

## **DECISION OF MUNICIPAL TAX HEARING OFFICER**

Decision Date: October 26, 2005

Decision: MTHO #247

Tax Collector: City of Tucson

Hearing Date: None

### **DISCUSSION**

#### **Introduction**

On June 3, 2005, *Taxpayer* (“Taxpayer”) filed a protest of a tax assessment made by the City of Tucson (“City”). After review, the City concluded on July 6, 2005 that the protest was timely and in the proper form. On July 18, 2005, the Municipal Tax Hearing Officer (“Hearing Officer”) ordered the City to file a response to the protest on or before September 1, 2005. On August 16, 2005, the Hearing Officer, at the request of the Taxpayer, reclassified this matter from a hearing to a redetermination. On August 24, 2005, the City filed a response to the protest. On August 30, 2005, the Hearing Officer ordered the Taxpayer to file a reply by September 29, 2005. On October 4, 2005 the Hearing Officer indicated no reply had been filed and as a result the record was being closed and a written decision would be issued on or before November 18, 2005.

#### **City Position**

According to the City, the Taxpayer protested the tax due and associated interest and penalty for the periods of September 1996 through October 2003 as stated in a letter from the Revenue Division (“Division”) on April 19, 2005. The Division estimated tax due for all periods because returns were not filed by the Taxpayer. Subsequent to filing the protest letter, the Taxpayer has provided actual returns for the tax periods September 1996 through December 1997 and January 2000 through December 2000.

Based on a review of the actual records, the City redetermined the amount of taxes due for those periods. In addition, the City reduced the estimated tax due for tax periods January 1998 through December 1999 and January 2001 through October 2003 based on correspondence from the Arizona Department of Revenue (“DOR”) provided by the Taxpayer. As a result, the City recommended the original assessment be reduced from \$40,595.17 to \$2,600.63.

#### **Taxpayer Position**

The Taxpayer’s protest states that he is looking for State of Arizona (“State”) returns so that he can file outstanding City returns. The Taxpayer asserted that the estimate of tax due to too high.

## ANALYSIS

The original assessment was estimated for the entire audit period as no records were provided by the Taxpayer. Subsequent to filing his protest letter, the Taxpayer provided records for the City to review. Because the records provided a more accurate measurement of tax due along with associated interest and penalties, it was proper for the City to revise the assessment to reflect the documentation provided. Accordingly, the revised assessment set forth in the City's August 24, 2005, letter should be approved. We also note that the Taxpayer did not file any disagreement with the City's proposed revisions.

## FINDINGS OF FACT

1. On June 3, 2005, the Taxpayer filed a protest of a tax assessment made by the City.
2. After review, the City concluded on July 6, 2005 that the protest was timely and in the proper form.
3. On July 18, 2005, the Hearing Officer ordered the City to file a response to the protest on or before September 1, 2005.
4. On August 16, 2005, the Hearing Officer, at the request of the Taxpayer, reclassified this matter from a hearing to a redetermination.
5. On August 24, 2005, the City filed a response to the protest.
6. On August 30, 2005, the Hearing Officer ordered the Taxpayer to file a reply by September 29, 2005.
7. On October 4, 2005, the Hearing Officer indicated no reply had been filed and as a result the record was closed and a written decision would be issued on or before November 18, 2005.
8. The Taxpayer protested the tax due and associated interest and penalty for the periods of September 1996 through October 2003 as stated in a letter from the Division on April 19, 2005.
9. The Division estimated tax due for all periods because returns were not filed by the Taxpayer.
10. Subsequent to filing the protest letter, the Taxpayer has provided actual returns from the tax periods September 1996 through December 1997 and January 2000 through December 2000.
11. Based on a review of the actual records, the City redetermined the amount of

taxes due for the periods September 1996 through December 1997 and January 2000 through December 2000.

12. In addition, the City reduced the estimated tax due for tax periods January 1998 through December 1999 and January 2001 through October 2003 based on correspondence from the DOR provided by the Taxpayer.
13. The City recommended the original assessment be reduced from \$40,595.17 to \$2,600.63.
14. The Taxpayer did not file any disagreement with the City's proposed revisions.

### **CONCLUSIONS OF LAW**

1. Pursuant to ARS Section 42-6056, the Municipal Tax Hearing Officer is to hear all reviews of petitions for hearing or redetermination under the Model City Tax Code.
2. The Taxpayer had taxable income in the City during the periods of September 1996 through October 2003.
3. The Taxpayer failed to file returns or pay taxes for the periods of September 1996 through October 2003.
4. The City's original assessment was a reasonable estimate since the Taxpayer failed to provide any documentation or records.
5. The City's adjusted assessment was proper since it was based on a review of records provided by the Taxpayer after the protest letter was filed.
6. The City's adjusted assessment as set forth in its August 24, 2005 letter should be approved.

### **ORDER**

It is therefore ordered that the June 3, 2005 protest of *Taxpayer* of a tax assessment made by the City of Tucson is hereby granted in part, and denied, in part, consistent with the Discussion, Findings, and Conclusions, herein.

It is further ordered that the City of Tucson shall revise its assessment consistent with the City of Tucson's August 24, 2005, letter.

It is further ordered that this Decision shall be effective immediately.

Jerry Rudibaugh  
Municipal Tax Hearing Officer