

06-0269
Revocation
Signed 07/13/2006

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER SERVICES DIVISION, UTAH STATE TAX COMMISSION)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
)	AND FINAL ORDER OF REVOCATION
Petitioner,)	
)	Appeal No. 06-0269
v.)	Account No. #####
)	
)	Tax Type: Sales & Withholding Tax Licenses
RESPONDENT,)	Revocation
)	
Respondent.)	Judge: Robinson

Presiding:

Pam Hendrickson, Commissioner
R. Spencer, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE 1, Assistant Attorney General
PETITIONER REPRESENTATIVE 2, Tax Compliance Agent
For Respondent: RESPONDENT, *pro se*, via telephone

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on June 28, 2006. At the beginning of the hearing, RESPONDENT said he was able to pay the amount due and post the bond previously requested by the Division. He asked if he could discuss payment of the full amount due and post a bond. The Division said it was willing to discuss that after the hearing, but asked to go forward with the hearing. The hearing went forward as scheduled. 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 the Request for Revocation of Sales Tax License, filed by Petitioner on February 6, 2006. Petitioner requests revocation

of sales tax license number ##### pursuant to Utah Code Sec. 59-12-106(2)(h) on the grounds that Respondent has failed to comply with the laws of the Utah Sales and Use Tax Act.

2. Respondent began operation in July of 2005 under the above noted license number. A previous entity, of which RESPONDENT was also a principle, operated under account number #####.

3. Petitioner stated the Respondent's account became delinquent in August of 2005, and was delinquent in September and October of 2005, as well as February, March, and April of 2006. While returns for these periods were filed, and checks submitted, there were not sufficient funds in the account upon which the checks were drawn to cover them.

4. Petitioner stated that, as of June 28, 2006, Respondent owed \$\$\$\$ in tax, penalty, and interest. Respondent acknowledge it owed the amount specified by Petitioner.

5. Petitioner stated RESPONDENT had signed a personal non-payment penalty assessment for the previous account, #####, with a total of \$\$\$\$ owed. RESPONDENT acknowledged the amounts on the present and previous accounts were owed.

6. Respondent said he could pay the amounts owed. He asked the Commission delay making its decision until after the second week in July 2006 in order for him to meet with PETITIONER REPRESENTATIVE 2 and make the arrangements for full payment.

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 provision of the Sales and Use Tax Act and the withholding tax provisions. For this reason the Commission revokes Respondent's sales tax license pursuant to Utah Code Sec. 59-12-106(2).

DECISION AND ORDER

Based upon the foregoing, the Tax Commission revokes Respondent's sales tax license. It is so ordered. Timely filing of an appeal of this decision will operate to stay the revocation. Should Respondent file a timely appeal, he may seek to resolve this matter with the Division while the appeal is pending.

DATED this ____ day of _____, 2006.

R. Spencer Robinson

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Administrative Law Judge

Appeal No. 06-0269

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 Sec. 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 Sec. 59-1-601 and 63-46b-13 et. seq.

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