

06-0708
Revocation
Signed 06/28/2006

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER SERVICES DIVISION OF)		
THE UTAH STATE TAX COMMISSION,)	ORDER OF REVOCATION	
)		
Petitioner,)	Appeal No.	06-0708
)		
v.)	Account No.	#####
)		
)	Tax Type:	Sales Tax License Revocation
RESPONDENT,)		
)	Judge:	Chapman
Respondent.)		

Presiding:
Kerry R. Chapman, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER REPRESENTATIVE 1, Assistant Attorney General
PETITIONER REPRESENTATIVE 2, from Taxpayer Services Division
For Respondent: 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 Ann. §59-1-502.5 on June 22, 2006.

The issue before the Tax Commission is the Division's June 5, 2006 Request for Revocation of Sales Tax License No. #####. The Division requests revocation of the Respondent's sales tax license pursuant to Utah Code Sec. 59-12-106(1), on the grounds that Respondent has failed to comply with the laws of the Utah Sales Tax Act.

When the Division submitted its Request for Revocation, the Respondent owed approximately \$\$\$\$ in delinquent tax, which had accrued from a number of reporting periods. The Division explained that the Respondent had not filed sales tax returns or paid the sales tax due for all periods in 2005. Furthermore, the Respondent had broken at least prior payment agreement. The Division stated that the amount due is relatively small, but believes the history of non-compliance in this case warrants revocation of the license.

The Respondent stated that he had completed and brought the delinquent sales tax returns for all quarters of 2005 and for the 1st quarter of 2006 and that he was prepared to pay the \$\$\$\$ amount shown due on the Division's Request for Revocation either by Visa credit card or by check next week.

The Commission acknowledges the Respondent's participation at the Initial Hearing and his seemingly sincere attempt to rectify his past non-compliance. However, the Commission finds that the Respondent has violated his sales tax liabilities associated with this account and finds sufficient cause to revoke the Respondent's sales tax license at this time. Were the Petitioner to appeal this decision to a Formal Hearing, however, the Commission may reconsider its decision based on the intervening actions of the Respondent.

APPLICABLE LAW

The Sales and Use Tax Act provides that a seller shall remit the sales or use tax imposed by the act to the Tax Commission and that the seller also file sales tax returns with the Tax Commission. Utah Code Ann. §59-12-107(3), (4), and (5). Furthermore, pursuant to UCA §59-12-106(2)(h)(i), "[t]he commission shall, on a reasonable notice and after a hearing, revoke the license of any licensee violating any provision of this chapter." Subsection 59-12-106(2)(i) provides that "[a]ny person required to collect a tax under this chapter within the state without having secured a license to do so is guilty of a criminal violation as provided in Section 59-1-401.

DECISION AND ORDER

The Respondent has violated the provisions of the Sales Tax Act. Based on the foregoing, the Utah State Tax Commission hereby revokes Sales Tax License No. ##### for failure to comply with Utah law. It is so ordered.

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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.

Kerry R. Chapman
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

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