

**Jerry Rudibaugh
Municipal Tax Hearing Officer**

DECISION OF MUNICIPAL TAX HEARING OFFICER

Decision Date: July 3, 2003
Decision: MTHO #102
Tax Collector: City of Phoenix
Hearing Date: None

DISCUSSION

Introduction

On February 5, 2003, *Taxpayer* filed a protest of a tax assessment made by the City of Phoenix (“City”). After review, on February 6, 2003, the City concluded the protest was timely and in the proper form. On February 10, 2003, the Municipal Tax Hearing Officer (“Hearing Officer”) ordered the City to file a response to the protest on or before March 27, 2003. On March 6, 2003, the City filed its response. On March 17, 2003, the Hearing Officer ordered the Taxpayer to file any reply on or before April 16, 2003. The Taxpayer failed to file any reply. On May 23, 2003, the Hearing Officer filed a letter indicating a written Decision would be issued on or before July 7, 2003.

The City conducted an audit of the Taxpayer for the period July 1999 through November 2002. Based on an estimate made by the City, the Taxpayer had under-reported constructing contracting resulting in a tax assessment of \$2,513.20 plus interest. In addition, the City assessed penalties totaling \$601.43.

City Position

After review of the Taxpayer’s additional documentation, the City agreed to revise the assessment. The City recommended deleting the assessment for the period of July 2000 through November 2002 from the original assessment. As a result, the City revised the assessment to \$465.99 plus interest, and penalties in the amount of \$117.87.

Taxpayer Position

The Taxpayer protested the assessment for the period of June 25, 2000 through November 2002. The Taxpayer asserted that he was working for another company during that period and provided copies of payroll checks to show he was working for another company. The Taxpayer also provided a letter showing he had been on workman’s compensation for eight months commencing on September 12, 2001. Based on the above, the Taxpayer requested the assessment be adjusted.

ANALYSIS

The City's original assessment for under-reported constructing contracting was appropriate based on the information at that time. After receiving additional documentation from the Taxpayer, it was appropriate for the City to revise its assessment to reflect more accurate information. As a result, the Taxpayer's protest should be granted consistent with the revised assessment of the City.

FINDINGS OF FACT

1. On February 5, 2003, the Taxpayer filed a protest of a tax assessment made by the City.
2. After review, the City concluded on February 6, 2003 that the protest was timely and in the proper form.
3. On February 10, 2003, the Hearing Officer ordered the City to file a response to the protest on or before March 27, 2003.
4. On March 6, 2003, the City filed its response.
5. On March 17, 2003, the Hearing Officer ordered the Taxpayer to file any reply on or before April 16, 2003.
6. The Taxpayer failed to file any reply.
7. On May 23, 2003, the Hearing Officer filed a letter indicating a written decision would be issued on or before July 7, 2003.
8. The City conducted an audit of the Taxpayer for the period July 1999 through November 2002.
9. Based on an estimate made by the City, the Taxpayer had under-reported construction contracting resulting in a tax assessment of \$2,513.20 plus interest.
10. The City also assessed penalties totaling \$601.43.
11. The Taxpayer provided copies of payroll checks to show he was working for another company during the period of July 2000 through November 2002.
12. The Taxpayer also provided documentation to show that he was disabled for eight months commencing on September 21, 2001.
13. After review of the Taxpayer's additional documentation, the City revised the tax assessment to \$465.99 plus interest, and penalties in the amount of \$117.87.

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. City Code Section 415 imposes a tax on construction contracting income.
3. Based on the additional documentation provided by the Taxpayer, it was appropriate for the City to revise its assessment.
4. The City's revised assessment should be approved.
5. The Taxpayer's protest should be granted consistent with the City's revised assessment.

ORDER

It is therefore ordered that the February 5, 2003 protest of *Taxpayer* of a tax assessment of the City of Phoenix is hereby approved consistent with the Discussion herein.

It is further ordered that the City of Phoenix shall revise its assessment consistent with its March 6, 2003 response.

It is further ordered that this Decision is effective immediately.

Jerry Rudibaugh
Municipal Tax Hearing Officer