
BEFORE THE UTAH STATE TAX COMMISSION

SCOUT RAVEN RIDGE PIPELINE
COMPANY,

Petitioner,

v.

PROPERTY TAX DIVISION OF THE
UTAH STATE TAX COMMISSION,

Respondent.

INITIAL HEARING ORDER

Appeal No. 22-1276
Account No: 12427149-003-PCA
Tax Type: Property Tax
Tax Year: 2022

Judge: Jensen

Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: Jon Ramsey, for the Taxpayer
Brian Tovson, for the Taxpayer
For Respondent: Roger Barth, for the Division
Michael Major, for the Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission on August 4, 2022 for an Initial Hearing in accordance with Utah Code Ann. §59-1-502.5. Petitioner (the "Taxpayer") is appealing the penalty assessed by the Respondent (the "Division") under Utah Code Ann. §59-2-207, for the late filing of the annual property tax statement 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. §59-2-207(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.

Most property tax proceedings before the Commission involve a property's value or a property tax exemption, not a late filing penalty. For property tax valuation cases, the Utah Supreme Court has found that the burden of proof is generally on the petitioner to support its position.¹ For most property tax exemption cases, the Court has also found that the burden of proof is upon the entity requesting the exemption.² The Commission is not aware of any court decision, or other precedent, that would provide for the burden of proof to be different for a case involving a late filing penalty imposed for property tax purposes. Accordingly, the petitioner has the burden of proof in this matter.

¹ See *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm'n*, 590 P.2d 332 (Utah 1979); *Beaver County v. Utah State Tax Comm'n*, 916 P.2d 344 (Utah 1996); and *Utah Railway Co. v. Utah State Tax Comm'n*, 2000 UT 49, 5 P.3d 652 (Utah 2000).

² See *Corporation of the Episcopal Church in Utah v. Utah State Tax Comm'n*, 919 P.2d 556 (Utah 1996), in which the Court stated that “[t]he burden of establishing the exemption lies with the entity claiming it”

DISCUSSION

Utah Code Ann. §59-2-207(1)(a) requires a property owner to file its annual statement with the Division on or before March 1st of each tax 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’s representative admits that the Taxpayer did not submit a complete 2022 annual statement by the March 1, 2022 deadline. As a result, the Division properly imposed a penalty under Utah Code Ann. §59-2-207(3).

The Taxpayer, however, asks the Commission to waive the penalty. The Taxpayer’s representative explained that the Taxpayer purchased the subject property as part of the acquisition of Colorado oil and gas properties in October 2021. Before purchase of the subject property, the Taxpayer did not have oil and gas properties in Utah and was unfamiliar with Utah filing requirements.

The Taxpayer’s representative testified that as soon as the Taxpayer became aware of its obligation to file a 2022 annual statement, it did so. The Division’s representatives confirmed receipt of the Taxpayer’s 2022 annual statement on June 7, 2022. Based on the information in the Taxpayer’s 2022 annual statement, the Division calculated the amount of the penalty at issue in this case at \$2,200. The Division’s representatives indicated that the Division did not oppose waiving the penalty it assessed for 2022 and would leave the matter to the sound discretion of the Commission.

Because the Taxpayer admits that the Division properly imposed the penalty, the issue before the Commission in this appeal is whether the penalty should be waived, reduced, or compromised. Under Utah Code Ann. §59-2-207(3)(c), the Commission is authorized to waive, reduce, or compromise the penalty imposed for the late or incomplete 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 statement in *Appeal No. 12-1519* (Findings of Fact, Conclusions of Law, and Final Decision Sept. 28, 2012).³ In that case, the Commission stated that because “reasonable grounds” for the waiver of a penalty imposed for the late filing of the annual statement 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

³ 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>.

“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.⁴ However, Rule 42 does

⁴ 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.

not address what constitutes “reasonable grounds” for purposes of waiving penalties under Utah Code Ann. §59-2-207(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.

Rule 42(3)(j) provides for a waiver for a first time filer and requires the Commission to consider the timeliness with which a taxpayer acted after it learned of a filing obligation. The Division did not dispute the Taxpayer’s claim that this was the first time that the Taxpayer had a filing obligation for the subject property following the Taxpayer’s acquisition of the subject

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- (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.

property. The Division did not dispute that although the Taxpayer received ownership of the subject property before the March 1, 2022 filing deadline, the Taxpayer was unaware of the filing requirement until after the passage of the filing deadline. The Division did not dispute that as soon as the Taxpayer discovered its late filing of an annual statement, it worked with the Division to satisfy the requirements of Utah Code Ann. §59-2-207(1)(a).

Although Rule 42 is not directly binding in this case, the Commission notes that Rule 42(3)(j) provides for a waiver of penalty by a first time filer. The circumstances of this case fit with those described in Rule 42(3)(j) in that the Taxpayer did not own the company and did not have a requirement to file an annual statement until it received ownership of the subject property in October 2021. The Taxpayer did not become aware of the filing requirement until after the March 1, 2022 filing deadline, and took immediate actions to resolve the filing after learning of the filing requirement.

Based on the information presented at the initial hearing, there is good cause to waive the penalty imposed by the Division for the 2022 tax year.



Clinton Jensen
Administrative Law Judge

DECISION AND ORDER

The Commission finds reasonable grounds to waive the penalty, considering the recommendation of the Division. 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. §59-2-207. 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 **8th** day of **November**, 2022.


John L. Valentine
Commission Chair


Rebecca L. Rockwell
Commissioner




Michael J. Cragun
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.

USTC – Appeal
Certificate of Mailing
Utah State Tax Commission

Scout Raven Ridge Pipeline Company (Petitioner) vs (Respondent)

22-1276

Scout Raven Ridge Pipeline Company
13800 Montfort Drive Suite 100
Dallas, Texas 75240

Petitioner

Jon Ramsey/ KE Andrews
2424 Ridge Road
Rockwall, Texas 75087

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.

11/08/2022

Date

Tristen Elmer

Signature