

DECISION OF MUNICIPAL TAX HEARING OFFICER

September 24, 2013

CPA

CPA's Address

Taxpayer
MTHO #743

Dear Mr. CPA:

We have reviewed the arguments presented by *Taxpayer* and the City of Chandler (Tax Collector or City) at the hearing on March 27, 2013 and in post-hearing submissions. The review period covered was January 1, 2007 through December 31, 2010. Taxpayer's protest, Tax Collector's response, and our findings and ruling follow.

Taxpayer's Protest

Taxpayer filed its returns and paid the tax for the review period. The City audited Taxpayer and disallowed all of its claimed deductions. Taxpayer had offered to provide records for the jobs performed in the City. Taxpayer will provide the necessary documents for the City to rescind the estimated assessment.

Tax Collector's Response

The City notified Taxpayer of its intent to audit Taxpayer at Taxpayer's office. The auditor was unable to arrange a time to review Taxpayer's records. The City issued an estimated assessment that disallowed all deductions because the deductions had not been substantiated. Absent supporting documentation the City cannot allow claimed deductions. The estimated assessment should therefore be upheld.

Discussion

Taxpayer is a contractor and does work in a number of cities, including Chandler. The City attempted to audit Taxpayer, but the auditor was not able to obtain the necessary documentation from Taxpayer. The City then issued an estimated assessment that accepted Taxpayer's reported income but disallowed all of Taxpayer's deductions for the review period.

Taxpayer timely protested the estimated assessment and requested a hearing. At the hearing Taxpayer provided substantial documentation in support of its claimed deductions. The Tax Collector agreed to review the documentation after the hearing together with any additional information submitted by Taxpayer. The Hearing Officer issued a schedule for post hearing submissions.

Based on information submitted by Taxpayer, the Tax Collector issued a revised assessment that significantly reduced the amount of tax due. Taxpayer did not respond to the revised assessment or submit a reply.

The revised assessment issued by the City is presumed correct and it is Taxpayer's burden to overcome that presumption. Taxpayer here has not produced any evidence, documents or other information to overcome the presumption of correctness. Based on the record here the Tax Collector's revised assessment dated August 12, 2013 is upheld. Taxpayer's protest is thus granted in part consistent with the Tax Collector's revised assessment.

Findings of Fact

1. Taxpayer was a construction contractor during the review period of January 1, 2007 through December 31, 2010.
2. The Tax Collector audited Taxpayer for the review period and issued an estimated assessment for additional taxes of \$2,758.20, interest of \$381.50 and penalties of \$1,280.28 for a total amount due of \$4,419.98.
3. The assessment disallowed Taxpayer's deductions claimed during the review period.
4. Taxpayer protested the assessment stating that it paid the proper amount of tax, offering to provide documents substantiating its deductions and requesting a hearing.
5. At the hearing Taxpayer provided substantial information and offered to provide additional information after the hearing.
6. Based on the information submitted by Taxpayer, the Tax Collector issued a revised assessment as his response for additional taxes of \$1,078.70 and interest of \$131.00. No penalties were included.
7. The revised assessment applied payments of \$362.30 leaving a total amount due of \$847.40.
8. Taxpayer did not submit a reply to the Tax Collector's response or otherwise respond to the revised proposed assessment.

Conclusions of Law

1. The City privilege tax is imposed on persons engaging in certain business activities. Chandler Tax Code (CTC), Chapter 62.
2. The Tax Collector may issue an assessment if he is not satisfied with the return and payment of the amount of tax required. CTC § 62-545(A).
3. The Tax Collector properly issued a revised assessment based on information submitted by Taxpayer at the hearing and in its post-hearing submission.
4. The presumption is that an assessment of additional tax is correct and the burden is on the taxpayer to overcome the presumption. *See, Arizona State Tax Commission v. Kieckhefer*, 67 Ariz. 102, 191 P.2d 729 (1948).
5. Taxpayer has not overcome the presumption of correctness of the revised assessment.
6. The Tax Collector's revised assessment to Taxpayer is upheld.

Ruling

Taxpayer's protest of an assessment made by the City of Chandler for the period January 1, 2007 through December 31, 2010 is upheld in part and denied in part.

The Tax Collector's Notice of Revised Assessment dated August 12, 2013 to Taxpayer for the period January 1, 2007 through December 31, 2010 is upheld.

The Taxpayer has timely rights of appeal to the Arizona Tax Court pursuant to Model City Tax Code Section -575.

Sincerely,

Hearing Officer

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c: *Tax Audit Supervisor*
Municipal Tax Hearing Office