

DECISION OF MUNICIPAL TAX HEARING OFFICER

Decision Date: November 30, 2009

Decision: MTHO # 532

Taxpayer: *Taxpayer*

Tax Collector: City of Chandler

Hearing Date: None

DISCUSSION

Introduction

On July 22, 2009, a letter of protest was filed by *Taxpayer* of the City of Chandler (“City”) denial of a tax refund request of Taxpayer. At the request of Taxpayer, this matter was classified as a redetermination. After final submission of all memoranda by the parties, the Municipal Tax Hearing Officer (“Hearing Officer”) closed the record on October 28, 2009 and indicated a written decision would be issued on or before December 14, 2009.

DECISION

Taxpayer was under audit by the *Jurisdiction*. *Jurisdiction* contended that rental modular units located on the reservation that were leased for periods greater than six months are taxable to *Jurisdiction*. Taxpayer was in agreement with *Jurisdiction* and argued that it had erroneously reported and paid taxes to the City. As a result, Taxpayer requested a refund from the City in the amount of \$2,647.43. On April 16, 2009, the City denied Taxpayer’s refund request. Taxpayer argued that the denial was erroneous and should be reversed.

During the period in question, Taxpayer leased mobile offices and site trailers (“Offices and Trailers”). This protest involves Offices and Trailers that were leased from Taxpayer’s offices in the City and delivered to *Jurisdiction*. The Offices and Trailers are taxable by the City if they are considered as Mobile Transportation Equipment (“MTE”) pursuant to Regulation 450. MTE is defined in Regulation 450 as being tangible personal property designed for regular use at different locations, whether or not such property is in fact so used. Taxpayer argued the Offices and Trailers were not MTE’s because they were not used for transportation. According to Taxpayer, the Offices and Trailers are generally used as portable classrooms or offices on construction sites. Taxpayer asserted the Offices and Trailers were permanently installed as the units were anchored to the dirt, which is an alteration to the premises.

In reviewing the descriptions of the Offices and Trailers provided by the City, we conclude the Offices and Trailers can be permanently affixed to a location or they can be moved from one site to another. In fact, the description emphasized the flexibility of the Offices and Trailers to “meet your temporary or permanent space needs”. As a result, we conclude that the Offices and Trailers were designed for regular use at different locations which would be MTE’s pursuant to Regulation 450. While Taxpayer may have permanently affixed the Offices and Trailers at *Jurisdiction*, the definition set forth in Regulation 450 makes it clear that actual usage is not controlling. Based on the above, we conclude the Offices and Trailers were MTE pursuant to Regulation 450 and thus taxable by the City. Accordingly, Taxpayer’s protest should be denied.

FINDINGS OF FACT

1. Taxpayer was under audit by *Jurisdiction*.
2. *Jurisdiction* contended that rental modular units located on the reservation that were leased for periods greater than six months are taxable to *Jurisdiction*.
3. Taxpayer was in agreement with *Jurisdiction* and argued that it had erroneously reported and paid taxes to the City.
4. Taxpayer requested a refund from the City in the amount of \$2,647.43.
5. On April 16, 2009, the City denied Taxpayer’s request for a refund.
6. During the period in question, Taxpayer leased Offices and Trailers.
7. This protest involves Offices and Trailers that were leased from Taxpayer’s offices in the City and delivered to *Jurisdiction*.
8. The Offices and Trailers are generally used as portable classrooms or offices on construction sites.
9. The Offices and Trailers installed at *Jurisdiction* were anchored to the dirt.
10. The Offices and Trailers can be permanently affixed to a location or they can be moved from one site to another.
11. The description for the Offices and Trailers emphasized the flexibility to “meet your temporary or permanent space needs”.

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. MTE is defined in Regulation 450 as being taxable personal property designed for regular use at different locations whether or not such property is in fact so used.
3. The Offices and Trailers were designed for regular use at different locations.
4. The Offices and Trailers were MTE pursuant to Regulation 450.
5. The Offices and Trailers leased from Taxpayer's offices in the City and delivered to *Jurisdiction* were taxable by the City.
6. Taxpayer's protest should be denied, consistent with the Discussion, Findings, and Conclusions, herein.

ORDER

It is therefore ordered that the July 22, 2009 protest by *Taxpayer* of a denial of a tax refund request of *Taxpayer* by the City of Chandler is hereby denied, consistent with the Discussion, Findings, and Conclusions, herein.

It is further ordered that this Decision is effective immediately.

Jerry Rudibaugh
Municipal Tax Hearing Officer