

05-0336  
Revocation  
Signed 05/05/2005

BEFORE THE UTAH STATE TAX COMMISSION

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TAXPAYER SERVICES DIVISION	)		
OF THE UTAH STATE TAX	)	<b>ORDER</b>	
COMMISSION,	)		
	)	Appeal No.	05-0336
Petitioner,	)		
	)	Account No.	#####
v.	)		
	)	Tax Type:	Sales Tax Revocation
RESPONDENT,	)		
	)	Judge:	Robinson
Respondent.	)		

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**Presiding:**

R. Spencer Robinson, Administrative Law Judge

**Appearances:**

For Petitioner:    PETITIONER REPRESENTATIVE 1, Assistant Attorney General  
                    PETITIONER REPRESENTATIVE 2, from the Taxpayer Services Division  
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 April 25, 2005.

On April 1, 2005, notice of the hearing was mailed to the last known address for Respondent in Petitioner's records. It was returned by the United States Postal Service as "Return to Sender. No Mail Receptacle. Unable to forward." In addition to mailing notice, support staff attempted to telephone Respondent on April 20, 2005, but received no answer.

At the beginning of the hearing, attempts were made to contact Respondent by telephone at three different telephone numbers. None were successful.

This matter is before the Utah State Tax Commission due to the Request for Revocation of Sales Tax License, filed by Petitioner on February 22, 2005. Petitioner requests revocation of sales tax license

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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 REPRESENTATIVE 2 has made several efforts since August of 2004 to contact Respondent regarding his noncompliance. In August, Respondent said he was going to sell his business and asked how much he owed. PETITIONER REPRESENTATIVE 2 sent him a balance due letter. He did not respond, nor did he file returns. He did not set up a payment agreement. He has not returned calls. Efforts to garnish bank accounts have revealed closed accounts. One till tap in September of 2004 yielded \$\$\$\$\$.

Respondent has not made payments or filed returns since the fourth quarter of 2003. As of the date of the hearing, Respondent owed an estimated \$\$\$\$\$.

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 the fourth quarter of 2003. Respondent is in violation of the provisions of the Sales Tax Act. There are more than

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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.

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R. Spencer Robinson  
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

*RSR/05-0336.oor*