

06-0673
Revocation
Signed 06/27/2006

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER SERVICES DIVISION,)	
UTAH STATE TAX COMMISSION,)	ORDER OF REVOCATION
)	
Petitioner,)	
)	Appeal No. 06-0673
v.)	Account Nos. #####-1, #####-2
)	
RESPONDENT,)	Tax Type: Withholding Tax
)	Presiding: Phan
Respondent.)	

Presiding:
D'Arcy Dixon Pignaneli, Commissioner
Jane Phan, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER REPRESENTATIVE 1, Assistant Attorney General
 PETITIONER REPRESENTATIVE 2, Tax Compliance Agent
For Respondent:

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing pursuant to the provisions of Utah Code Sec. 59-1-502.5, on June 22, 2006. Although duly notified of the date, time and location of the hearing, Respondent failed to appear.

This issue before the Utah State Tax Commission is the Request for Revocation of Tax License, filed by Petitioner on May 31, 2006. Petitioner requests revocation of both the withholding tax license number #####-2 pursuant to Utah Code Sec. 59-10-405.5(7) on the grounds that Respondent has failed to comply with the laws regarding withholding tax and the sales tax license number #####-1 pursuant to Utah Code Sec. 59-12-106(2)(h) on the grounds that Respondent failed to comply with the Sales and Use Tax Act.

As of the date of the hearing, Respondent owed a total in sales, tourism and withholding tax, as well as penalties and interest totaling \$\$\$\$\$. The amounts for the most recent periods are based on

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estimates as Respondent has not filed all returns.

Petitioner's representatives explained the efforts they had made to contact the business about payment. There were three payment plans set but Respondent failed to make the payments under the plans, failed to file returns and pay current amounts as they became due.

Respondent did not attend the Initial Hearing in this matter, so the Commission has no explanation from Respondent concerning the delinquency.

APPLICABLE LAW

(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).)

(i) The commission shall, on a reasonable notice and after a hearing, revoke the license of any licensee violating any provision 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, including: (A) paying any (I) tax due under this chapter; (II) penalty as provided in Section 59-1-401; or (III) interest as provided in Section 59-1-402; and (B) posting a bond in accordance with Subsections (2)(e) and (f). (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).)

DECISION AND ORDER

This account is substantially delinquent and in violation of withholding tax provisions and Sales and Use Tax Act. Revocation of both the withholding tax and sales tax license is required. In addition, the Commission issues an Order of Default against Respondent for failing to appear at the Initial Hearing.

Based on the foregoing the Utah State Tax Commission hereby revokes withholding tax license number #####-2 and sales tax license number #####-1. It is so ordered.

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 _____, 2006.

Jane Phan
Administrative Law Judge

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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 Pignaneli
Commissioner

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