

DECISION OF MUNICIPAL TAX HEARING OFFICER

November 5, 2013

Taxpayer's Name
Taxpayer's Address

Taxpayer
MTHO #787

Dear Taxpayer:

We have reviewed the evidence submitted for redetermination by *Taxpayer* and the City of Phoenix (Tax Collector or City). The review period covered was March 2009 through January 2013. Taxpayer's protest, Tax Collector's response, and our findings and ruling follow.

Taxpayer's Protest

The City issued an assessment against Taxpayer. Taxpayer had not received prior notices and thought it had closed its business down properly, filed its last return with the City properly and paid the tax for the review period. The business was reopened by other entities. Taxpayer protests the assessment so the matter can be resolved as soon as possible.

Tax Collector's Response

Taxpayer is a limited liability company. Taxpayer had not filed returns or paid privilege taxes for the review period and attempts to contact Taxpayer were unsuccessful. The City issued an assessment based on Taxpayer's prior filing history and sent it to the managing member on record. Taxpayer timely protested the assessment and provided additional information. The Tax Collector agreed to review the documentation. Based on the additional information Tax Collector issued a revised assessment. Taxpayer did not respond to the revised assessment or submit a reply.

Discussion

Taxpayer had not filed returns or paid privilege taxes for the review period and the Tax Collector issued an estimated assessment. Taxpayer protested and submitted additional information. Based on the additional information, the Tax Collector issued a revised assessment. 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 22, 2013 is upheld. Taxpayer's protest is thus granted in part consistent with the Tax Collector's revised assessment.

Findings of Fact

1. Taxpayer is a limited liability company operating tanning salons during the review period of March 2009 through January 2013.
2. Taxpayer had not filed privilege tax returns or paid privilege taxes for the review period.
3. The Tax Collector audited Taxpayer for the review period and issued an estimated assessment for additional taxes, interest and penalties.
4. The assessment was based on Taxpayer's prior filing history.
5. Taxpayer protested the assessment stating that it had closed the business and the business had been reopened by other entities.
6. Taxpayer's managing member had not changed and there was no record of the business being reopened by a new entity.
7. After the protest, Taxpayer provided substantial information relating to Taxpayer's activity during the review period.
8. Based on the information submitted by Taxpayer, the Tax Collector issued a revised assessment in response to Taxpayer's protest.
9. 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. Phoenix Tax Code (PTC), Chapter 14.
2. The Tax Collector may issue an assessment if he is not satisfied with the return and payment of the amount of tax required or if no returns were filed. PTC § 14-545(A).
3. The Tax Collector properly issued a revised assessment based on information submitted by Taxpayer after its protest.
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 Phoenix for the period March 2009 through January 2013 is upheld in part and denied in part consistent with the Tax Collector's revised assessment.

The Tax Collector's Notice of Revised Assessment issued on August 22, 2013 to Taxpayer for the period March 2009 through January 2013 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: *Assistant City Attorney*
Municipal Tax Hearing Office