitioners,</p> <p>v.</p> <p>INCOME TAX AND EDUCATION DIVISION OF THE UTAH STATE TAX COMMISSION,</p> <p>Respondent.</p>	<p><b>INITIAL HEARING ORDER</b></p> <p>Appeal No. 23-1290</p> <p>Account No: #####</p> <p>Tax Type: Audit - Individual Income Tax</p> <p>Tax Year: 2019</p> <p>Judge: Phan</p>
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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: TAXPAYER

For Respondent: RESPONDENT'S REP-1, Tax Examiner Manager

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission on December 10, 2024 for an Initial Hearing in accordance with Utah Code Ann. §59-1-502.5. The matter resulted from an appeal filed by the Petitioners (“Taxpayers”) on DATE, of an audit deficiency issued on DATE.<sup>1</sup> The audit had disallowed the \$\$\$\$ renewable residential energy systems credit, which the Taxpayers had claimed on their 2019 Utah Individual Income Tax Return. During the appeal process, it was determined that the Taxpayers could have claimed the credit for tax year 2020, but

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<sup>1</sup> The Petitioner had technically filed the appeal after the 30 day appeal deadline, the Division filed a Motion to Dismiss on DATE. A Hearing on Motion to Dismiss was held on DATE, and an Order Denying Respondent's Motion to Dismiss was issued on DATE.

not for tax year 2019. The Taxpayers filed an amended 2020 return, claimed the credit and were refunded the \$\$\$\$ for that year, plus interest. The Taxpayers paid the audit tax deficiency for tax year 2019. This Initial Hearing was scheduled at the Taxpayers request because they still wished to contest the interest assessed with the 2019 audit deficiency. No penalties had been assessed with the audit. The amount of the interest that had accrued as of the hearing date was \$\$\$\$.

#### APPLICABLE LAW

Interest is imposed on any underpayment of tax, fee or charge pursuant to Utah Code §59-1-402 as follows in pertinent part:

(2) Except as otherwise provided for by law, the interest rate for a calendar year for a tax, fee, or charge administered by the commission shall be calculated based on the federal short-term rate determined by the Secretary of the Treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter.

(3) The interest rate calculation shall be as follows:

(a) except as provided in Subsection (7), in the case of an overpayment or refund, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate; or

(b) in the case of an underpayment, deficiency, or delinquency, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate.

....

(6) Interest on any underpayment, deficiency, or delinquency of a tax, fee, or charge shall be computed from the time the original return is due, excluding any filing or payment extensions, to the date the payment is received

The Commission has been granted the discretion to waive penalties and interest. Utah Code Ann. §59-1-401(14) provides, “Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.”

The Commission has promulgated Administrative Rule R861-1A-42 to provide additional guidance on the waiver of penalties and interest, as follows in pertinent part:

(2) Reasonable Cause for Waiver of Interest. Grounds for waiving interest are more stringent than for penalty. To be granted a waiver of interest, the taxpayer must prove that the commission gave the taxpayer erroneous information or took inappropriate action that contributed to the error.

Utah Code Ann. §59-1-1417 provides, “[i]n a proceeding before the commission, the burden of proof is on the petitioner...”

### DISCUSSION

At the hearing, the Taxpayer explained why she had mistakenly claimed the renewable residential energy systems credit on her Utah individual income tax return for tax year 2019. She stated that the contractor who installed the solar system had filed the paperwork with the Department of Energy and when the contractor had filed the paperwork, they provided the Department of Energy the wrong email address, so the Taxpayer did not receive the completed TC-40E. She assumed that she should claim the credit on her 2019 return, but the credit was approved for her tax year 2020 return. She argued that it was bad policy to allow the solar contractor to file this type of paperwork on behalf of taxpayers, and argued that this bad policy should be considered a basis for waiver of the interest. She also argued that it had taken a significant amount of time for the Division to audit the Taxpayer, and then there had been two years while the appeal had remained open before the issues were resolved. She argued this should also be a basis for waiver of interest.

The Division’s representative explained that once the Taxpayer had filed an amended return for tax year 2020, and claimed the renewable residential energy systems credit on the correct tax year, the Tax Commission had refunded the Taxpayer the \$\$\$\$ credit plus the interest that arose from the due date of the 2020 return to the date the refund was paid to the Taxpayer. He explained at the hearing, the interest amount that the Tax Commission had paid to the Taxpayer with the tax year 2020 refund had been \$\$\$\$\$. He also pointed out that when the Taxpayer had paid the tax year 2019 audit tax amount on DATE, she only paid the tax amount, not the interest at that time. So there continued to be an unpaid balance and interest continued to accrue. The Division stated that the administrative process had been prolonged due to the Taxpayer’s own actions by not filing the appeal timely and requesting a hearing regarding the interest. The Division’s representative pointed to Utah Admin. Rule Rule R861-1A-42(2), which sets out the basis for waiver of interest.

Upon review of the information presented at this hearing and the applicable law, the Taxpayer has not presented a basis for waiver of interest. Interest is imposed by statute on any tax deficiency pursuant to Utah Code §59-1-402. Utah Code §59-1-401(14) gives the Tax

Commission authority to waive penalties or interest upon a showing of reasonable cause, but no audit penalties were assessed. Administrative Rule R861-1A-42 sets out what is considered to be reasonable cause for waiver of interest. Pursuant to Administrative Rule R861-1A-42(2), “Grounds for waiving interest are more stringent than for penalty. To be granted a waiver of interest, the taxpayer must prove that the commission gave the taxpayer erroneous information or took inappropriate action that contributed to the error.” There was no erroneous information or inappropriate action on the part of the commission. The Taxpayer was audited because she claimed the renewable residential energy systems credit for the wrong tax year. The fact that the Department of Energy allows a contractor to file the forms on behalf of the homeowner who has the solar panels installed is not an action on the part of the Tax Commission. Furthermore, the time that it has taken to issue an audit deficiency<sup>2</sup> or provide the Taxpayer with statutory due process has not been considered to be erroneous information or inappropriate action for the purposes of finding reasonable cause for waiver of interest. Therefore, the interest should be sustained.

Jane Phan  
Administrative Law Judge

#### DECISION AND ORDER

Based on the foregoing, the Commission finds there is not sufficient reasonable cause for waiver of the interest assessed against the Taxpayers with the 2019 audit deficiency. The audit tax deficiency for tax year 2019, which amount was already paid by the Taxpayers, was not contested at this hearing and is, therefore, upheld. 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

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<sup>2</sup> See *Utah State Tax Commission Order Appeal No. 07-0821* (11/08/2007). This and other Tax Commission Decisions are published in a redacted format at: <https://tax.utah.gov/commission/decision>.

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 \_\_\_\_, 2025.

John L. Valentine  
Commission Chair

Michael J. Cragun  
Commissioner

Rebecca L. Rockwell  
Commissioner

Jennifer N. Fresques  
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.**