

04-1311
Revocation
Signed 01/24/2005

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER SERVICES DIVISION)		
OF THE UTAH STATE TAX)	ORDER	
COMMISSION,)		
)	Appeal No.	04-1311
Petitioner,)		
)	Account No.	#####
v.)		
)	Tax Type:	Sales Tax Revocation
RESPONDENT,)		
)	Judge:	Robinson
Respondent.)		

Presiding:

R. Spencer Robinson, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE 1, Assistant Attorney General
PETITIONER REPRESENTATIVE 2, from the Taxpayer Services Division
PETITIONER REPRESENTATIVE 3, from the Taxpayer Services Division, by
phone
For Respondent: No one appeared

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. 59-1-502.5, on August 23, 2004.

On November 30, 2004, notice of the hearing was mailed to the address for Petitioner in Respondent's records. It was returned by the United States Postal Service as "Not deliverable as addressed. Unable to forward." In addition to mailing notice, support staff telephoned Respondent on December 8, 2004.

The person receiving the call said the address was correct. Staff advised the person of the hearing date and time, and resent the notice of hearing. That notice also was returned by the Postal Service with the same notation as the previously mailed notice.

Appeal No. 04-0879

This matter is before the Utah State Tax Commission due to the Request for Revocation of Sales Tax License, filed by Petitioner on November 1, 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.

Because Respondent failed to appear, Petitioner was allowed to proffer its evidence.

Petitioner said Respondent took over the business, initially running it under the previous owner's sales tax account number. Respondent then obtained the sales tax account number at issue in this case. It has filed no returns and made no payments.

PETITIONER REPRESENTATIVE 2 stated it is difficult to reach the owner, and that he is hostile when reached. PETITIONER REPRESENTATIVE 3 stated the taxpayer hangs up on him. He also stated an accountant in CITY has promised returns, but none have been filed. Because of previous dealings with Respondent, Petitioner asked to go forward in Respondent's absence.

Petitioner estimated Respondent's sales tax liability. For the period of January of 2004 through June of 2004, Petitioner estimates Respondent's tax liability as \$\$\$\$\$, with a penalty of \$\$\$\$\$, and interest, as of November 1, 2004, of \$\$\$\$\$. The total, as of November 1, 2004, was \$\$\$\$\$.

Respondent did not attend the Initial Hearing in this matter, so the Commission has no explanation from Respondent concerning the delinquency.

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).)

DECISION AND ORDER

This account is substantially delinquent. Respondent has neither filed nor paid since obtaining sales tax number #####. Respondent is in violation of the provisions of the Sales Tax Act. There are more than sufficient grounds to require revocation of the sales tax license. In addition, the Commission issues an Order of Default against Respondent for failing to appear at the Initial Hearing.

Based upon the foregoing, the Utah State Tax Commission hereby revokes sales tax license number ##### for failure to comply with the provisions of the Sales Tax Act.

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 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

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this _____ day of _____, 2005.

R. Spencer Robinson
Administrative Law Judge

Appeal No. 04-0879

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

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