

RESOLUTION NO. 2233

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AUTHORIZING GLENN W. SMITH, CHIEF FISCAL OFFICER, TO EXECUTE AN AGREEMENT TO ASSESSMENT AND COLLECTION OF ADDITIONAL TAX AND ACCEPTANCE OF OVERASSESSMENT FOR THE TAX YEARS ENDING 12/31/2003 AND 12/31/2004, AND FURTHER AUTHORIZING THE PAYMENT TO THE INTERNAL REVENUE SERVICE OF ADDITIONAL TAX IN THE AMOUNT OF \$57,670.68 FOR SUCH YEARS.

WHEREAS, the Internal Revenue Service ("IRS") has found that the Town of Payson owes additional funds for payment of FICA and Medicare withholdings for firefighters for the tax years ending 12/31/2003 and 12/31/2004; and

WHEREAS, the IRS has offered to the Town of Payson an Agreement to Assessment and Collection of Additional Tax and Acceptance of Overassessment ("Agreement"); and

WHEREAS, the Town of Payson wishes to enter into such Agreement with the IRS and to make payment to it for such purposes in the amount of \$57,670.68,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the Town is authorized to enter into an Agreement to Assessment and Collection of Additional Tax and Acceptance of Overassessment for the tax years ending 12/31/2003 and 12/31/2004 in an agreed amount of \$57,670.68.

Section 2. That, on behalf of the Town of Payson, Glenn W. Smith, Chief Financial Officer, be and is hereby authorized to sign and return to the Internal Revenue Service Form 2504, in substantially the form attached as Exhibit "A".

Section 3. That Glenn W. Smith, Chief Financial Officer, be and is hereby authorized to take such actions on behalf of the Town of Payson as are necessary or appropriate under the October 23, 2006 letter from the Internal Revenue Service, attached as Exhibit "B" hereto.

Section 4. That the Town of Payson be and is hereby authorized to take such other and further actions as are necessary or appropriate to complete the transaction represented by such Form 2504 attached hereto.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this _____ day of _____, 2006, by the following vote:

Prepared by Town of Payson Legal Department

SIS:drs November 15, 2006 (8:20AM)

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AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

F. Robert Edwards, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

Form **2504**
(Rev. March 1992)

Department of the Treasury - Internal Revenue Service
**Agreement to Assessment and Collection
of Additional Tax and Acceptance of Overassessment**
(Excise or Employment Tax)

Date received by Internal
Revenue Service

Name, SSN or EIN, and address of taxpayer(s) (Number, street, city or town, State, ZIP Code)

TOWN OF PAYSON
303 N BEELINE HIGHWAY
PAYSON, AZ. 85541

EIN: 86-0287228

COPY

Additional Tax and Penalties

Tax Period Ended	Return Form Number	Kind of Tax and Internal Revenue Code Section	Amount of Tax	Penalty
1/1/2003-12/31/2003	941	FICA & IT W/H IRC SECTIONS 3101, 3111, & 3402	\$27,881.20	
1/1/2004-12/31/2004	941	FICA & IT W/H IRC SECTIONS 3101, 3111, & 3402	\$29,789.48	
Total			\$57,670.68	\$0.00

Decrease in Tax and Penalties

Tax Period Ended	Return Form Number	Kind of Tax and Internal Revenue Code Section	Amount of Tax	Penalty
Total			\$0.00	\$0.00

I consent to the immediate assessment and collection of any additional tax and penalties and accept any overassessment (decrease in tax and penalties) shown above, plus any interest provided by law.

	Date
	Date
By: 	Title
	Date

Note:

If you consent to the assessment of the amounts shown in this agreement, your signature will expedite our adjustment to your account. Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are entitled to a refund. It will not prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for either action.

For a corporation, enter the name of the corporation followed by the signature and title of the officer(s) authorized to sign.

For an agent or attorney acting under a power of attorney, a power of attorney must be sent with this form if not previously filed.

Who Must Sign

If you are making this agreement for a partnership, all partners must sign. However, one partner may sign with appropriate evidence of authorization to act for the partnership.

The examination of your employment tax returns as reflected on this Agreement did not include an examination for employment tax purposes of whether any individuals should be treated as employees of the taxpayer pursuant to Section 530 of the Revenue Act of 1978 as amended by Section 1122 of the Small Business Job Protection Act of 1996.

Catalog Number 21775K

Form **2504** (Rev. 03-1992)

EXHIBIT "A"
to Resolution No. 2233

**Internal Revenue Service
Tax Exempt and Government Entities Division**

Department of the Treasury

COPY

IRS Person to Contact:
Kim Savage

Contact Telephone Number:
928-214-3309

Employee Identification Number:
86-16411

Location Symbols:
TEGE:FSLG:7256:FLAG

Employer Identification Number:
86-0287228

Tax Return(s) & Tax Period(s) Ended:
Form 941 - 3/31/2003, 6/30/2003,
9/30/2003, 12/31/2003, 3/31/2004,
6/30/2004, 9/30/2004, 12/31/2004

Date: October 23, 2006

Town of Payson
Attn.: Glenn W. Smith
303 N. Beeline Highway
Payson, AZ. 85541-4485

Last Date to Respond to this Letter:
November 28, 2006

Dear Mr. Smith:

We are proposing changes to your employment tax for the tax periods indicated above. Please tell us whether you agree or disagree with the proposed changes by the date shown above. This letter (known as a 30-day letter) notifies you of your rights to appeal the proposed changes within 30 days.

We have enclosed with this letter Form 4666, *Summary of Employment Tax Examination*, Form 4667, *Examination Changes - Federal Unemployment Tax*, and/or Form 4668, *Employment Tax Examination Changes Report*. These documents provide details on how we calculated the proposed amount of your additional employment tax liability. Please note that these amounts do not include any interest that may apply. These changes to your employment tax are not based on a worker classification determination. If we propose any adjustments for employment tax that involve a worker classification determination, you will receive a separate letter, Letter 950-C, *Employment Tax 30-Day Letter*.

If you agree with the proposed changes

1. Sign and date the enclosed agreement form(s), Form 2504, *Agreement to Assessment and Collection of Additional Tax and Acceptance of Overassessment*. Sending us a signed Form 2504 gives us permission to assess the proposed amounts. Signing Form 2504 will not prevent you from filing a claim for refund if you later believe you are entitled to a refund. It will not prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for either action.
2. Return the signed Form 2504 to us.
3. Enclose payment for the employment tax and any additions to tax and penalties due. Make your check or money order payable to the **United States Treasury**. We will bill you for applicable interest, if any. If you pay now, you will limit the amount of any interest, additions to tax, and penalties charged to your account. If you agree with the proposed changes but cannot pay the full amount, we will bill you for the unpaid amount. Please refer to Publication 3498, *The Examination Process*, for payment options.

If you do not agree with the proposed changes

1. You may request a meeting or telephone conference with the supervisor of the IRS contact person identified on the front page of this letter. If you still do not agree after the meeting or telephone conference, you can:
2. Request a conference with our Appeals Office. If you want to have a conference with an appeals officer, you will need to submit either a small case request or a formal written protest with the IRS contact person named in this letter. Based on the total changes to your employment tax for each referenced tax return for the tax periods indicated, we have indicated whether you need to submit either a small case request or a formal written protest. Note: If we propose any adjustments for employment tax for a tax return for a tax period that involve a worker classification determination (as reflected in a separate letter), we include those proposed adjustments in tax (including additions to tax and penalties) in computing the total amount. See the box checked below:

- Small case request.** If you want to have a conference with an appeals officer, you can submit a small case request. Since the total amount of the proposed changes to your tax, additions to tax, and penalties is \$25,000 or less for each referenced tax return for a tax period, you can send us a letter requesting consideration by Appeals. Indicate the issues you do not agree with and the reasons why you do not agree. If you do not want to write a separate letter, you can complete the enclosed Form 13683, *Statement of Disputed Issues*, and return it to us.
- Formal protest.** If you want to have a conference with an appeals officer, you must submit a formal written protest. Since the total amount of the proposed changes to your tax, additions to tax, and penalties is more than \$25,000 for any referenced tax return for a tax period, you must submit a formal protest. Note: If more than one tax period is involved and any tax period exceeds the \$25,000 threshold, you must submit a formal written protest for all periods involved. Note: Form 13683 cannot be used to make a formal protest.

If you request a conference with our Appeals Office, an appeals officer will call you (if necessary) for an appointment to take a fresh look at your case. The Appeals Office is an independent office and most disputes considered by the Appeals Office are resolved informally and promptly. By requesting a conference with our Appeals Office you may resolve the matter sooner.

The requirements for filing a formal protest are explained in the enclosed Publication 3498. Publication 3498 also includes information on the Declaration of Taxpayer Rights and the IRS Collection Process. References to 90-Day letters and to the United States Tax Court in Publication 3498 do not apply to this case. The United States Tax Court does not have jurisdiction to review this employment tax case because it does not involve worker classification issues.

What happens if you do not reach an agreement with our Appeals Office or if you do not respond to this letter?

If you do not reach an agreement with our Appeals Office or if you do not respond to this letter, we will assess the employment tax and any applicable interest, additions to tax, and penalties and bill you.

You may seek judicial review of the assessment by filing a refund suit in district court or in the United States Court of Federal Claims. Please note that before a refund suit can be filed, you must pay to the IRS the amount

of employment tax that relates to one worker for one tax period and file a claim for refund with the IRS. If the claim for refund is denied (or the IRS does not respond to the refund claim within six months), you may file a refund suit in district court or the United States Court of Federal Claims and challenge the employment tax assessment.

If you have any questions about this letter, you may write to the IRS contact person whose name is shown on the front page of this letter. If you write, please include your daytime telephone number, the best time for us to call you if we need more information, and a copy of this letter to help us identify your account. Keep the original letter for your records.

If you prefer, you may call the IRS contact person at the telephone number on the front page of this letter. If this number is outside your local calling area, there will be a long distance charge to you. You may call the Business and Specialty Tax Line 1-800-829-4933 or you may call or visit your local IRS office to obtain general information. An IRS employee there may be able to help you, but the IRS contact person at the telephone number on the front page of this letter is most familiar with your case.

You also have the right to contact a Taxpayer Advocate. If you believe that your tax matter is not being resolved through established IRS procedures or you are suffering or about to suffer a significant hardship, a Taxpayer Advocate may assist you in getting your tax matter addressed in a prompt and proper manner. A Taxpayer Advocate, however, does not have the ability to reverse legally correct tax determinations or act as a substitute for established IRS procedures, such as the formal appeals process. You can call toll-free 1-877-777-4778 and ask for **Taxpayer Advocate assistance**.

If we propose any adjustments for employment tax that involve worker classification issues, you will receive a separate letter.

MAIL ALL RESPONSES TO:

Internal Revenue Service
Attn: Kim Savage
1633 South Plaza Way
Flagstaff, AZ. 86001

An envelope is enclosed for your convenience.

Thank you for your cooperation.

Sincerely,



Kim Savage FSLG Specialist

Enclosures:

Copy of this letter

Form 2504

Form 4666

Form 4667

Form 4668

Form 13683

Publication 3498

Envelope