
BEFORE THE UTAH STATE TAX COMMISSION

TRUE OIL LLC, Petitioner, v. PROPERTY TAX DIVISION OF THE UTAH STATE TAX COMMISSION, Respondent.	INITIAL HEARING ORDER Appeal No. 22-1180 Account No: 83-0176199 Tax Type: Property Tax Tax Year: 2022 Judge: Marshall
---	---

Presiding:

Jan Marshall, Administrative Law Judge

Appearances:

For Petitioner: Luke Opitz, Materials and Inventory Supervisor, True Oil, LLC
For Respondent: JJ Alder, Oil and Gas Manager, Property Tax Division
Joseph Thomas, Property Tax Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission on August 2, 2022. in accordance with Utah Code Ann. §59-1-502.5. Petitioner ("Taxpayer") is appealing the penalty assessed by the Respondent ("Division") under Utah Code Ann. §59-2-202, for the late filing of the property tax report for the 2022 tax year.

APPLICABLE LAW

A statement of the Taxpayer is required to be filed by March 1 of each year, as provided in Utah Code Ann. §59-2-202(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, on or before March 1 of each year, file with the commission a statement:
 - (i) signed and sworn to by the person, officer, or agent;
 - (ii) showing in detail all real property and tangible personal property located in the state that the person owns or operates;
 - (iii) containing the number of miles of taxable tangible personal property in each county:
 - (A) that the person owns or operates; and
 - (B) as valued on January 1 of the year for which the person, officer, or agent is furnishing the statement; and

- (iv) containing any other information the commission requires.

The assessment and waiver of any penalty imposed for the failure to file the statement, is governed by Utah Code Ann. §59-2-202(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

Utah Code Ann. §59-2-202(1)(a) requires a property owner to file its annual statement with the Division on or before March 1st of each year. Compliance in filing the annual property tax statement on time is needed because of subsequent statutory deadlines concerning the assessment of centrally assessed property. The Taxpayer acknowledged that it did not submit a 2022 annual statement by the March 1, 2022 deadline. As a result, the Division properly imposed a penalty under Utah Code Ann. §59-2-202(3).

The Taxpayer has asked the Commission to waive the penalty. The Taxpayer's representative explained that this was the first time he has been in the position responsible for filing Utah taxes. He stated that the error was on his part, as he wrote the date incorrectly on his calendar. The Taxpayer's representative stated that he submitted the annual statement the next day. Additionally, he noted that this is the first time the Taxpayer has filed its annual statement late.

The Division's representative agreed that this is the first year the Taxpayer has filed late, and acknowledged that the Taxpayer does not have a prior history of late filing. He stated that the due date for the annual statement is March 1st, and the Division received the Taxpayer's return on March 3rd. The Division's representative stated that the Division is not making a recommendation regarding the penalty, and is leaving the penalty waiver to the discretion of the Commission.

The Division's representative explained to the Taxpayer that if additional time is needed in the future, the Taxpayer can ask for an extension prior to the March 1st due date. He stated that a 15-day extension will be granted by the Division, and noted the Taxpayer can ask for a second extension if additional time is needed.

The issue before the Commission in this appeal is whether the penalty should be waived, reduced, or compromised. Under Utah Code Ann. §59-2-202(3)(c), the Commission is authorized to waive, reduce, or compromise the penalty imposed for the late filing of the annual statement upon a finding of "reasonable grounds" and upon making a record of such grounds. As a result, the Commission must determine whether "reasonable grounds" exist to waive the penalty at issue.

The Commission has previously addressed the waiver of a penalty imposed on a centrally assessed taxpayer for the late filing of an annual return in *Appeal No. 12-1519* (Findings of Fact, Conclusions of Law, and Final Decision Sept. 28, 2012).¹ In that case, the Commission stated that because "reasonable grounds" for the waiver of a penalty imposed for the late filing of the annual return is not defined by statute or by Tax Commission administrative rule, discretion on the part of the Commission is implied when determining what would constitute "reasonable grounds." In *Appeal No. 12-1519*, the Commission further explained that it has adopted Utah Admin. Rule R861-1A-42 ("Rule 42"), which provides guidance as to what constitutes "reasonable cause" for purposes of waiving penalties under Utah Code Ann. Title 59, Chapter 1, Part 4, Penalties, Interest, and Confidentiality of Information.² However, Rule 42 does not address what constitutes "reasonable grounds" for purposes of

¹ Redacted copies of this and other selected decisions may be viewed on the Commission's website at <http://www.tax.utah.gov/commission-office/decisions>.

² Subsection 59-1-401(14) provides that "[u]pon 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." Rule 42 provides guidance as to when "reasonable cause" exists to waive penalties pursuant to Subsection 59-1-401(14), as follows in pertinent part:

....

(3) Reasonable Cause for Waiver of Penalty. The following clearly documented circumstances may constitute reasonable cause for a waiver of penalty:

- (a) Timely Mailing...
 - (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 prior to the due date of the return.
 - (d) Unavoidable Absence...
 - (e) Disaster Relief
 - (i) A delay in reporting, filing, or paying was due either to a federal or state declared disaster or to a natural disaster, such as fire or accident, that results in the destruction of records or disruption of business.
 - (ii) If delinquency or delay is due to a federally declared disaster, federal relief guidelines shall be followed.
 - (iii) In the absence of federal guidelines, and for other listed disasters, the taxpayer must demonstrate the matter was corrected within a reasonable time, given the circumstances.
 - (f) Reliance on Erroneous Tax Commission Information...
 - (g) Tax Commission Office Visit...
 - (h) Unobtainable Records...
 - (i) Reliance on Competent Tax Advisor...
 - (j) First Time Filer:
 - (i) It is the first return required to be filed and the taxes were filed and paid within a reasonable time after the due date.
 - (ii) The commission may also consider waiving penalties on the first return after a filing period change if the return is filed and tax is paid within a reasonable time after the due date.
 - (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.

waiving penalties under Utah Code Ann. §59-2-202(3)(c). Furthermore, Utah Code Ann. §59-1-401(14), the statute that allows for penalties to be waived for “reasonable cause,” is expressly limited to penalties imposed “under this part,” which refers to Title 59, Chapter 1, Part 4 of the Utah Code. The penalty at issue in the appeal now before the Commission is imposed in a different “part” of the Utah Code, specifically in Title 59, Chapter 2, Part 2 of the Utah Code. For these reasons, the Commission found in *Appeal No. 12-1519* that the Rule 42 factors that constitute “reasonable cause” are not, technically, directly applicable to determining what constitutes “reasonable grounds” for purposes of waiving penalties imposed for the late or incomplete filing of a centrally assessed taxpayer’s annual statement.

Nevertheless, because of its discretion in determining what constitutes “reasonable grounds” for purposes of waiving penalties imposed under the Utah Property Tax Act, the Commission also found in *Appeal No. 12-1519* that it may consider, but is not limited to, the “reasonable cause” factors found in Rule 42 when determining whether “reasonable grounds” exist to waive a penalty like the one at issue in the instant case. As a result, the Commission should consider the “reasonable cause” factors found in Rule 42 to decide whether “reasonable grounds” exist to waive the penalty at issue in this appeal.

Although Rule 42 is not directly binding in this case, the Commission notes that Rule 42(3)(l) provides for a waiver of penalties based on a taxpayer’s compliance history. Specifically, “[t]he commission will consider the taxpayer’s recent history for payment, filing, and delinquencies in determining whether a penalty may be waived.” Further, “[t]he commission will also consider whether other tax returns or reports are overdue on the date the waiver is requested.” In the instant case, this is the first time the Taxpayer has filed its annual report late. The Division’s representative noted that the Taxpayer has no prior history of filing late. Based on this information, there is good cause to waive the penalty imposed by the Division for the 2022 tax year based on the Taxpayer’s compliance history.

(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.

Jan Marshall
Administrative Law Judge

DECISION AND ORDER

The Commission finds reasonable grounds to waive the penalty. However, the Commission cautions the Taxpayer that it will be more difficult for the Commission to find reasonable grounds to waive a second penalty. Based on the foregoing, the Commission waives the penalty assessed under Utah Code Ann. §59-2-202. 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 administrative appeal rights in this matter.

DATED this **1st** day of **November**, 2022.

EXCUSED

John L. Valentine
Commission Chair


Rebecca L. Rockwell
Commissioner




Michael J. Cragun
Commissioner


Jennifer N. Fresques
Commissioner

Appeal No. 22-1180

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.

USTC – Appeal
Certificate of Mailing
Utah State Tax Commission

True Oil LLC (Petitioner) vs Property Tax Division (Respondent)

22-1180

True Oil LLC

455 North Poplar
PO Drawer 2360
Casper, WY 82604

Petitioner

Luke Opitz

455 North Poplar
PO Drawer 2360
Casper, WY 82604

Representative

Property Tax Division

Sent via email

Respondent

**** *C E R T I F I C A T I O N* ****

I certify on this date I mailed a copy of the foregoing document addressed to each of the above named parties.

11/01/2022

Date

Tristen Elmer

Signature