

04-1307
Revocation
Signed 07/06/2005

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER SERVICES DIVISION, UTAH STATE TAX COMMISSION)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
)	AND FINAL ORDER OF REVOCATION
Petitioner,)	
)	
v.)	Appeal No. 04-1307
)	Account No. #####
)	Tax Type: Revocation
RESPONDENT,)	
)	Judge: Phan
Respondent.)	

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE 1, Assistant Attorney General
PETITIONER REPRESENTATIVE 2, Tax Compliance Agent
For Respondent:

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on June 23, 2005. Although duly notified of the date, time and location of the hearing, Respondent failed to appear. An attempt was made to reach Respondent's representative by telephone, but he was apparently ill. 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 November 16, 2004. 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. For periods through the end of the third quarter 2004, Respondent owed \$\$\$\$\$ in

sales tax penalty and interest. Interest continues to accrue on the unpaid balance. Respondent had not filed returns for the fourth quarter of 2004 or the first quarter of 2005 and as of the hearing estimates had not yet been assessed for these periods.

3. Petitioner's representative testified at the hearing that Respondent had moved and it appeared Respondent was longer in business.

4. Petitioner's representative also testified that Respondent had a balance from the fourth quarter of 2003 of \$\$\$\$\$, which remained outstanding. Respondent had eventually filed and paid the tax for the first three quarter of 2004, but payments and filings were late which resulted in late payment and late filing penalties, as well as interest being assessed and a balance due.

5. Petitioner indicated that Respondent's principal had made representations at the Initial Hearing, held in December 2004, that he would pay the balance. He was given time to do so and the Initial Hearing continued until March 2005. At that point Respondent had not complied with the payments as arranged.

6. Respondent's representative was not present at the hearing so there is no explanation from him as to the issues in this matter.

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 provision of the Sales and Use Tax Act

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and for that reason the Commission revokes Respondent's sales tax license pursuant to Utah Code Ann. §59-12-106(1).

DECISION AND ORDER

Based upon the foregoing, the Tax Commission revokes sales tax license no. #####. It is so ordered.

DATED this ____ day of _____, 2005.

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 _____, 2005.

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.