APPEAL # 24-1720
TAX TYPE: PENALTY AND/OR INTEREST WAIVER INDIVIDUAL INCOME TAX
TAX YEAR: 2022
DATE SIGNED: 9/30/2025
COMMISSIONERS: J. VALENTINE, R. ROCKWELL, J. FRESQUES AND J. DEEDS

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER, Petitioner, v. SPECIAL SERVICES DIVISION OF THE UTAH STATE TAX COMMISSION, Respondent.	**INITIAL HEARING ORDER** Appeal No. 24-1720 Account No: ##### Tax Type: Penalty and/or Interest Waivers Individual Income Tax Tax Year: 2022 Judge: Nielson-Larios

Presiding:
Aimee Nielson-Larios, Administrative Law Judge

Appearances:
For Petitioner:[1] PETITIONER'S REP-1, Representative, Taxpayer's son
PETITIONER'S REP-2, Representative, Taxpayer's wife

For Respondent: RESPONDENT'S REP-1, Special Services Division

I. STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission on January 7, 2025, for an Initial Hearing in accordance with Utah Code Ann. § 59-1-502.5. Respondent ("Division") issued a Waiver Decision dated DATE ("Waiver Decision"), concerning the request of Petitioner ("Taxpayer") for a waiver of a $$$$$ late filing penalty, $$$$$ late payment penalty, and $$$$$ of interest for the 2022 tax year.[2] Through the Waiver Decision, the Division waived the late filing penalty and denied the request for a waiver of the late payment penalty and interest. The Taxpayer has appealed the Division's Waiver Decision.

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1 The Petitioner passed away from a "5+ year journey with lung cancer" on DATE, according to his online obituary.
2 In accordance with the Utah Code, interest continues to accrue on any unpaid amount.

II. APPLICABLE LAW

Utah Code Ann. § 59-1-1417(1) provides, "In a proceeding before the commission, the burden of proof is on the petitioner [taxpayer] . . ."

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 Utah Administrative Code 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.
>
> (3) Reasonable Cause for Waiver of Penalty. The following clearly documented circumstances may constitute reasonable cause for a waiver of penalty:
>
> (a) Timely Mailing or Electronic Submission…
>
> (b) Wrong Filing Place…
>
> (c) Death or Serious Illness:
>
> (i) The death or serious illness of a taxpayer or a member of the taxpayer's immediate family caused the delay.
>
> (ii) With respect to a business, trust, or estate, the death or illness must have been of the individual, or the immediate family of the individual, who had sole authority to file the return.
>
> (iii) The death or illness must have occurred on or immediately before the due date of the return.
>
> (d) Unavoidable Absence…
>
> (e) Disaster Relief…
>
> (f) Reliance on Erroneous Tax Commission Information…
>
> (g) Tax Commission Office Visit…
>
> (h) Unobtainable Records…
>
> (i) **Reliance on Competent Tax Advisor**: The taxpayer:
>
> (i) Furnishes all necessary and relevant information to a competent tax advisor, and the tax advisor:
>
> (A) incorrectly advises the taxpayer;
>
> (B) fails to timely file a return on behalf of the taxpayer; or
>
> (C) fails to make a payment on behalf of the taxpayer; and
>
> (ii) demonstrates that the taxpayer exercised ordinary business care, prudence, and diligence in determining whether to seek further advice.
>
> (j) First Time Filer...
>
> (k) Bank Error…
>
> (l) **Compliance History:**
>
> (i) The commission will consider the taxpayer's recent history for payment, filing, and delinquencies in determining whether a penalty may be waived.
>
> (ii) The commission will also consider whether other tax returns or reports are overdue at the time the waiver is requested.
>
> (m) Employee Embezzlement...

(n) Recent Tax Law Change...

(4) Other Considerations for Determining Reasonable Cause.

(a) The commission allows for equitable considerations in determining whether reasonable cause exists to waive a penalty. Equitable considerations include:

(i) whether the commission had to take legal means to collect the taxes;

(ii) if the error is caught and corrected by the taxpayer;

(iii) the length of time between the event cited and the filing date;

(iv) typographical or other written errors; and

(v) other factors the commission deems appropriate.

(b) Other clearly supported extraordinary and unanticipated reasons for late filing or payment, which demonstrate reasonable cause and the inability to comply, may justify a waiver of the penalty.

(c) In most cases, ignorance of the law, carelessness, or forgetfulness does not constitute reasonable cause for waiver. Nonetheless, other supporting circumstances may indicate that reasonable cause for waiver exists.

(d) Intentional disregard, evasion, or fraud does not constitute reasonable cause for waiver under any circumstance.

III. DISCUSSION

This Discussion Section includes the following subsections:

A. Explanation of tax, payments, interest, and penalty amounts.

B. The Taxpayer's information and arguments

C. The Division's information and arguments

D. Analysis and conclusion

A. Explanation of tax, payments, interest, and penalty amounts.

The filing due date for the 2022 tax year was April 18, 2023. The filing due date with extensions was approximately October 15, 2023. The Taxpayer did not file his 2022 state return by its due date. Instead, the Taxpayer filed his state return on DATE, according to the Division's records. Because the Taxpayer filed the state return after its due date, the Taxpayer incurred a late filing penalty.

The payment due date for 2022 was April 18, 2023. The Taxpayer did not pay his 2022 tax liability by April 18, 2023. Instead, he made a payment on DATE, equal to the amount of the tax liability. Because the Taxpayer did not pay his tax liability by its due date, the Taxpayer incurred a late payment penalty. Additionally, because he did not pay his tax liability by the due date, he also incurred interest.

B. The Taxpayer's information and arguments

Overall, the Taxpayer's representative asserted that the Taxpayer's cancer caused the filing and payment delays for the 2022 tax year. In the petition, the Taxpayer's son wrote in part:

> I am writing on behalf of my parents, TAXPAYER and PETITIONER'S REP-2, in response to Utah State Tax Notice regarding the unpaid interest and penalty liability for the 2022 tax year. We respectfully request an abatement of the penalties and interest

> associated with this tax year due to extraordinary circumstances beyond the taxpayers' control.
>
> In YEAR, TAXPAYER was diagnosed with stage 4 terminal lung cancer. The progression and severity of this condition required extensive travel for treatments, which TAXPAYER had to undertake with his spouse. Treatments required weekly air travel from CITY-1, UT to CITY-2, STATE-1, including overnight stays during each weekly treatment. This persisted throughout YEAR and YEAR, significantly impacting TAXPAYER mental and physical state, thereby hindering their ability to file tax returns in a timely manner. His condition continues to decline and he is currently on Hospice care.
>
> All of my parents' income during 2022 was derived from disability benefits and Social Security. Despite these challenging circumstances, my parents have since paid the tax liability for both 2022 and YEAR(timely filed) in full. They are now committed to filing future tax returns on time and ensuring all future obligations are met promptly.
>
> Given these extraordinary circumstances, we are seeking an abatement of the penalties and interest for the 2022 tax year under the provisions for medical duress. We fully contest this is Reasonable Cause. TAXPAYER serious health condition significantly impaired their ability to manage tax responsibilities during this period. Consequently, members of their immediate family have assumed responsibility for ensuring all filings and payments were completed, including enlisting my assistance. We have provided a letter from his doctor and can also provide additional medical documentation to support this request if required.

The Taxpayer's son included with the petition a letter dated DATE, from DOCTOR-1, MV, Thoracic Medical Oncology, on COMPANY-1 letterhead. The letter states:

> This letter is to inform you that [the Taxpayer], has been under our care for treatment of metastatic lung cancer since DATE. As recently as DATE, he has been seen by our office, and due to recurrence of disease, requires ongoing treatment. . . .

During the hearing, the Taxpayer's representatives discussed the extensive travel relating to the Taxpayer's treatments. They explained that the weekly travel began in MONTH YEAR and ended in MONTH or MONTH of YEAR, and that the Taxpayer had participated in a drug trial taking place in CITY-2, STATE-1. They said that almost each week, the Taxpayer and his wife drove from CITY-3, Utah, to CITY-1, Utah, then flew to CITY-2, STATE-1, for treatment on Tuesday. They would stay overnight, and return on Wednesday. The Taxpayer would recover at home until the next week's treatment. The representatives said that there were a few weeks when the Taxpayer did not make the weekly trips because he was too sick, and also that there were a few weeks when the Taxpayer's wife did not travel with him, but another person went instead. The Taxpayer's representatives asserted that there were about ##### weeks of treatment and ##### flights back and forth from CITY-1 to CITY-2. The Taxpayer's representatives said the Taxpayer's doctor in CITY-2 was Dr. DOCTOR-2 at the COMPANY-2.

The Taxpayer's son said that he had not known that his parents had not filed their 2022 tax returns until after they were late. He explained that his mother had been focused on caring for his father.

The Division noted that the Taxpayer's 2022 return was filed on DATE, but not paid until DATE. The Taxpayer's son explained that he had paid the Taxpayer's taxes after the Taxpayer's CPA came to him. The Taxpayer's son said the Taxpayer did not have the funds available to make the payment. The Taxpayer's son also said he did not know the reason for the delay in the payment and would need to talk with the Taxpayer's CPA.

The Taxpayer's son said that the Taxpayer's cancer was a progressive disease and that the Taxpayer's mental capabilities decreased over time. He said that in YEAR, the Taxpayer stopped working and his disability benefits began. He said the Taxpayer could no longer do tasks himself and that in YEAR, the Taxpayer's son started to "jump in" and help. He said that the Taxpayer and his wife's tax filings will be timely moving forward.

C. The Division's information and arguments

In response to the Judge's question, the Division provided the Taxpayer's compliance history for years before YEAR. For YEAR, the Taxpayer had incurred a small late payment penalty. For YEAR, the Taxpayer incurred an extension penalty and a late payment penalty. For YEAR, the Taxpayer had incurred late filing and late payment penalties. The Taxpayer made no previous waiver requests for any tax year other than the 2022 tax year at issue, and likewise, has not been granted any previous waiver.

The Division asserted that the penalties and interest were correctly imposed in accordance with the Utah Code and that waivers of penalties and interest are granted in accordance with the Utah Code, Utah Administrative Rule R861-1A-42, and Tax Commission Publication 17.

For the criterion of serious illness, the Division explained that the serious illness must have caused the delay and also have occurred on or immediately before the return's due date. The Division noted that the Taxpayer's representatives had presented DOCTOR-1 letter with the dates of MONTH YEAR for the Taxpayer's cancer diagnosis and DATE for the Taxpayer's recent visit to DOCTOR-1 office. The Division said that this information was insufficient to show that the serious illness caused the delay for the 2022 tax period, which had a due date of April 18, 2023.

For the criterion of compliance history, the Division explained that it reviews the three years prior to the tax year at issue. If there has not been a similar penalty for any of the three prior years, then the Division may waive a penalty based on having a good compliance history. The Division said that it waived the 2022 late filing penalty based on compliance history. The Division further explained that it could not waive the 2022 late payment penalty based on compliance history because the Taxpayer had incurred late payment penalties for the YEAR and YEAR tax years.

The Division explained that ignorance of the law, carelessness, and forgetfulness are not criteria supporting a waiver of a penalty and also that financial hardship is not a criterion either.

For interest, the Division explained that a waiver of interest required a showing of error by a Tax Commission employee. The Division asserted that the Taxpayer had not shown any error by a Tax Commission employee. The Division asked the Commission to sustain the interest.

D. Analysis and conclusion

The Commission has promulgated Utah Administrative Code R861-1A-42 and Publication 17 to outline the circumstances the Commission may consider "reasonable cause" justifying a waiver of penalties and interest.

For the Taxpayer's situation, the Commission considered mitigating factors for a waiver of penalties under R861-1A-42(4)(b), which allows for "other clearly supported extraordinary and unanticipated reasons." For that criterion, R861-1A-42(4)(b) states the following:

> Other clearly supported extraordinary and unanticipated reasons for late filing or payment, which demonstrate reasonable cause and the inability to comply, may justify a waiver of the penalty.

Although the Taxpayer's cancer was diagnosed in YEAR, years before the April 18, 2023 due date for the 2022 tax year, the Taxpayer and his wife were greatly affected on or immediately before the April 18, 2023 due date because of their weekly travel between their Utah home and the out-of-state cancer center for the Taxpayer's treatments. The Commission has found that the Taxpayer experienced an extraordinary and unanticipated situation and that situation caused the Taxpayer to be unable to comply with the April 18, 2023 due date. Thus, a waiver of the 2022 late payment penalty and 2022 late filing penalty is justified.

For interest, R861-1A-42(2), states the following:

> 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.

For this appeal, the Tax Commission did not give incorrect information or take inappropriate action that contributed to the Taxpayer's late filing and late payment for the 2022 tax year. Interest is not assessed to punish taxpayers but, instead, to compensate the state for the time value of money. The State of Utah was denied the use of the funds from the time the taxes were originally due until they will be fully paid by the Taxpayer. Thus, the interest should be sustained.

If an amount is still owing, the Taxpayer's representatives may contact the Special Services Division at (801) 297-7703 to make payment arrangements.

Aimee Nielson-Larios
Administrative Law Judge

IV. DECISION AND ORDER

Based on the foregoing, the Commission waives the 2022 penalties and sustains the 2022 interest. 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 _____, 2025.

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.