

06-0948
Revocation
Signed 10/25/2006

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER SERVICES DIVISION OF)	ORDER OF REVOCATION
THE UTAH STATE TAX COMMISSION,)	
)	
Petitioner,)	Appeal No. 06-0948
)	
vs.)	Account No. #####
)	Tax Type: Withholding Tax
)	
RESPONDENT,)	
)	
Respondent.)	Judge: Robinson

Presiding:

R. Spencer Robinson, Administrative Law Judge

Appearances:

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

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing pursuant to the provisions of the Utah Code Ann. §59-1-502.5 on July 27, 2006.

This matter is before the Utah State Tax Commission due to the Petitioner's request for revocation of withholding tax license, filed in the Appeals Unit on July 5, 2006. Petitioner requests revocation of withholding tax license number ##### pursuant to Utah Code Ann. §59-10-405.5 (7)(a) on the grounds that Respondent has failed to comply with the laws of the Utah Individual Income Tax Act.

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 59-1-401; and (ii) posting a bond in accordance with Subsections (5) and (6). (Utah Code Section 59-10-405.5(7).)

DISCUSSION

As of the date of the hearing, Respondent owed \$\$\$\$ in withholding tax, penalty, and interest. Declared returns for April, May, June, October, November, and December of 2004 were not accompanied by the required payment. The same is true of January, April, May, June, and July of 2005. April of 2004 had a partial payment. No payments accompanied the other returns.

Respondent did not file returns for November and December of 2005, and for January of 2006. Petitioner said it had not received returns for February and May of 2006, and had classified them as late. Petitioner said Respondent has also breached several payment agreements.

Respondent acknowledged the accuracy of Petitioner's representations. He said he was making an effort to comply and had filed quarterly reports. He said he did not understand why the Petitioner did not have the information from his quarterly reports. He also said he has been in business for over thirty years and has had no problems until now. He said he was trying to collect from clients.

Respondent also said he could have the account brought current within thirty days. He said he would obtain a final amount due from PETITIONER REPRESENTATIVE 2 and pay it. Petitioner agreed to provide him the information and accept his payment. On October 12, 2006, information was received indicating that the account had not been brought current. Because there is sufficient evidence from the July 27, 2006 hearing on which a decision may issue, the Commission will not delay further.

DECISION AND ORDER

This account is substantially delinquent and has been since 2004 in violation of the provisions of the income tax act. There are sufficient grounds to require revocation of the withholding tax license.

Based on the foregoing, the Utah State Tax Commission hereby revokes Withholding Tax License ##### for failure to comply with the provisions of the Utah Individual Income Tax Act.

This decision does not limit a party's right to a Formal Hearing. However, this Order will become final 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. The request for a Formal Hearing must be in writing and must include the names of the Petitioner and Respondent and the appeal number, as stated on this notice. The request shall be mailed to:

Utah State Tax Commission
Appeals Unit
210 North 1950 West
Salt Lake City, Utah 84134

DATED this _____ day of _____, 2006.

R. Spencer Robinson

Appeal No. 06-0948

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