

**Jerry Rudibaugh**  
**Municipal Tax Hearing Officer**

**DECISION OF MUNICIPAL TAX HEARING OFFICER**

Decision Date: November 7, 2003

Decision: MTHO #59

Tax Collector: City of Tucson

Hearing Date: December 3, 2002

**DISCUSSION**

**Introduction**

On August 12, 2002, *Parent*, Inc. dba *Taxpayer #1* (Privilege License #1) (“Taxpayer A”) filed a request for a redetermination of a tax assessment made by the City of Tucson (“City”). On August 13, 2002, *Parent*, Inc. dba *Taxpayer #2* (Privilege License #2) (“Taxpayer B”) filed a request for a redetermination of a tax assessment made by the City. On August 13, 2002, *Parent*, Inc. dba *Taxpayer* (Privilege License #3) (“Taxpayer C”) (Collectively, Taxpayer A, B, and C referred to as “Taxpayer”) filed a request for hearing or redetermination from a tax assessment made by the City. After review, the City filed a letter on August 23, 2002 concluding the protests of the Taxpayer were timely and in proper form. On August 29, 2002, the Municipal Tax Hearing Officer (“Hearing Officer”) classified the matter as a redetermination and ordered the City to file a response on or before October 14, 2002. On September 21, 2002, the Taxpayer filed a request to change the matter from a redetermination to a hearing. On September 26, 2002, the Hearing Officer reclassified the matter as a hearing. On October 11, 2002, the City filed a response to the protests of the Taxpayer. On October 16, 2002, the Hearing Officer ordered the Taxpayer to file any reply on or before November 6, 2002. On October 29, 2002, a Notice of Tax Hearing (“Notice”) was issued scheduling the hearing for December 3, 2002 at 10:00a.m. On November 6, 2002, the Taxpayer requested an extension to file its reply until November 11, 2002. On November 7, 2002, the Hearing Officer granted the Taxpayer an extension until November 12, 2002 to file a reply. On November 12, 2002, the Taxpayer filed its reply. On November 18, 2002, a Notice was issued rescheduling the hearing for December 3, 2002 at 11:30a.m. On November 18, 2002, another Notice was issued rescheduling the hearing for December 3, 2002 back to 10:00 a.m. Both parties appeared and presented evidence at the December 3, 2002 hearing. On December 9, 2002, the Hearing Officer ordered the Taxpayer to provide additional documentation to the City on or before December 20, 2002 and the City would provide any comments/recommendations on or before January 17, 2003. The Taxpayer provided additional information to the City on December 17, 2002. On January 13, 2003, the City filed a request for an extension to file comments/recommendations. On January 16, 2003, the Hearing Officer granted the City an extension until February 28, 2003. On January 21, 2003 the City filed a copy of a January 17, 2003 letter from the City of Phoenix to the Taxpayer. On February 13, 2003, the City requested another extension to file its comments/recommendations by March 31, 2003. On February 25, 2003, the Hearing Officer granted the City an extension until March 31, 2003. The Taxpayer was to file additional information requested by the City on or before February 28, 2003. Subsequently, the Taxpayer requested and was granted an extension

until March 15, 2003 to provide the additional information. As a result, on March 25, 2003, the City requested an extension until April 30, 2003 to file comments/recommendations. On March 28, 2003, the Hearing Officer granted the extension. On May 15, 2003, the Hearing Officer ordered the Taxpayer to file any reply to the City on or before June 5, 2003. On May 29, 2003, the Taxpayer filed a requested for an extension until July 15, 2003. On May 30, 2003, the Hearing Officer granted the extension. On July 14, 2003, the Taxpayer filed its reply. On July 25, 2003, the Hearing Officer issued a letter indicating the record was closed and a written decision would be issued on or before September 8, 2003. On August 29, 2003, the City filed additional information in this matter, On September 4, 2003, the Hearing Officer granted the Taxpayer until September 18, 2003 to respond to the additional information. On September 16, 2003, the Taxpayer filed a response to the City. On September 18, 2003, the Hearing Officer issued a letter indicating the record was closed and a written decision would be issued on or before November 7, 2003.

The City audited two **Parent** stores located in the City. License No. **2** was audited for the period November 30, 1997 through December 31, 2001. The City assessed the Taxpayer for taxes due in the amount of \$74,443.43, penalties in the amount of \$7,443.43, plus interest. License No. **1** was audited for the period November 1, 1997 through December 31, 2001. The City assessed the Taxpayer for taxes due in the amount of \$56,516.98, penalties in the amount of \$5,651.77, plus interest. The City audited the **Taxpayer** warehouse located in the City. License No. **3** was audited for the period of November 1, 1997 through March 31, 2002. The City assessed the Taxpayer for taxes due in the amount of \$1,653,336.99, penalties in the amount of \$376,986.08, plus interest.

### **City Position** **Taxpayer Assessment**

The City noted that the Taxpayer originally had a license under **Original Corporation** Incorporated for a sales office/warehouse in the City located at \_\_\_\_\_ (**First location**). Subsequently, the Taxpayer cancelled that license effective April 30, 1997 and another license was issued under **Taxpayer** for the same location. In January of 2001, the **First** location was moved to \_\_\_\_\_ (**Second location**). The Taxpayer informed the City they were paying taxes to the City at the beginning of the audit period, because they were reporting based on sales office location. Subsequently, the Taxpayer changed to reporting based on the merchandise origin. As a result, the Taxpayer began to pay City tax in decreasing amounts until July 1998. At that time, the Taxpayer no longer paid any City tax. According to the City, the Taxpayer reported City income of \$658,605.50 in December 1997. By July 1998, the City income had declined to \$56,531.00. At the same time, the City asserted the Phoenix reported income remained consistent. According to the City, it appeared the amounts allocated to Phoenix continued to be reported while amounts to the City ceased to be reported to any jurisdiction. Further, the City noted that until the auditor attempted to close the audit, the Taxpayer maintained the **Second** location was a **Taxpayer** location. After the audit was finalized, the Taxpayer claimed the location was an **Original Corporation** location.

The City argued that the **Second** location qualifies as a sales office which stores, stocks, and warehouses merchandize for City customer delivery and should be licensed and paying tax to the City.

The City asserted that while all inventory is located in Phoenix, the inventory designated for City delivery is shipped to the City warehouse to be stored prior to delivery. The warehouse has signage indicating *Taxpayer* and the invoices indicate the seller is *Taxpayer*. According to the City, this office employs salesmen who visit potential customers and establish a market for the City and surrounding communities. Further, the *Second* location is listed as a local sales office on the *Taxpayer* catalog.

The City requested documentation from the Taxpayer to show that *Original Corporation* (City of Phoenix location) has ownership of the inventory and leases for the building but none was provided. The City also alleged that the Taxpayer has provided no records to show that any orders for merchandise delivered from the City location were received at the City of Phoenix warehouse. Further, the City asserted the products received by customers has the name *Taxpayer* on the box. The City also noted that it is a customer of the Taxpayer and it is charged a combined tax rate for the State and the City (which differs from City of Phoenix tax).

The City argued that the Taxpayer does not qualify as an out-of-City retailer pursuant to City Code Section 100 (“Section 100”). According to the City, the title and possession of the sale occurred within the City, the stock is stored in the City for a period of time, and the sales people occasionally accept orders in the City.

In response to the Taxpayer’s argument that the taxes have been paid to the City of Phoenix, the City asserts the Taxpayer has failed to provide documentation to show the taxes have been paid to Phoenix. Without such documentation, the City indicated it is unable to file an intercity claim pursuant to ARS Section 4:2-6003(B) (“Section 6003(B)"). As a result, the City requested the *Taxpayer* assessment be upheld.

In response to the Taxpayer’s argument that pursuant to City Code Section 19-565(c) (“Section 565(c)”) no interest or penalties shall be charged, the City asserted there has been no documentation to demonstrate another city has been paid the taxes. Further, the City argued that the Taxpayer has been delinquent since August 1998 and has refused to follow the direction of the City to file and pay business privilege tax. Accordingly, the City requested the penalties and interest be upheld.

### **ABC Sales**

The income from the *ABC* Sales was reported to the State but was never included on the income reported to the City. According to the City, there was no documentation provided to explain why the income would not be taxable to the City. The City didn’t know how many of the Arizona sales went to the City or to which of the two City stores the sales went through. As a result, the City assessed both City stores for 100 percent of the Arizona sales. The City argued that there is sufficient nexus to tax the *ABC* Sales since title is transferred in the City.

### **RS Money Card**

The Taxpayer gave away some *RS* Money Cards (“Cards”) at the time a customer makes a purchase. For example, a customer would buy a \$200 copier and receive a \$50 Card for use on a later purchase. As a result, the Taxpayer would only report \$150 as taxable for the transaction. If

the \$50 Card were turned in on a later taxable purchase, the Taxpayer would then report the remaining \$50 as taxable. The City expressed concerns that the \$50 Card could be redeemed on an exempt item and the City would not receive the total tax due. The City argued that the initial purchase should be taxed at the full amount without a deduction for the card.

### **Taxpayer Position** **Taxpayer Assessment**

The Taxpayer argued that the sales being assessed were those of ***Original Corporation*** and not ***Taxpayer***. As a result, the Taxpayer argued that the City has illegally assessed the wrong company. According to the Taxpayer, fax and internet orders are accepted at the company headquarters in ***XYZ***, Florida. Prior to July 13, 2001, telephone orders from contract customers were accepted at the Phoenix center warehouse. On July 13, 2001, the Phoenix center was closed and all calls were rerouted to Southern California. Telephone orders from non-contract customers are received in Florida and California.

The Taxpayer argued that prior to July 13, 2001, the sales in question would be attributable to the City of Phoenix since the orders were accepted at the Phoenix call center and the inventory was housed at the Phoenix warehouse. The Taxpayer concurred that the title and possession of goods was transferred in the City. However, the Taxpayer argued the sales would be attributable to Phoenix pursuant to City Code Section 460 (“Section 460”) since the orders were received in Phoenix. Section 460 states that when this City and another Arizona city or town could claim nexus for taxing a sale, the city or town where the permanent business location of the seller at which the order was received shall have the sole and exclusive right to such tax.

After the Phoenix call center was closed, the Taxpayer asserted the orders would have been accepted by out-of-state call centers. The title and possession of goods was still transferred in the City. However, the Taxpayer contended that the orders were still attributable to Phoenix as the inventory originates from that location. According to the Taxpayer, orders are received by telephone, fax, or web at the ***Original Corporation*** warehouse located in Phoenix. The Tucson area orders are fulfilled from inventory at the ***Original Corporation*** warehouse. The inventory is palletized and shrink-wrapped for placement on line-haul contract carriers. The contract carrier hauls the inventory to the City satellite office where the palletized orders are offloaded. The orders are then separated and loaded onto smaller company-owned delivery trucks to be distributed to Tucson area customers. The Taxpayer asserts the palletized orders do not represent stock as each order is already earmarked for a specific customer. According to the Taxpayer, the goods are not stored nor warehoused at the City location as the satellite location acts as a transfer point. The Taxpayer indicated the Phoenix warehouse has 158,000 square feet while the City satellite location has only 10,000 square feet. The Taxpayer asserts that it followed Section 460, which requires the permanent business location at which the order is received shall have precedence. As a result, the Taxpayer paid the taxes to the City of Phoenix. Accordingly, the Taxpayer argued that it has paid the appropriate taxes and that the City should resolve the matter with the City of Phoenix pursuant to ARS Section 42-6003. Lastly, the Taxpayer requests that all interest and penalties should be waived pursuant to Section 565 (c) since the Taxpayer paid the taxes to another city.

### **ABC Sales**

*ABC* Sales were sales that originated from out-of-state and the items were shipped to Arizona from out-of state. According to the Taxpayer, *ABC* Sales would be appropriate for use tax and the City does not have a use tax. Even if the *ABC* Sales would be subject to the transaction privilege tax, the Taxpayer asserted the City assessed both city stores for 100 percent of the *ABC* Sales for the entire state. As a result, the Taxpayer was assessed for 200 percent of the *ABC* Sales for the entire state. The Taxpayer performed a random sample of the *ABC* Sales and determined 11.7 percent of the *ABC* Sales were delivered to City customers. The Taxpayer argued that even if a transaction privilege tax could be assessed, such assessment should only be on 11.7 percent of the *ABC* Sales.

### **RS Money Card**

The Taxpayer gave away Cards as a promotion on the sale of some items. When the customer redeems his Card, he would be charged tax on the full purchase price on that day. The Taxpayer did not charge tax on the Card at the time it was given to the customer. As a result, the Taxpayer disputed the City's assessment of tax on the Cards when it is given away as a promotion. The Taxpayer cited Arizona Regulation R15-5-129 (D) ("Regulation 129") which states: "Coupons issued by a retailer and later redeemed by the retailer as a discount the price of merchandise sold by him are considered a reduction of the selling price. In such cases the net selling price is subject to tax." The Taxpayer asserts this is exactly the treatment applied to these Cards. According to the Taxpayer, the only variation is that the non-taxable status is granted on the current purchase rather than the subsequent redemption of the Card. The Taxpayer indicated it was done this way because the Card is also sold as a gift certificate and the Taxpayer has no way to determine at the time of redemption how the Card was acquired.

### **Penalties**

The Taxpayer requested all penalties be abated. According to the Taxpayer, after all adjustments are made to the audit it is apparent the Taxpayer has remitted more than 98 percent of the tax due and payable during the audit period. The Taxpayer asserted that this level of compliance cannot be construed as negligent.

## **ANALYSIS**

### **Taxpayer Assessment**

Clearly there is sufficient nexus for the City to tax the sales of the *Taxpayer* warehouse/sales office at the *Second* location. At a minimum, title and possession of the sale occur within the City. Additionally, there was evidence that the invoices and the delivery trucks referred to *Taxpayer* as the entity making the sale. In addition, the Taxpayer originally reported these sales as sales from a sales office location and reported taxable income to the City. The Taxpayer subsequently did not change the way it did business, but changed the way it reported tax based on' the merchandise origin. While it would have been better if the Taxpayer would have discussed the change in reporting with the various cities involved prior to the change, that didn't

happen. We concur with the Taxpayer that they should only pay one city tax on each sale. We also concur with the Taxpayer that when two cities are fighting over the same tax, those cities should resolve the matter pursuant to Section 6003. However, we don't have sufficient evidence to get to Section 6003. It is not clear to the Hearing Officer that the Taxpayer has paid taxes to the City of Phoenix on the sales being assessed by the City. For example, we didn't see any explanation as to why the City sales would decline from \$658,000.00 to zero without any corresponding increase in Phoenix reported income. Nor did we see any explanation of why City taxes were being charged if the City of Phoenix were being paid the taxes. As a result, we must conclude that the Taxpayer has failed to provide documentation to demonstrate that the taxes assessed by the City were paid to the City of Phoenix. Accordingly, the Taxpayer's protest is denied. Consistent with that, the request to waive penalties and interest on this portion of the assessment is also denied.

### **ABC Sales**

The fact that the title on the *ABC* Sales occurred in the City provides sufficient nexus for the City to impose a privilege license tax. Clearly, it was not appropriate to assess City taxes on 100 percent of *ABC* Sales in the State and even more egregious to assess the Taxpayer on 200 percent of the *ABC* Sales. We do find the Taxpayer's random sample to be a reasonable method of determining the percentage of *ABC* Sales delivered to City customers. Accordingly, we shall order the City to revise their assessment to only include 11.7 percent of the *ABC* Sales to one store.

### **RS Money Card**

We agree with the City that the Taxpayer should have been paying taxes on the full purchase price of the sale without a discount for the Card. On the other hand, the Taxpayer should not have been paying taxes on the Card when the Taxpayer later redeemed it. Because the original purchase when the Card was given away may or may not be taxable and the purchase when the Card was redeemed may or may not be taxable, it is unclear whether the City has received too much or too little taxes. It is also possible the Card may have been given to a customer in one city/state and redeemed in another city/state. Because the Taxpayer cannot identify which Cards are promotional and which have been purchased, it is impossible to do reconciliation. What is clear is that if the City assessment is affirmed the Taxpayer will have paid taxes on most of the Cards twice. As a result, the Hearing Officer concludes that under the circumstances herein it is appropriate to grant the Taxpayer's protest on the Cards. At the same time, the Taxpayer is placed on notice that in the future they need to comply with the requirement to fully tax the original purchase.

### **Exempt Sales**

The Taxpayer protested the disallowance by the City of certain exempt sales and provided additional documentation as part of their protest. The City subsequently reviewed the additional documentation and in the City's October 11, 2002 response to the protest, the City recommended allowing some of the exemptions. As a result, the City should revise the assessments consistent with their recommendations set forth in their October 11, 2002 response.

## **Penalties**

We concur that the Taxpayer has demonstrated reasonable cause for any underreporting on Privilege License Nos. *1* and *2*. Accordingly, all penalties on those two assessments should be waived.

## **FINDINGS OF FACT**

1. On August 12, 2002, Taxpayer A filed a request for a redetermination of a tax assessment made by the City.
2. On August 13, 2002, Taxpayer B filed a request for a redetermination of a tax assessment made by the City.
3. On August 13, 2002, Taxpayer C filed a request for a redetermination of a tax assessment made by the City.
4. After review, the City filed a letter on August 23, 2002 concluding the protests of the Taxpayer were timely and in the proper form.
5. On August 29, 2002, the Hearing Officer classified the matter as a redetermination and ordered the City to file a response on or before October 14, 2002.
6. On September 21, 2002, the Taxpayer filed a request to change the matter from a redetermination to a hearing.
7. On September 26, 2002, the Hearing Officer reclassified the matter to a hearing.
8. On October 11, 2002, the City filed a response to the protests of the Taxpayer.
9. On October 16, 2002, the Hearing Officer ordered the Taxpayer to file any reply on or before November 6, 2002.
10. On October 29, 2002, a Notice was issued scheduling the hearing for December 3, 2002 at 10:00 a.m.
11. On November 6, 2002, the Taxpayer requested an extension to file its reply until November 11, 2002.
12. On November 7, 2002, the Hearing Officer granted the Taxpayer an extension until November 12, 2002 to file a reply.
13. On November 12, 2002, the Taxpayer filed its reply.
14. On November 18, 2002, a Notice was issued rescheduling the hearing for December 3, 2002 at 11:30 a.m.

15. On November 18, 2002, another Notice was issued rescheduling the hearing for December 3, 2002 back to 10:00 a.m.
16. Both parties appeared and presented evidence at the December 3, 2002 hearing.
17. On December 9, 2002, the Hearing Officer ordered the Taxpayer to provide additional documentation to the City on or before December 20, 2002, and the City would provide any comments/recommendations on or before January 17, 2003.
18. The Taxpayer provided additional information to the City on December 17, 2002.
19. On January 13, 2003, the City filed a request for an extension to file comments/recommendations.
20. On January 16, 2003, the Hearing Officer granted the City an extension until February 28, 2003.
21. On January 21, 2003, the City filed a letter from the City of Phoenix to the Taxpayer.
22. On February 13, 2003, the City requested another extension to file its comments/recommendations by March 31, 2003.
23. On February 25, 2003, the City requested another extension to file its comments/recommendations by March 31, 2003.
24. The Taxpayer was to file additional information requested by the City on or before February 28, 2003.
25. Subsequently, the Taxpayer requested and was granted an extension until March 15, 2003 to provide the additional information.
26. As a result, on March 25, 2003, the City requested an extension until April 30, 2003 to file comments/recommendations.
27. On March 28, 2003, the Hearing Officer granted the extension.
28. On May 15, 2003, the Hearing Officer ordered the Taxpayer to file any reply to the City on or before June 5, 2003.
29. On May 29, 2003, the Taxpayer filed a request for an extension to file its reply until July 15, 2003.
30. On May 30, 2003, the Hearing Officer granted the extension to the Taxpayer.
31. On July 14, 2003, the Taxpayer filed its reply.

32. On July 25, 2003, the Hearing Officer issued a letter indicating the record was closed and a written decision would be issued on or before September 8, 2003.
33. On August 29, 2003, the City filed additional information in this matter.
34. On September 4, 2003, the Hearing Officer granted the Taxpayer until September 18, 2003 to respond to the additional information.
35. On September 18, 2003, the Hearing Officer issued a letter indicating the record was closed and a written decision would be issued on or before November 8, 2003.
36. The City audited two *Parent* stores located in the City.
37. License No. **2** was audited for the period November 30, 1997 through December 31, 2001.
38. The City assessed the Taxpayer for taxes due in the amount of \$74,443.43, penalties in the amount of \$7,443.43, plus interest.
39. License No. **1** was audited for the period November 1, 1997 through December 31, 2001.
40. The City assessed the Taxpayer for taxes due in the amount of \$56,596.98, penalties in the amount of \$5,651.77 plus interest.
41. The City audited the *Taxpayer* warehouse located in the City.
42. License No. **3** was audited for the period of November 1, 1997 through March 31, 2002.
43. The City assessed the Taxpayer for taxes due in the amount of \$1,653,336.99, penalties in the amount of \$376,986.08, plus interest.
44. The Taxpayer originally had a license under *Original Corporation* Incorporated for a sales office/warehouse in the City located at *First location*.
45. Subsequently, the Taxpayer cancelled that license effective April 30, 1997 and another license was issued under *Taxpayer* for the same location.
46. In January of 2001, the *First* location was moved to *Second location*.
47. The Taxpayer informed the City they were paying taxes to the City at the beginning of the audit period because they were reporting based on sales office location.
48. Subsequently, the Taxpayer changed to reporting based on the merchandise origin.
49. The Taxpayer began to pay City tax in decreasing amounts until July 1998.

50. At that time, the Taxpayer no longer paid any City tax for the Second location.
51. The Taxpayer reported City income of \$658,605.50 in December 1997.
52. By July 1998, the City income had declined to \$56,531.00.
53. The *Second* location has signage indicating *Taxpayer* and the invoices indicate the seller is *Taxpayer*.
54. The *Second* location is listed as a local sales office on the *Taxpayer* catalog.
55. The *Second* office employs salesmen who visit potential customers and establish a market for the City and surrounding locations.
56. The products received by City customers had the name *Taxpayer* on the box.
57. The City was a customer of the Taxpayer during the audit period and was charged the City tax.
58. The Taxpayer failed to provide records to the City to show that any orders for merchandise delivered from the City location were received at the City of Phoenix warehouse.
59. The Taxpayer gave away some Cards at the time a customer makes a purchase.
60. The Taxpayer taxed the value of the purchase less the value of the Card.
61. The Taxpayer would tax the value of the Card if a subsequent taxable purchase was made.
62. Prior to July 13, 2001, telephone orders from contract customers were accepted at the Phoenix center warehouse.
63. On July 13, 2001, the Phoenix center was closed and all calls rerouted to Southern California.
64. Telephone orders from non-contract customers are received in Florida and California.
65. Title and possession of goods delivered to the City warehouse were transferred in the City.
66. The City orders are palletized and shrink-wrapped in the City of Phoenix and hauled by common carrier to the City.
67. The Phoenix warehouse has 158,000 square feet and the City warehouse has 10,000 square feet.

68. The **ABC** Sales were sales that originated from out-of-state and the items were shipped to Arizona from out-of-state.
69. The City assessed the Taxpayer for 200 percent of the **ABC** Sales for the entire state.
70. Approximately 11.7 percent of the **ABC** Sales were delivered to City customers.

### 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 underreported retail income pursuant to City Code Section 19-460.
3. There was sufficient nexus for the City to assess the sales from the **Taxpayer** warehouse/sales office at the **Second** location within the City.
4. There was not sufficient evidence to demonstrate that the Taxpayer has paid taxes to the City of Phoenix on the same sales assessed by the City for the **Second** location.
5. The City is authorized to assess penalties for failing to file tax returns and failing to timely pay taxes.
6. The penalties and interest on the **Second** sales should not be waived because the Taxpayer has failed to demonstrate that taxes have been reported to the wrong Arizona city.
7. The Taxpayer has demonstrated reasonable cause for any underreporting on the two **Parent** assessments.

### ORDER

It is therefore ordered that the August 12 and 13, 2002 protests of **Parent** and **Taxpayer** are hereby partially granted and partially denied consistent with the Discussion herein.

It is further ordered that the City of Tucson shall revise its assessments consistent with recommendations set forth in their October 11, 2002 response.

It is further ordered that the City of Tucson shall revise its assessment on the **ABC** Sales to only include 11.7 percent of the **ABC** Sales to one store.

It is further ordered that the City of Tucson shall revise its assessment by removing the assessment on the **RS** Money Cards.

It is further ordered that the City of Tucson shall revise its *Parent* assessment by removing the penalties.

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

Jerry Rudibaugh  
Municipal Tax Hearing Officer