

2700-7791-2

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE MINNESOTA DEPARTMENT OF REVENUE

In the Matter of the Revocation  
of the Sales Tax Permit of:

Ronald P. Kramer  
The Shop  
5865 Eureka Road  
Excelsior, MN 55331-8938  
MN I.D. No. 5125928

FINDINGS OF FACT.  
CONCLUSIONS-AND  
RECOMMENDATION

The above-captioned matter came on for hearing before Administrative Law Judge George A. Beck commencing at 1:00 p.m. on Tuesday, May 4, 1993 at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, in the City of Minneapolis, Minnesota.

Patrick J. Finnegan, Attorney, Minnesota Department of Revenue, Appeals and Legal Services Division, 10 River Park Plaza, Mail Station 2220, St. Paul, Minnesota 55146-2220, appeared on behalf of the Minnesota Department of Revenue (Department). The Respondent, Ronald P. Kramer, was present and appeared without counsel. The record closed on the date of the hearing.

This report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Revenue will make the final decision after a review of the record which may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations in this Report. Under Minn. Stat. 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least 10 days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Morris J. Anderson, Commissioner, Minnesota Department of Revenue, 10 River Park Plaza, St. Paul, Minnesota 55146, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUES

The issues in this case is whether or not the Respondent has failed to pay sales taxes owed to the Department as required by law, thereby authorizing the revocation of the Respondent's sales tax permit.

Based upon all of the testimony, exhibits, and proceedings, the Administrative Law Judge makes the following:

#### FINDINGS OF FACT

1. The Respondent owns and operates an automobile and snowmobile repair shop in Excelsior, Minnesota.

2. The Respondent presently holds sales tax permit #5125928.

3. He is required by law to collect and remit sales tax in connection with his business.

4. As of the date- of the hearing in this matter, the Respondent owed a past due sales tax of \$3,047.01, a penalty of \$1,129.70, interest of \$662.54, or a total amount owed to the Department of \$4,839.25. (Ex . I I This sales tax is owed from 13 quarterly periods beginning in September of 1989 and ending in September of 1992.

5. The Respondent has filed all of his tax returns.

6. The Respondent is willing to enter into a payment plan with the Department. He has explored the possibility of refinancing his house in order to pay off the sales tax owed however he has been hampered because of a substantial property tax which remains unpaid. He is also making payments pursuant to a payment plan with the Internal Revenue Service.

7. The Respondent did not contest the amount due and owing to the Department at the hearing.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

#### CONCLUSIONS

1. The Commissioner of Revenue and the Administrative Law Judge have authority to consider the issues set out in the Notice of and Order for Hearing and to take the action proposed under Minn. Stat. 297A.07, subd. I and 14.50 (1992), and Minn. Rules, pts. 8130.2700, 8130.7300 and 8130.7500 (1991).

2. The Department gave proper notice of the hearing in this matter to

the Respondent and has complied with all relevant substantive and procedural requirements of law and rule.

3. The Respondent has failed to pay sales taxes as required by Minn. Stat. 289A.20 (1992) and Minn. Rules pt. 8130.7500 (1991).

4. As a result of the failure to pay sales taxes owed to the Department, including penalties, interest and other charges, reasonable cause exists to revoke the Respondent's sales tax permit under Minn. Stat. 297A.07 (1992) and Minn. Rules pt. 8130.2700 (1991).

Based upon the foregoing Conclusions, and for the reasons set forth in the attached Memorandum the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Commissioner of Revenue revoke sales and use tax permit number 5125938 issued to Ronald P. Kramer, d/b/a The Shop.

Dated: May 12, 1993.

GEORGE A.BECK  
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: Taped

MEMORANDUM

At the hearing in this matter Mr. Kramer indicated that he was willing to enter into a payment agreement at the rate of approximately \$100 per month in order to satisfy the amount due and owing. The Department believes that he may be able to pay the amount off in full through either the sale of snowmobiles or the use of equity in his house. Although the Commissioner has the right to revoke the sales tax permit at this time, it's recommended that Mr. Kramer explore the possibility of refinancing of his house and should this not work out, it is recommended that the parties discuss an appropriate payment agreement.

G.A.B.