

09-2273
REVOCATION
09-16-2009

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER SERVICES DIVISION, UTAH STATE TAX COMMISSION,</p> <p style="text-align: center;">Petitioner,</p> <p>vs.</p> <p>RESPONDENT,</p> <p style="text-align: center;">Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 09-2273</p> <p>Account No. #####</p> <p>Tax Type: Sales Tax</p> <p>Tax Period: 09/30/08 – 01/31/09</p> <p>Judge: Jensen</p>
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Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REP 1, Assistant Attorney General
PETITIONER REP 2, from 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 July 28, 2009 in accordance with Utah Code Sec. 59-1-502.5. Although notified of the date, time and location of the hearing, the above-captioned Respondent (the "Taxpayer") failed to appear.

This issue before the Commission is a June 10, 2009 revocation request filed by the Taxpayer Services Division of the Utah State Tax Commission (the "Division"). The Division requests the revocation of sales tax license number ##### in accordance with Utah Code Sec. 59-12-106(2)(h) on the grounds that the Taxpayer failed to comply with the Sales and Use Tax Act

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

The Taxpayer did not attend the Initial Hearing in this matter, so the Commission has no explanation from the Taxpayer 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).)

DISCUSSION

At the July 28, 2009 hearing in this matter, the Division's representative indicated that the Taxpayer had now filed taxes for current periods and was paying current sales tax obligations as they came due. The Taxpayer entered into a payment agreement with the Division and made significant payments toward past due balances. However, the Taxpayer fell behind in payments and had not brought itself current as of the date of the hearing. The Division's representative thought that the parties were well on their way to making a new agreement that would allow the Taxpayer to continue doing business, but did not have a signed agreement to present at hearing. At hearing, the Division's representative asked the Commission to wait at least 15 days to before issuing an order in this matter to allow the Taxpayer additional opportunity to finalize a payment arrangement. However, as of the date of this order, the Commission has waited additional time as requested by the Division and has not received any indication that the parties have reached agreement. Accordingly, the Commission must now issue an order in this matter.

DECISION AND ORDER

This account is substantially delinquent and in violation of the Sales and Use Tax Act. Revocation of the sales tax license is required. In addition, the Commission issues an Order of Default against the Taxpayer

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for failing to appear at the Initial Hearing.

On the basis of the foregoing, the Utah State Tax Commission revokes sales tax license number #####. 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 _____, 2009.

Clinton Jensen
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

DATED this _____ day of _____, 2009.

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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