

05-0256
Revocation
Signed 04/04/2005

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER SERVICES DIVISION)	
OF THE UTAH STATE TAX)	ORDER
COMMISSION,)	
)	Appeal No. 05-0256
Petitioner,)	
)	Account No. #####
v.)	
)	Tax Type: Sales Tax Revocation
RESPONDENT,)	
)	Judge: Davis
Respondent.)	

Presiding:

G. Blaine Davis, Administrative Law Judge

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 an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on March 23, 2005.

This matter is before the Utah State Tax Commission due to the Request for Revocation of Sales Tax License, filed by Petitioner on March 7, 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.

Respondent's sales tax license was originally issued in 1986. From 1986 to 2001, Respondent had a very good record of timely filing his sales tax returns and paying the amount of

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taxes shown to be due thereon. Respondent represented that in approximately 2001, his place of business was taken by the State of Utah in preparation for building the (X). Although he claims that the State of Utah did not meet all of its commitments on the taking of his place of business, he also acknowledges that he built a new building in which to operate his business, and he has not been able to maintain the payments on that building. He represented that he paid in excess of \$\$\$\$\$ to build the building, and now the building is facing foreclosure and the best offer on the building is slightly over \$\$\$\$\$.

Respondent formerly operated as a sole proprietorship, and has an obligation on the proprietorship in excess of \$\$\$\$\$ for taxes, and in excess of \$\$\$\$\$ including the penalty and interest. In addition, since creating a corporation, he owes nearly an additional \$\$\$\$\$. The amounts due are for March of 2004 through August of 2004 on the corporation. Respondent did file and pay the taxes due for September and October of 2004. Respondent has not filed or paid any amounts for November or December of 2004, or January, February, or March of 2005.

Respondent has signed an agreement to be personally responsible for the taxes due from his prior sole proprietorship, and the amounts of those personal assessments are included in the tax amount stated above.

Respondent has previously entered into payment arrangements, but has not been able to meet those payment arrangements. At this time, Respondent does not have any proposed payment plan or any way in which he believes he can bring the taxes current. Respondent represented that all

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of his assets, including his personal home, are pledged for obligations in the maximum amount that he could borrow using such properties and assets as collateral for such borrowing.

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 has been for several years in violation of the provisions of the Sales Tax Act. 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

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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

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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