

05-0204  
Revocation  
Signed 07/01/2005

BEFORE THE UTAH STATE TAX COMMISSION

---

TAXPAYER SERVICES DIVISION	)	
OF THE UTAH STATE TAX	)	<b>ORDER</b>
COMMISSION,	)	
	)	Appeal No. 05-0204
Petitioner,	)	
	)	Account No. #####
v.	)	
	)	Tax Type: Sales Tax Revocation
RESPONDENT,	)	Tax Periods: 04/00-12/02; 12/02-12/04
	)	
Respondent.	)	Judge: Davis

---

**Presiding:**

G. Blaine Davis, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER REPRESENTATIVE 1, Assistant Attorney General  
PETITIONER REPRESENTATIVE 2, Director, Taxpayer Services  
Division  
PETITIONER REPRESENTATIVE 3, from the Taxpayer Services  
Division  
PETITIONER REPRESENTATIVE 4, from the Taxpayer Services  
Division  
For Respondent: RESPONDENT REPRESENTATIVE

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 May 16, 2005.

This matter is before the Utah State Tax Commission due to the Request for Revocation of Sales Tax License, filed by Petitioner on February 18, 2005. 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.

Appeal No. 05-0204

Respondent's sales tax license was issued in January of 2001. Respondent stayed reasonably current on its sales tax returns from January of 2001 through December of 2003. However, an audit was performed on the periods April of 2001 through December of 2003, and a determination was made that Respondent had not been correctly calculating the sales tax on trade-ins of leased motor vehicles. Therefore, an assessment was made for \$\$\$\$\$, together with a 10% penalty and interest thereon, for a total balance due of \$\$\$\$\$. In addition, Respondent has filed sales tax returns for 2004, and although some payments have been made, several returns have been filed without payment of the taxes shown thereon to be due. There is presently an amount due of \$\$\$\$\$, including the amount due from the audit.

Respondent does not dispute the amount due, but was asking for additional time to in which to complete financing on a building, and/or the sale of a building, and he represented that he would be able to take care of the matter when the closing on that real property occurred. Therefore, Respondent was requesting more time, but had no other defense to the revocation of the sales tax license.

The business was closed and has not been operational since February 3, 2005.

#### 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 and is in violation of the provisions of the Sales Tax Act. In addition, Respondent has ceased its operations and is no longer using the sales tax license. Therefore, there are more than sufficient grounds to require revocation of the sales tax license.

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.

\_\_\_\_\_  
G. Blaine Davis  
Administrative Law Judge

Appeal No. 05-0204

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:** If a Formal Hearing is not requested as discussed above, failure to pay the balance resulting from this order within thirty days from the date of this order may result in a late payment penalty.

*GBD/ssw/05-0204.oor*