

DECISION OF MUNICIPAL TAX HEARING OFFICER

Decision Date: July 25, 2015

Decision: MTHO # 851

Taxpayer:

Tax Collector: City of Chandler

Hearing Date: February 24, 2015

DISCUSSION

Introduction

On June 24 2014, ***Taxpayer*** filed a letter of protest for a denial by the City of Chandler (“City”) of a tax refund claim filed by Taxpayer. A hearing was commenced before the Municipal Tax Hearing Officer (“Hearing Officer”) on February 24, 2015. Appearing for the City were a ***Senior Tax Auditor***, and a ***Tax Audit Supervisor***. ***Representation*** appeared for Taxpayer. On February 25, 2015, the Hearing Officer set forth a post hearing schedule for the parties to file additional documentation. On June 13, 2015, the Hearing Officer indicated no documentation had been filed.

DECISION

On July 19, 2013, Taxpayer filed a claim for refund for the period of June 1, 2009 through April 30, 2013 for \$7,732.78. After review, the City requested additional documentation from Taxpayer to support the requested refund. After Taxpayer failed to provide additional documentation, the City denied the refund claim on May 15, 2014.

Taxpayer is in the business of providing in-house audiovisual services and other nontaxable services. Taxpayer applies very specialized and technical knowledge every time it provides audiovisual business services to its clients. Taxpayer argued it does not have presence within the City and is not subject to the City transaction privilege tax. The Taxpayer provided invoice Number 500006171, dated April 2, 2013, showing activities that were performed at a ***Venue***. The Taxpayer concluded that since it had not performed any activities in the City, no transaction privilege tax was due. Taxpayer indicated that it operated its own audio visual equipment. Taxpayer relied on State Tax Commission v. Peck, 106 Ariz. 394 (November 1970), whereby the Supreme Court of Arizona (“Court”)

determined that rentals of tangible personal property was taxable when the patron obtains exclusive control and exclusive use of the equipment. The Taxpayer also asserted that services are excluded from the scope of City Code Section 62-450(a) (“Section 450”).

The City requested additional documentation from the Taxpayer to support the refund claim. Taxpayer’s entire refund claim was based on a single invoice. The City requested additional invoices to support the refund claim. The Taxpayer was granted several extensions to provide the invoices but no documentation was forthcoming. At the conclusion of the hearing, the Taxpayer was granted an additional two months to provide invoices but no documentation was ever provided. The City noted that City Code Section 62-350 (“Section 350”) provides as follows: “It shall be the duty of every person subject to the tax imposed by this Chapter to keep and preserve suitable records and such books and accounts as may be necessary to determine the amount of tax for which he is liable under this Chapter.” Further, City Code Section 62-360 (“Section 360”) provides: “All deductions, exclusions, exemptions, and credits provided in this Chapter are conditional upon adequate proof and documentation of such as may be required either by this Chapter or Regulation.” City Code Section 62-370 (“Section 370”) provides as follows: “In the event the records provided by the taxpayer are considered by the Tax Collector to be inadequate or unsuitable to determine the amount of the tax for which such taxpayer is liable...it is the responsibility of the taxpayer... to provide such records required by this Chapter or Regulation; or to correct or to reconstruct his records, to the satisfaction of the Tax Collector.”

At the conclusion of the hearing, Taxpayer agreed to provide the City additional documentation to review. No documentation was ever provided. As a result, we must conclude that Taxpayer failed to meet its burden of proof. It is unacceptable to rely on one invoice to substantiate the refund claim. The City granted Taxpayer several opportunities to supply additional documentation but nothing has been forthcoming.

Based on all the above, we conclude that Taxpayer’s protest should be denied consistent with the Discussion, Findings, and Conclusions, herein.

FINDINGS OF FACT

1. On July 19, 2013, Taxpayer filed a claim for refund for the period of June 1, 2009 through April 30, 2013 for \$7,732.78.
2. After review, the City requested additional documentation from Taxpayer to support the refund claim.

3. The City made several requests to Taxpayer for documentation but no documentation was provided.
4. After Taxpayer failed to provide additional documentation, the City denied the refund claim on May 15, 2014.
5. Taxpayer indicated it was in the business of providing in-house audiovisual services and other nontaxable services.
6. Taxpayer provided invoice number 500006171, dated April 2, 2013, showing activities that were performed at a *Nice Venue*.
7. Taxpayer indicated it operated its own audio visual equipment.
8. At the conclusion of the hearing, Taxpayer was granted an additional two months to provide additional documentation to support its refund claim.
9. Taxpayer failed to provide additional post hearing documentation.

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 62-560 (“Section 560”) authorizes the City to provide refunds for any taxes paid in excess of the amount actually due.
3. Section 350 provides that it is the duty of a taxpayer to keep and preserve suitable records to determine its tax liability.
4. Section 360 provides that all tax credits are conditional upon adequate proof and documentation.
5. Section 370 provides that it is the responsibility of the taxpayer to provide records to satisfy the Tax Collector.
6. Taxpayer failed to meet its burden of proof to provide records suitable to the Tax Collector.
7. Taxpayers’ protest should be denied, consistent with the Discussion, Findings,

and Conclusions, herein.

8. The parties have timely appeal rights pursuant to Model City Tax Code Section 575.

ORDER

It is therefore ordered that the June 24, 2014 protest by *Taxpayer* of a denial made by the City of Chandler of a tax refund claim is hereby denied, consistent with the Discussion, Findings, and Conclusions, herein.

It is further ordered that this Decision is effective immediately.

Municipal Tax Hearing Officer