

03-1623  
Revocation  
Signed 06/29/2004

BEFORE THE UTAH STATE TAX COMMISSION

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TAXPAYER SERVICES DIVISION OF THE UTAH STATE TAX COMMISSION,	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW,</b>
	)	<b>AND FINAL ORDER ON</b>
Petitioner,	)	<b>REQUEST FOR REVOCATION</b>
	)	
v.	)	Appeal No. 03-1623
	)	Account No. #####
RESPONDENT.	)	Tax Type: Sales Tax
	)	
Respondent.	)	Judge: Davis

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**Presiding:**

G. Blaine Davis, Administrative Law Judge  
Palmer DePaulis, Commissioner

**Appearances:**

For Petitioner: PETITIONER REPRESENTATIVE 1, Assistant Attorney General  
PETITIONER REPRESENTATIVE 2, from the Taxpayer Services Division  
For Respondent: RESPONDENT REPRESENTATIVE

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on March 30, 2004. 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 sales tax license filed by Petitioner on December 16, 2003. Petitioner requests revocation of sales tax license no. ##### on the grounds that Respondent has failed to comply with the laws of the Utah Sales Tax Act.

2. At the time the request for revocation of sales tax license was originally filed, Respondent allegedly owed in excess of \$\$\$\$\$ in sales tax. At the time of the hearing, Respondent owed a total amount of approximately \$\$\$\$\$, including penalties and interest. Respondent has filed all of its sales tax returns through

2003. Therefore, at the time of the hearing Respondent did not yet have any sales tax returns which were due for 2004.

3. Respondent had a number of reasons for the nonpayment, including a requirement to pay back certain homeowners for an obligation, and a divorce which the owner was going through which substantially tied up many of her assets which could otherwise have been used to pay the sales taxes.

4. Respondent has had two other payment agreements with Petitioner, but has defaulted on both of those prior payment agreements.

5. Respondent has some property on which offers have been made to purchase the property, and if those offers can be closed, Respondent would have sufficient funds with which to pay the balance due to the Tax Commission. The closing on those proposed sales has been delayed because of the necessity of acquiring court approval for the sale because of the pending divorce action.

#### APPLICABLE LAW

The commission shall, on a reasonable notice and after a hearing, revoke the license of any person violating any provision of the Sales Tax Act, and no license may be issued to such person until the taxpayer has complied with the requirements of the Sales Tax Act. Any person required by the Sales Tax Act to collect sales or use tax 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 Ann. §59-12-106(1).)

#### CONCLUSIONS OF LAW

Respondent has substantially failed to comply with the provisions of the Sales and Use Tax Act, and for that reason, there is sufficient reason to revoke the sales tax license of Respondent pursuant to Utah Code Ann. §59-12-106(1).

#### DECISION AND ORDER

Based upon the foregoing, the Tax Commission hereby orders as follows:

1. There is adequate cause to revoke the sales tax license of Respondent, but the final revocation of that license will be held in abeyance for further review.

2. If Respondent did not make a \$\$\$\$ payment as was represented would be made on or before April 15, 2004, she shall, within 20 days from the mailing of this Order, pay to the Utah State Tax Commission an amount of \$\$\$\$\$. In addition, Respondent shall pay an additional sum of \$\$\$\$ on or before the last day of June, July, August, September and October of each year and an additional \$\$\$\$ on or before the last day of each and every month beginning November and going until May of each year.

3. Respondent will timely file, pay, and remain current with all future sales tax returns and all payments due for current and subsequent sales tax returns. All returns shall be filed and paid on or before the due date of the return.

4. If Respondent has not done do, and if not precluded by Bankruptcy Law, liens will be placed upon all other property of Respondent. If any such property is sold by Respondent, the full unencumbered balance shall be applied to obligations to the Utah State Tax Commission until all balances have been paid in full.

5. If at any time prior to the payment of the full balance due and prior to becoming completely current on the filing and payment of all sales tax returns, any sales tax return or the payment on any return, or the payment on the above stated payment plan is five (5) or more days delinquent, Respondent's sales tax license may be revoked upon the following procedures established by the Commission:

A. The Division will submit an affidavit of default to the Appeals Unit of the Commission with a copy sent to Respondent.

B. Upon receipt of the affidavit of default, the Commission will issue an Order to Show

Cause to Respondent ordering Respondent, within 10 days, to show cause, if any it has, why it failed to comply with the stipulation and why its license should not be revoked.

C. If Respondent fails to submit a response to the Order to Show Cause, the Commission may issue an Order revoking the license immediately.

D. If the Respondent submits a timely response to the Order to Show Cause, the Commission will decide whether the license should be revoked.

E. The Commission may decide the issues based on the affidavit and the Petitioner's response or, in its sole discretion, the Commission may hold a hearing to accept further testimony or evidence.

F. If the Commission determines that Respondent has not shown good cause for its failure to comply with the above requirements, the license will be revoked immediately.

6. Respondent is encouraged to make all payments in advance of the payment schedule set forth above.

7. Respondent also has other tax obligations owing to the Utah State Tax Commission. Respondent is encouraged to bring all other tax filings current and to make payments thereon as soon as possible. The failure to do so will not be deemed reasonable cause for revoking the sales tax license at issue in this proceeding, but Petitioner is not prohibited from pursuing other lawful collection measures with respect to said taxes.

It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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G. Blaine Davis  
Administrative Law Judge

Appeal No. 03-1623

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 \_\_\_\_\_, 2004.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Palmer DePaulis  
Commissioner

Marc B. Johnson  
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 Ann. §§59-1-601 and 63-46b-13 et. seq.

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