

07-0871
Sales, Withholding
Signed 09/25/2007

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER SERVICES DIVISION,
UTAH STATE TAX COMMISSION,

Petitioner,

vs.

RESPONDENT,

Respondent.

ORDER

Appeal No. 07-0871

Account Nos. #####-1, #####-2

Tax Type: Sales, Withholding

Tax Years: 2005, 2006

Judge: Jensen

Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE, for the Taxpayer Services Division

For Respondent: No one appeared

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing on August 8, 2007 in accordance with Utah Code Sec. 59-1-502.5. 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 Petitioner's Request for Revocation of Tax License, filed on July 17, 2007. Petitioner requests the revocation of sales tax license number #####-1 in accordance with Utah Code Sec. 59-12-106(2)(h) on the grounds that Respondent failed to comply with the Sales and Use Tax Act. Petitioner requests revocation of withholding tax license number #####-2 in accordance with Utah Code Sec. 59-10-405.5(7) on the grounds that Respondent has failed to comply with Utah laws regarding withholding tax.

Respondent owes \$\$\$\$\$ in sales tax, penalties, and interest and \$\$\$\$\$ in withholding tax, penalties, and interest. These amounts do not include the most recent periods and interest continues to accrue on the unpaid balance.

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 the Sales and Use Tax Act. Revocation of both the withholding tax license 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.

On the basis of the foregoing, the Utah State Tax Commission revokes sales tax license number #####-1 and withholding tax license number #####-2. 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

Appeal No. 07-0871

Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this _____ day of _____, 2007.

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 _____, 2007.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Notice: If a Formal Hearing is not requested as discussed above, failure to pay the balance resulting from this order within thirty days from the date of this order may result in a late payment penalty.

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