
BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER SERVICES DIVISION OF
THE UTAH STATE TAX COMMISSION,

Petitioner,

v.

RESPONDENT,

Respondent.

**ORDER DENYING RESPONDENT'S
REQUEST FOR AN APPEAL
CONCERNING ITS BUSINESS LICENSE
AND DENYING REQUEST FOR
RECONSIDERATION**

Appeal No. 09-2883

Account No. #####

Case Type: Revocation - Sale Tax License
and Withholding Tax License

Judge: Chapman

STATEMENT OF CASE

On January 21, 2010, the Commission issued its Findings of Fact, Conclusions of Law and Final Decision ("Final Decision") in this matter. In the Final Decision, the Commission revoked the sales and use tax and withholding tax licenses of RESPONDENT (the "taxpayer").

On February 25, 2010, PERSON sent an email to the Commission, in which he requested "an appeal in regards to the revocation of my business license for RESPONDENT." The Commission has attempted, without success, to telephone PERSON to determine whether he is requesting: 1) reconsideration of the Commission's Final Decision to revoke its sales and use tax and withholding tax licenses; or 2) a new appeal be opened in regards to the revocation of the business license. As a result, not only will the Commission treat PERSON's request as a Request for Reconsideration of the Final Decision in this matter, but it will also address his request for a new appeal concerning the business license.

APPLICABLE LAW

1. Utah Code Ann. §63G-4-302(1)(a) provides that a party receiving a final decision from the Commission may request reconsideration, as follows:

(1)(a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63G-4-301 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

2. Utah Administrative Rule R861-1A-29(B) (“Rule 29”) provides that “[w]ithin 20 days after the date that an order . . . is issued, any party may file a written request for reconsideration alleging mistake of law or fact, or the discovery of new evidence.”

DISCUSSION

The Commission’s Final Decision was issued on January 21, 2010. The taxpayer’s February 25, 2010 email in which he requested an appeal was submitted 35 days after the Final Decision was issued. Section 63G-4-302(1)(a) and Rule 29(B) provide that a request for reconsideration must be submitted within 20 days of the issuance of a Final Decision. If the taxpayers’ request for an appeal was intended to be a Request for Reconsideration of the Commission’s Final Decision in this matter, the request is untimely and, thus, denied.

If the taxpayer’s email was intended to be a request for the Commission to open a separate appeal concerning the revocation of its business license, that request must be denied as well. The Commission is not the entity that revokes business licenses. The Commission suggests that the taxpayer contact the entity that revoked its business license to find out what appeal rights, if any, it has concerning the business license revocation.

DECISION AND ORDER

Based upon the foregoing, the Commission denies the taxpayer’s Request for Reconsideration of its Final Decision in this matter. In addition, the Commission denies the taxpayer’s request for a new appeal to be opened in regards to the revocation of its business license. It is so ordered.

Appeal No. 09-2883

DATED this _____ day of _____, 2010.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

NOTICE: You have thirty (30) days after the date of this order to pursue judicial review of this order pursuant to Utah Code Ann. §§59-1-601 et seq. and 63G-4-401 et seq.

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