

DECISION OF MUNICIPAL TAX HEARING OFFICER

November 1, 2010

Taxpayer's Representative
Address of Representative

MTHO #538

Dear Taxpayer's Representative:

We have reviewed the evidence and arguments presented by *Taxpayer* and the Town of Florence (Tax Collector or Town) at the hearing on May 26, 2010 and in post-hearing memoranda that refined the issues to be decided. The review periods covered were August 2002 through December 2003 and January 2004 through December 2007. Taxpayer's protest, Tax Collector's response, and our findings and ruling follow.

Taxpayer's Protest

Taxpayer operates in the Town of Florence under two separate legal entities, *Taxpayer – Entity 1*, which engages in vending machine sales (retail), and *Taxpayer – Entity 2*, which engages in the sale of prepared meals (restaurant). Each entity has a separate privilege tax license number. Taxpayer's transactions were with the Arizona Department of Corrections, Pinal County and private prison facilities. The Tax Collector issued five assessments against the two entities. Except for vending sales to prisoners, the assessments must be vacated because:

- Taxpayer's transactions with the Arizona Department of Corrections were exempt under Florence Tax Code Section 8A-280;
- The Town inappropriately misallocated gross income under the two license numbers;
- The Town improperly increased the amount of an existing assessment;
- Taxpayer's transactions with private prison facilities were exempt under A.R.S. § 42-6004(C)(4) which exempts incarcerating or detaining prisoners under the state's jurisdiction in a privately operated prison; and
- Even if the assessments of tax were proper, penalties should be abated.

Tax Collector's Response

Taxpayer engaged in retail and restaurant activities in the Town. Florence Tax Code Section 8A-280 only excluded contracting transactions with the Arizona Department of Corrections, not all transactions. The Tax Collector agreed in his post-hearing memorandum that the two assessments against *Taxpayer – Entity 2* may be vacated. However, the Tax Collector contended that he is not foreclosed from auditing that license for any open periods. The exemption in A.R.S. § 42-6004(C)(4) for private prisons is limited to persons who incarcerate or detain prisoners, not to vendors of goods and services to the prison. Taxpayer does not operate a prison. Supplying meals to prisoners does not constitute incarcerating the prisoners.

Discussion

Taxpayer, through its two entities, is in the business of managing cafeterias for various facilities, including correctional facilities, and selling items through coin-operated vending machines. Taxpayer provided its services to the Arizona Department of Corrections, county correctional facilities and private prisons. Taxpayer considered most of its sales exempt from the privilege tax and therefore only reported a small amount of taxable income to the Town.

The Tax Collector reviewed Taxpayer's books and records and issued five assessments covering the audit periods August 2002 through December 2003 and January 2004 through December 2007. The five assessments and the basis of Taxpayer's objections to each assessment are detailed in Findings of Fact Nos. 8 and 10.

Assessment 1.

Assessment 1 dated September 5, 2008 was issued to *Taxpayer* for its transactions with the Arizona Department of Corrections and retail sales made through vending machines. Taxpayer did not protest the tax on its vending sales. Taxpayer protested the tax on its transactions with the Arizona Department of Corrections arguing that those transactions were exempt under Florence Tax Code (FTC) § 8A-280.

Assessment 1 was for the period January 2004 through December 2007. During most of that period FTC § 8A-280 read:

Notwithstanding provisions contained elsewhere in this Chapter, "gross income" derived from transactions that would be deemed taxable, if contracted with or for other customers or consumers, shall be deemed exempt from the taxes imposed by this Chapter when the customer or consumer is the State of Arizona Department of Corrections.

The Tax Collector argues that the Town Council approved FTC § 8A-280 at the same time the Council passed another ordinance annexing an area that included facilities of the Arizona Department of Corrections. The Tax Collector contends that the purpose of FTC § 8A-280 was to only exempt income from construction contracts with the Arizona Department of Corrections, not all transactions.

Taxpayer argues that FTC § 8A-280 is clear on its face; it exempts gross income derived from transactions with the Arizona Department of Corrections. The language is not limited to construction. Because the language of FTC § 8A-280 is clear on its face, there is no need to resort to rules of statutory construction. The Tax Collector must follow FTC § 8A-280 as written.

The primary rule of statutory construction is to find and give effect to legislative intent. *State v. Korzep*, 165 Ariz. 490, 493, 799 P.2d 831, 834 (1990). Words in a statute have their ordinary meaning unless the context of the statute requires otherwise. *Carrow Co. v. Lusby*, 167 Ariz. 18, 20, 804 P.2d 747, 749 (1991). Where the language of the statute is unambiguous, it is normally

conclusive, absent a clearly expressed legislative intent to the contrary. *Mail Boxes, USA v. Industrial Commission of Arizona*, 181 Ariz. 119, 888 P.2d 777 (1995).

The question here is whether there was a clearly expressed legislative intent to limit the exemption under FTC § 8A-280 to construction transactions with the Arizona Department of Corrections. We believe there was.

The title of the ordinance that enacted FTC § 8A-280 clearly provided that the purpose of the ordinance was to provide an exemption for the State of Arizona Department of Corrections from the 2% construction tax that would otherwise be imposed on contracts for construction of state prison facilities within the town limits. When the ordinance was presented to the Council for discussion and approval or disapproval, the Mayor read the ordinance by title only. The Council's focus in passing the Ordinance was to exempt contracting transactions with the Arizona Department of Corrections.

The exemption provided by FTC § 8A-280 did not exempt Taxpayer's transactions with the Arizona Department of Corrections. Assessment 1 dated September 5, 2008 issued by the Tax Collector to *Taxpayer Entity 1* for the period January 2004 through January 2007 is upheld.¹

Assessment 1 included a penalty for failure to pay the tax. Taxpayer requested that even if the tax were upheld, the penalty for failure to pay the tax should be abated. FTC § 8A-540 authorizes the waiver of penalties if the Taxpayer can show reasonable cause for the failure to pay the tax.

Penalties may be abated for reasonable cause if:

- a taxpayer was not previously audited by a city for the tax or on the issue in question and relied, in good faith, on a state exemption or interpretation. FTC § 8A-540(f)(3)(I).
- a taxpayer can provide some public record (court case, report in a periodical, professional journal or publication, etc.) stating that the transaction is not subject to tax. FTC § 8A-540(f)(3)(J).
- the taxpayer had a reasonable basis for believing that the tax did not apply to taxpayer's business activity in the city. FTC § 8A-540(h).

Here, the transactions at issue in Assessment 1 would be exempt from the state transaction privilege tax and Taxpayer relied on the state exemption for its failure to pay tax on its food transactions with the Arizona Department of Corrections. In addition, the 2008 Edition of the Tax Code of the Town of Florence still showed FTC § 8A-280. Finally, the Model City Tax Code as shown on the Model City Tax Code Internet website shows Florence as having adopted Local Option B.

While the record is silent on whether Taxpayer was previously audited by a city, even if a taxpayer had taken the reasonable steps of consulting the Town tax code or the Model City Tax

¹ Taxpayer also raised a question regarding the effective date of the Town's repeal of FTC § 8A-280. Because we decide that FTC § 8A-280 did not exempt Taxpayer's transactions with the Arizona Department of Corrections, it is not necessary to address the effective date of the Town's repeal.

Code, such taxpayer could have reasonably concluded that its transactions were not subject to the Florence privilege tax.

Given the totality of the circumstances, Taxpayer has shown reasonable cause for its failure to pay the tax assessed in Assessment 1. The failure to pay penalty in Assessment 1 must be abated.

Assessments 2 and 4.

The Tax Collector agreed in his Response to the Post-Hearing Memorandum of Taxpayer dated September 2, 2010 that Assessments 2 and 4 issued against *Taxpayer – Entity 2* may be vacated. Assessments 1 and 2 are therefore vacated.

The Tax Collector also maintained that he is not foreclosed from auditing that license for any open periods. The validity of any future audit by the Tax Collector of *Taxpayer – Entity 2* is not before the Municipal Tax Hearing Office and is therefore not addressed by this decision.

Assessments 3 and 5.

Assessment 3 was issued on August 25, 2009 to *Taxpayer – Entity 1*, for the period January 2004 through December 2007. This is the same entity and audit period that was included in Assessment 1. Assessment 3 included the gross receipts that were included in Assessment 1 and also included gross receipts from several other correctional institutions that were not included in Assessment 1. The amount of privilege tax assessed increased from \$369,368.17 to \$1,301,906.78.

Assessment 5 was issued on January 25, 2010 to *Taxpayer – Entity 1*, for the period January 2004 through December 2007. This is the same entity and audit period that was included in Assessments 1 and 3. Assessment 5 included only the gross receipts from correctional institutions that had not been included in Assessment 1. The amount of privilege tax assessed in Assessment 5 was \$941,964.08.

Both Assessment 3 dated August 25, 2009 and Assessment 5 dated January 25, 2010 increased the amount of the September 5, 2008 privilege tax assessment that was issued to *Taxpayer – Entity 1*, for the period January 2004 through December 2007 (Assessment 1). The question is whether the Tax Collector was precluded from increasing Assessment 1.

Once the Tax Collector issues a deficiency assessment, FTC § 8A-556 precludes the Tax Collector from again auditing the taxpayer or increasing the proposed deficiency assessment unless the taxpayer engaged in conduct which prevented the Tax Collector from conducting an accurate examination. Such conduct includes failure to disclose material information during the initial examination, falsifying books or records, making a material misrepresentation of fact, failing to disclose a material fact or failing to provide information requested by the Tax Collector in writing.

The record does not disclose any such conduct by *Taxpayer*. Assessments 3 and 5 improperly increased the amount of the proposed deficiency assessed in Assessment 1. Assessments 3 and 5 must therefore be vacated.²

Based on all the above, we conclude Taxpayer's protests should be granted in part and denied in part. The Tax Collector's Assessment 1 against *Taxpayer* is upheld except for the penalty for failure to pay tax. The penalty for failure to pay tax in the amount of \$33,776.43 is abated.

The Tax Collector's Assessments 2, 3, 4 and 5 were not proper and must be vacated.

Findings of Fact

1. Taxpayer manages cafeterias for various entities, including correctional facilities.
2. Taxpayer also sells items through coin-operated vending machines.
3. Taxpayer operates in the Town of Florence under two separate legal entities.
4. Each legal entity has a separate privilege tax license.
5. *Taxpayer – Entity 1*, engages in retail sales (retail classification).
6. *Taxpayer – Entity 2*, engages in the sale of prepared meals (restaurant classification).
7. Taxpayer's transactions were with the Arizona Department of Corrections, Pinal County and private prison facilities.
8. The Tax Collector reviewed Taxpayer's books and records and issued five assessments covering periods August 2002 through December 2003 and January 2004 through December 2007 as follows:
 - a. **Assessment 1 (Exhibit 1, Appendix to Taxpayer's Reply in Support of Tax Protests dated May 3, 2010)**

Taxpayer – Entity 1

Dated: September 5, 2008

Audit Period: January, 2004 through December, 2007

Gross Receipts included in assessment:

Gross food sales	Gross vending	Total receipts
\$18,357,079	\$583,922.18	\$18,941,001.18
Privilege Tax Assessed:	\$369,368.17	
Interest Through August 2008	83,861.13	
Penalty for failure to pay	<u>33,776.43</u>	
Total Assessment	\$487,005.73	

² Because we decide that Assessments 3 and 5 must be vacated pursuant to FTC § 8A-556, the question whether Taxpayer's transactions with private prison facilities may be excluded under A.R.S. § 42-6004(C)(4) is no longer an issue to be decided here.

b. Assessment 2 (Exhibit 2, Appendix to Taxpayer's Reply in Support of Tax Protests dated May 3, 2010)

Taxpayer – Entity 2

Dated: September 5, 2008

Audit Period: August, 2002 through December, 2003

Gross Receipts included in assessment:

Taxable Income
\$6,502,933.33

Privilege Tax Assessed: \$129,341.78
Interest Through August 2008 49,408.23
Penalty for failure to pay 12,934.18

Total Assessment \$191,684.19

c. Assessment 3 (Exhibit 3, Appendix to Taxpayer's Reply in Support of Tax Protests dated May 3, 2010)

Taxpayer – Entity 2

Dated: August 25, 2009

Audit Period: January, 2004 through December, 2007

Gross Receipts included in assessment:

Gross food sales Gross vending
65,916,547 583,922.18

Gross Food Sales were Comprised of:

Food	Food	Food	Food	Food	Food	Food
Florence	Eyeman	Central AZ	FlorenceCCA	FlorenceWest	Pinal Co	PinalSDS
18,357,079	22,652,381	12,795,713	7,031,183	2,212,047	2,504,571	363,573

Privilege Tax Assessed: \$1,301,906.78
Interest Through August 2009 337,446.09
Penalty for failure to pay 130,190.68

Total Assessment \$1,769,543.55

d. Assessment 4 (Exhibit 4, Appendix to Taxpayer's Reply in Support of Tax Protests dated May 3, 2010)

Taxpayer – Entity 2

Dated: August 25, 2009

Audit Period: August, 2002 through December, 2003

Gross Receipts included in assessment:

Taxable Income
\$23,090,440.91

Privilege Tax Assessed:	\$461,091.85
Interest Through August 2009	200,058.70
Penalty for failure to pay	<u>46,109.19</u>
Total Assessment	\$707,259.74

e. Assessment 5 (Exhibit 5, Appendix to Taxpayer’s Reply in Support of Tax Protests dated May 3, 2010)

Taxpayer – Entity 1

Dated: January 25, 2010

Audit Period: January, 2004 through December, 2007

Gross Receipts included in assessment:

Gross food sales	Gross vending
47,559,468	583,922.18

Food Florence 0 (included in other audit)	Food Eyeman 22,652,381	Food Central AZ 12,795,713	Food FlorenceCCA 7,031,183	Food FlorenceWest 2,212,047	Food Pinal Co 2,504,571	Food PinalSDS 363,573
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Privilege Tax Assessed:	\$941,964.08
Interest Through January 2010	263,906.05
Penalty for failure to pay	<u>94,196.41</u>
Total Assessment	\$1,300,066.54

9. Taxpayer timely protested the assessments.

10. Taxpayer contends the assessments must be vacated or reduced because:

- a. Assessment 1 – Except for vending sales to prisoners, the gross income included in the assessment must be reduced by \$18,357,079 because Taxpayer’s transactions with the Arizona Department of Corrections were exempt under FTC § 8A-280.
- b. Assessment 2 – The Tax Collector inappropriately misallocated gross income under the two license numbers. The Tax Collector was requested to segregate the assessment by facility. Any transactions with the Department of Corrections were

- exempt under FTC § 8A-280 and any transactions with private prison facilities were exempt under A.R.S. § 42-6004(C)(4).
- c. Assessment 3 – Any increase in the assessment is precluded by FTC § 8A-556 which precludes an increase in an assessment except under certain limited circumstances. Any transactions with the Department of Corrections were exempt under FTC § 8A-280 and any transactions with private prison facilities were exempt under A.R.S. § 42-6004(C)(4).
 - d. Assessment 4 – Any increase in the assessment is precluded by FTC § 8A-556 which precludes an increase in an assessment except under certain limited circumstances. The Tax Collector was requested to segregate the assessment by facility. Any transactions with the Department of Corrections were exempt under FTC § 8A-280 and any transactions with private prison facilities were exempt under A.R.S. § 42-6004(C)(4).
 - e. Assessment 5 – The assessment must be abated under FTC § 8A-556 which precludes an increase in an assessment except under certain limited circumstances. In the alternative, the gross income included in the assessment must be reduced by \$22,652,381 because Taxpayer's transactions with the Arizona Department of Corrections were exempt under FTC § 8A-280. The assessment must be further reduced by \$22,038,943 because Taxpayer's transactions with private prison facilities were exempt under A.R.S. § 42-6004(C)(4).
 - f. All assessments – the failure to pay penalties imposed must be abated in any event.
11. The Tax Collector argued that:
 - a. Exclusion under FTC § 8A-280 only applied to contracting transactions with the Arizona Department of Corrections, not all transactions.
 - b. The exemption in A.R.S. § 42-6004(C)(4) is limited to persons who incarcerate or detain prisoners in a privately operated prison. Taxpayer does not operate a prison. Supplying meals to prisoners does not constitute incarcerating the prisoners.
 12. The Tax Collector agreed in his Response to the Post-Hearing Memorandum of Taxpayer dated September 2, 2010 that Assessments 2 and 4 issued against *Taxpayer – Entity 2* may be vacated.
 13. The Tax Collector also maintained that he is not foreclosed from auditing that license for any open periods.
 14. Assessments 3 and 5 increased the proposed notice of deficiency dated September 5, 2008 that was issued by the Tax Collector to *Taxpayer – Entity 1* for the period January 2004 through December 2007.
 15. Assessment 3 is duplicative of the audit period and gross income included in Assessments 1 and 5.
 16. No evidence was presented that Taxpayer failed to disclose material information during the initial examination, falsified books or records, otherwise engaged in conduct which prevented the Tax Collector from conducting an accurate examination, made a material misrepresentation of fact, failed to disclose a material fact or failed to provide information requested by the Tax Collector in writing.

17. In 1987 the Town adopted the Model City Tax Code by Ordinance No. 98 dated July 6, 1987. Exhibit 4, Response to Protest of Taxpayer dated April 2, 2010.
18. The Model City Code as adopted by the Town included Local Option B, Section –280 of the Model City Tax Code.
19. Under Section –280 of the Model City Tax Code, the Town exempted transactions with the state of Arizona and its departments and agencies.
20. The Town repealed its adoption of Local Option B on July 3, 1989 by Ordinance No. 118. Exhibit 5, Response to Protest of Taxpayer dated April 2, 2010.
21. The Town enacted a different Section 280 (FTC § 8A-280) in 2000 by Ordinance No. 296-00. Exhibit 10, Response to Protest of Taxpayer dated April 2, 2010.
22. The newly adopted Section 280 read:

Notwithstanding provisions contained elsewhere in this Chapter, “gross income” derived from transactions that would be deemed taxable, if contracted with or for other customers or consumers, shall be deemed exempt from the taxes imposed by this Chapter when the customer or consumer is the State of Arizona Department of Corrections.
23. Ordinance No. 296-00 was approved by the Town Council at a Town Council meeting held on July 17, 2000. Exhibit 11, Response to Protest of Taxpayer dated April 2, 2010.
24. The Minutes of the Town Council meeting held July 17, 2000 stated that when Ordinance No. 296-00 was presented for discussion/approval/disapproval, the Ordinance was read by the Mayor by title only. Exhibit 11, Town’s Response to Protest of Taxpayer dated April 2, 2010.
25. The Title to Ordinance No. 296-00 as read at the Town Council Meeting stated:

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FLORENCE, PINAL COUNTY, ARIZONA, AMENDING THE TOWN TAX CODE OF THE TOWN OF FLORENCE, TO PROVIDE AN EXEMPTION FOR THE STATE OF ARIZONA DEPARTMENT OF CORRECTIONS FROM THE 2% CONSTRUCTION TAX THAT WOULD OTHERWISE BE IMPOSED ON CONTRACTS FOR CONSTRUCTION OF STATE PRISON FACILITIES WITHIN THE TOWN LIMITS.

Exhibit 11, Town’s Response to Protest of Taxpayer dated April 2, 2010.
26. The Town Council believed that in passing Ordinance No. 296-00, the exemption for transactions with the Arizona Department of Corrections was limited to contracts for construction activity.
27. FTC § 8A-280 as enacted by Ordinance No. 296-00 was repealed by the Town Council by Ordinance No. 464-07B dated August 6, 2007. Exhibit 3, Town’s Response to Protest of Taxpayer dated April 2, 2010.
28. The Tax Collector acknowledged that the transactions at issue in Assessment 1 were exempt from the state transaction privilege tax under A.R.S. § 42-5102(C)(5) and Taxpayer relied on that exemption for its failure to pay tax on its food transactions with the

Arizona Department of Corrections. Town's Response to Protest of Taxpayer dated April 2, 2010, page 2.

29. The record is silent on whether a city previously audited Taxpayer for the tax in question.
30. The 2008 Edition of the Tax Code of the Town of Florence still showed FTC § 8A-280. Taxpayer's Hearing Exhibit 1-G.
31. The Model City Tax Code, Local Option's Chart, as shown on the Model City Tax Code internet website shows Florence as having adopted Local Option B. Taxpayer's Hearing Exhibit 1-F.

Conclusions of Law

1. The Town imposes a privilege tax the activity of selling tangible personal property at retail. FTC § 8A-460.
2. The Town imposes a privilege tax the activity of preparing or serving food or beverage in a restaurant or similar establishment where articles of food or drink are prepared or served for consumption on or off the premises. FTC § 8A-455(a).
3. FTC § 8A-280 provides an exemption for transactions contracted with the State of Arizona Department of Corrections.
4. The primary rule of statutory construction is to find and give effect to legislative intent. *State v. Korzep*, 165 Ariz. 490, 493, 799 P.2d 831, 834 (1990).
5. Words in a statute have their ordinary meaning unless the context of the statute requires otherwise. *Carrow Co. v. Lusby*, 167 Ariz. 18, 20, 804 P.2d 747, 749 (1991).
6. Where the language of the statute is unambiguous, it is normally conclusive, absent a clearly expressed legislative intent to the contrary. *Mail Boxes, USA v. Industrial Commission of Arizona*, 181 Ariz. 119, 888 P.2d 777 (1995).
7. There is clear legislative intent that the Town Council intended to limit the exemption provided by FTC § 8A-280 to construction contracts with the Arizona Department of Corrections.
8. The exemption provided by FTC § 8A-280 did not exempt Taxpayer's transactions with the Arizona Department of Corrections included in Assessment 1.
9. Assessment 1 dated September 5, 2008 issued by the Tax Collector *to Taxpayer – Entity 1* for the period January 2004 through January 2007 for tax in the amount of \$369,368.17, together with interest as provided by law, is upheld.
10. The penalty for failure to pay tax may be waived if the taxpayer can demonstrate reasonable cause for its failure to pay the tax. FTC § 8A-540.
11. Reasonable cause may exist if:
 - a. a taxpayer was not previously audited by a city for the tax or on the issue in question and relied, in good faith, on a state exemption or interpretation. FTC § 8A-540(f)(3)(I).

- b. the taxpayer can provide some public record (court case, report in a periodical, professional journal or publication, etc.) stating that the transaction is not subject to tax. FTC § 8A-540(f)(3)(J).
 - c. the taxpayer had a reasonable basis for believing that the tax did not apply to taxpayer's business activity in the city. FTC § 8A-540(h).
12. Taxpayer has demonstrated reasonable cause for its failure to pay the tax in Assessment 1 and the penalty in the amount of \$33,776.43 is abated.
 13. Assessments 2 and 4 issued to *Taxpayer – Entity 2* are vacated based on the Tax Collector's agreement in his Response to the Post-Hearing Memorandum of Taxpayer dated September 2, 2010.
 14. FTC § 8A-556 precludes an increase in an assessment unless Taxpayer failed to disclose material information during the initial examination, falsified books or records, otherwise engaged in conduct which prevented the Tax Collector from conducting an accurate examination, made a material misrepresentation of fact, failed to disclose a material fact or failed to provide information requested by the Tax Collector in writing.
 15. There was no evidence presented of conduct by Taxpayer that would allow the Tax Collector to issue an additional assessment or increase the proposed deficiency assessed in Assessment 1.
 16. Assessments 3 and 5 improperly increased the amount of the proposed deficiency assessment dated September 5, 2008 (Assessment 1) that was issued by the Tax Collector to *Taxpayer – Entity 1* for the period January 2004 through January 2007.
 17. Assessments 3 and 5 must be vacated. FTC § 8A-556.
 18. The validity of any possible future assessment by the Tax Collector is not before the Municipal Tax Hearing Office and cannot be addressed here.

Ruling

Taxpayer's protests of the assessments made by the Town of Florence for periods August 2002 through December 2003 and January 2004 through December 2007 is granted in part and denied in part as follows:

Taxpayer's protest of Assessment 1 issued against *Taxpayer – Entity 1* for the period January 2004 through January 2007 for privilege tax in the amount of \$369,368.17, together with interest as provided by law, is denied consistent with Conclusion of Law number 9.

Taxpayer's protest of penalties for failure to pay tax is granted consistent with Conclusion of Law number 12. The Tax Collector shall abate the penalties for failure to pay that were included in Assessment 1.

Taxpayer's protest of Assessments 2 and 4 issued against *Taxpayer – Entity 2* is granted in full consistent with Conclusion of Law number 13. The Tax Collector shall vacate Assessment 2 dated September 8, 2008 and Assessment 4 dated August 25, 2009.

Taxpayer's protest of Assessments 3 and 5 issued against *Taxpayer – Entity 1* for the period January 2004 through January 2007 is granted in full consistent with Conclusions of Law numbers 16 and 17. The Tax Collector shall vacate Assessment 3 dated August 25, 2009 and Assessment 5 dated January 25, 2010.

Both parties have 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: Florence Town Attorney
Municipal Tax Hearing Office