

04-0432  
Revocation  
Signed 09/09/2004

BEFORE THE UTAH STATE TAX COMMISSION

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TAXPAYER SERVICES DIVISION,	)	<b>FINDINGS OF FACT,</b>
UTAH STATE TAX COMMISSION,	)	<b>CONCLUSIONS OF LAW,</b>
	)	<b>&amp; ORDER OF REVOCATION</b>
Petitioner,	)	Appeal No. 04-0432
	)	
v.	)	Account No. #####
	)	
RESPONDENT,	)	Tax Type: Sales Tax License
	)	
Respondent.	)	Presiding: Robinson

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**Presiding:**

R. Spencer Robinson, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER REPRESENTATIVE 1, Assistant Attorney General  
PETITIONER REPRESENTATIVE 2, Taxpayer Service Division  
For Respondent: Failed to appear

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on August 23, 2004. Although duly notified of the date, time and location of the hearing, Respondent failed to appear. Petitioner moved for default judgment and asked to proceed in Respondent's absence. Petitioner proffered evidence in support of its position. 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 Petitioner's request for revocation of Respondent's sales tax license. Petitioner requests revocation of sales tax

license number ##### pursuant to Utah Code Ann. §59-12-106 (1) on the grounds that Respondent has failed to comply with the laws of the Utah Sales Tax Act.

2. Petitioner estimated Respondent's sales tax liability, including penalty and interest, at \$\$\$\$\$ as of March 17, 2004.

3. Respondent filed returns for 2001, and the first two quarters of 2003. As of March 17, 2004, Respondent owed tax in the amount of \$\$\$\$\$, penalties in the amount of \$\$\$\$\$, interest in the amount of \$\$\$\$\$, and had a credit of \$\$\$\$\$. The balance due was \$\$\$\$\$ for filed returns.

4. Petitioner estimated returns for 2002 and for July through September of 2003. The tax due as of May 17, 2004, is \$\$\$\$\$, with penalties in the amount of \$\$\$\$\$, interest in the amount of \$\$\$\$\$, for a total of \$\$\$\$\$.

5. The Initial Hearing decision was mailed to Petitioner on April 26, 2004. In a letter dated May 24, 2004, Petitioner requested an "informal hearing in the month of June to correct this misunderstanding and to get ( X ) in good standings [sic] with the State."

6. On May 24, 2004, Petitioner attempted a "till tap." Notwithstanding the Initial Hearing decision and "till tap," PETITIONER REPRESENTATIVE 2, the Taxpayer Services employee attempting to work with Petitioner, has not heard from Respondent. The only communication from Respondent since the Initial Hearing decision has been its May 24, 2004, letter requesting a hearing. Respondent has filed no additional returns. Respondent has made no additional payments. Respondent has made no effort "to correct this misunderstanding and to get ( X ) in good standings [sic] with the State."

#### APPLICABLE LAW

The commission shall, on a reasonable notice and after a hearing, revoke the license

of any person 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. Any person required by this chapter 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 provisions of the Sales and Use Tax Act, Utah Code Annotated §59-12-106(1). Respondent has had ample opportunity to correct what it characterized as a misunderstanding. It has had ample opportunity to file returns for the periods where it alleges Petitioner's estimates were "totally incorrect." If it is not capable of making full payment, it could have attempted to negotiate a payment schedule. It has not done so.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission revokes sales tax license #####. It is so ordered.

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

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R. Spencer Robinson  
Administrative Law Judge

Appeal No. 04-0432

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.

*RSR/04-0432.tof*