

06-0034
Revocation
Signed 10/06/2006

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER SERVICES DIVISION OF)	FINDINGS OF FACT,
THE UTAH STATE TAX COMMISSION,)	CONCLUSIONS OF LAW,
)	AND FINAL DECISION
Petitioner,)	
)	Appeal No. 06-0034
v.)	Account Nos. #####-1, #####-2
)	
RESPONDENT,)	Tax Type: Withholding Tax License and
)	Sales Tax License Revocation
)	
Respondent.)	Judge: Jensen

Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE 1, Assistant Attorney General
PETITIONER REPRESENTATIVE 2
PETITIONER REPRESENTATIVE 3
For Respondent: RESPONDENT REPRESENTATIVE

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on April 6, 2006. 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 a request for the revocation of sales and withholding tax licenses, filed by Petitioner on January 4, 2006. Petitioner requests revocation of sales tax license number #####-2 under Utah Code Ann. § 59-12-106(2)(h)

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and withholding tax license number #####-1 under Utah Code Ann. § 59-10-405.5(7) on the grounds that Respondent has failed to comply applicable tax laws.

2. Respondent is substantially delinquent in the payment of its sales and withholding tax obligations. As of the date of the hearing, Respondent owed an amount of approximately \$\$\$\$ for unpaid sales tax, interest, and penalties for tax periods from September 2004 through August 2005 and unpaid withholding tax, interest, and penalties for tax periods from January 2004 through September 2005.

3. Respondent acknowledged that substantial amounts are due and there have been numerous delinquencies. At hearing, Respondent indicated that a sale of Respondent's business was pending and that the sale would likely result in payment of the outstanding balances. The parties were holding discussions in this regard and the Respondent requested additional time to make payments that the Respondent believed would resolve issues with the Division. The Petitioner indicated that it would not oppose some additional time, and the parties agreed that the Commission should receive further information regarding the Respondent's compliance with the agreements the Respondent was attempting to reach with the Petitioner.

4. On August 16, 2006, the Petitioner provided additional information to the Commission indicating that the Respondent had made some additional payments but had not filed returns or kept current on tax filings. As of August 16, 2006, the Petitioner indicated that the Respondent now had a sales and withholding tax arrearage of over \$\$\$\$\$. The Commission does not rely on this additional information as a basis for revocation. Rather, it relies on the additional information for the limited purpose of verifying that no stipulation is forthcoming from the parties

and that the Commission should now act on the basis of the evidence received at hearing.

APPLICABLE LAW

(i) The commission shall, on a reasonable notice and after a hearing, revoke the license of any licensee 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. (ii) A license may not be issued to a licensee described in Subsection (2)(h)(i) until the licensee has complied with the requirements of this chapter . . (Utah Code Sec. 59-12-106(2)(h).)

Any person required to collect a tax under this chapter 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 Sec. 59-12-106(2)(i).)

(a) The commission shall revoke a license under this section if: (i) a licensee violates any provision of this part; and (ii) before the commission revokes the license the commission provides the licensee; (A) reasonable notice; and (B) a hearing. (b) If the commission revokes a licensee's license in accordance with Subsection (7)(a), the commission may not issue another license to that licensee until that licensee complies with the requirements of this part, including: (i) paying any: (A) amounts due under this part; (B) penalty as provided in Section 59-1-401; or (C) interest as provided in Section 59-1-402; and (ii) posting a bond in accordance with Subsections (5) and (6). (Utah Code Section 59-10-405.5(7).)

CONCLUSIONS OF LAW

Respondent has substantially failed to comply with provisions applicable to tax laws and for that reason the Commission revokes Respondent's sales tax license pursuant to Utah Code Sec. 59-12-106(2) as well as the Respondent's withholding tax license pursuant to Utah Code Sec. 59-10-405.5(7).

DECISION AND ORDER

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Based upon the foregoing, the Tax Commission finds that Respondent has failed to comply with the sales tax laws of the state of Utah and has an excessively large obligation to the Tax Commission. The Commission therefore determines that sales tax license number #####-2 and withholding tax license number #####-1 are hereby revoked. It is so ordered.

DATED this ____ day of _____, 2006.

Clinton Jensen
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 _____, 2006.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
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.

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