

06-0696  
Revocation  
Signed 03/20/2007

BEFORE THE UTAH STATE TAX COMMISSION

---

TAXPAYER SERVICES DIVISION, UTAH STATE TAX COMMISSION	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW,</b>
	)	<b>AND FINAL ORDER OF REVOCATION</b>
Petitioner,	)	
	)	
v.	)	Appeal No. 06-0696
	)	Account No. #####
RESPONDENT,	)	Tax Type: Revocation,
	)	Judge: Phan
Respondent.	)	

---

**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER REPRESENTATIVE 1, Assistant Attorney General  
PETITIONER REPRESENTATIVE 2, Supervisor  
PETITIONER REPRESENTATIVE 3, Tax Compliance Agent  
For Respondent: RESPONDENT REPRESENTATIVE, Attorney at Law

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on March 8, 2007. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. This matter is before the Utah State Tax Commission due to the Request for Revocation of Tax License, filed by Petitioner on June 1, 2006. Petitioner requests revocation of sales tax license number ##### pursuant to Utah Code Sec. 59-12-106(2)(h) on the grounds that Respondent has failed to comply with the laws of the Utah Sales and Use Tax Act.

2. As of February 5, 2007, Respondent's sales tax account indicated a balance of \$\$\$\$ in tax, penalties and interest. Interest continues to accrue on the unpaid balance. For the periods from June 2005 through June 2006 Respondent had filed returns and made some payments, but there was a balance

indicated for each of these monthly filing periods. The total for these periods as of February 5, 2007, was \$\$\$\$\$. For periods from August 2006 through December 2006 no returns have been filed and no payments have been made. The amounts indicated for the August through December periods are based on estimates from Petitioner. Petitioner's representative acknowledges that the estimates may be high. The amount indicated to be due and payable as of the February 5, 2007 statement for the August to December 2006 periods is \$\$\$\$\$. As of the hearing date an additional amount would be owed for the January 2007 period.

3. Petitioner had contacted Respondent about payment of the accounts and had issued garnishments. The noncompliance and amount of the liability has increased from the time the Revocation action had been commenced by Petitioner.

4. Respondent's representative explained that Respondent did want to retain its sales tax license and remain in business. However, there had been some health issues on the part of Respondent's principals. It was the assertion of Respondent's representative that it was due to these medical issues that returns have not been filed. He indicates that Respondent is trying to sell the building in which the subject business is located. The building has been listed for some time and has not sold, but Respondent's principals are hopeful that the sale will occur and that there is sufficient equity to pay the tax liability. It is their hope to be able to reopen the business at a different location.

5. Respondent's representative stated that Respondent would be filing the sales tax returns for the periods from June 2006 through December 2006 by Friday, March 16, 2007. It was his position that the actual returns would indicate a substantial reduction in tax owing for those periods. However, he indicated Respondent would not be able to make a payment of the taxes with the returns.

6. The Commission would encourage Respondent to file accurate returns for the unfiled periods. The Commission would require Petitioner to review the returns and if Petitioner determines the

Appeal No. 06-0696

returns to be accurate, to post them over the estimates so that the correct liability is established. However, this account has been substantially delinquent going back to June of 2005. The balance has worsened since the Revocation of Tax License has been filed. At this point the filing of the returns absent payment of the tax due is not sufficient basis to forestall revocation.

APPLICABLE LAW

(i) The commission shall, on a reasonable notice and after a hearing, revoke the license of any licensee violating any provision of this chapter and no license may be issued to such person until the taxpayer has complied with the requirements of this chapter. (ii) A license may not be issued to a licensee described in Subsection (2)(h)(i) until the licensee has complied with the requirements of this chapter . . (Utah Code Sec. 59-12-106(2)(h).)

Any person required to collect a tax under this chapter within this state without having secured a license to do so is guilty of a criminal violation as provided in Section 59-1-401. (Utah Code Sec. 59-12-106(2)(i).)

CONCLUSIONS OF LAW

Respondent has substantially failed to comply with provision of the Sales and Use Tax Act and for that reason the Commission revokes Respondent's sales tax license pursuant to Utah Code Sec. 59-12-106(2).

DECISION AND ORDER

Appeal No. 06-0696

Based upon the foregoing, the Tax Commission revokes Respondent's sales tax license #####.

It is so ordered.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Jane Phan  
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION:

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

**Notice of Appeal Rights:** You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. 63-46b-13. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Sec. 59-1-601 et seq. and 63-46b-13 et seq.

06-0696.fof.doc