

BEFORE THE STATE BOARD OF TAX APPEALS
STATE OF ARIZONA
100 North 15th Avenue - Suite 140
Phoenix, Arizona 85007
602.364.1102

EDMUND D. and KATHLEEN M. KAHN

Appellants,

vs.

ARIZONA DEPARTMENT OF REVENUE,

Appellee.

)
)
) Docket No. 1998-11-I
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)
) NOTICE OF DECISION
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
)

The State Board of Tax Appeals, having considered all evidence and arguments presented, and having taken the matter under advisement, finds and concludes as follows:

FINDINGS OF FACT

The Arizona Department of Revenue ("Department") audited the 2005 Arizona income tax return filed by Edmund D. and Kathleen M. Kahn ("Appellants") and issued an assessment disallowing a subtraction in the amount of \$1,425.00, a Schedule A medical expense deduction in the amount of \$8000.00 and a miscellaneous itemized deduction in the amount of \$1,960.00. Appellants subsequently withdrew their protest of the disallowance of all but the \$1,960.00 miscellaneous itemized deduction.

Appellants protested the disallowance of this deduction to the Department's Hearing Officer who denied the protest. Appellants then protested to the Director of the Department who affirmed the Hearing Officer's decision. Appellants now timely appeal to this Board.

DISCUSSION

The issue in this appeal is whether Appellants are entitled to the miscellaneous itemized deduction claimed. The deduction is reported on Schedule A to I.R.S. Form 1040 and is limited to amounts in excess of two-percent of a taxpayer's federal adjusted gross income.

Appellants calculated the deduction by adding \$4,254.00 of reported home office unreimbursed employee expenses and a \$45.00 safe deposit charge, and then subtracting the two-percent limitation of \$2,339.00. Based on the fact that their home consists of five rooms, Appellants calculated their home

1 office unreimbursed employee expense by totaling one-fifth of their expenses for mortgage/rent, utilities
2 and property taxes.

3 A.R.S. § 43-1042 provides that "it is the intent of the Arizona Legislature to adopt the provisions
4 of the federal Internal Revenue Code relating to the measurement of adjusted gross income for
5 individuals so that adjusted gross income reported to the IRS shall be the identical sum reported to
6 Arizona, subject only to modifications set forth in Title 43 of the Arizona Revised Statutes." Under this
7 statute, Arizona taxpayers generally may deduct itemized deductions calculated under the Internal
8 Revenue Code on their Arizona income tax return. However, A.R.S. § 43-102 confirms that "Nothing
9 contained in [Title 43] shall be construed to require a taxpayer to deduct an expense item more than once
10 in computing Arizona taxable income."

11 Appellants first claimed mortgage interest, as allowed, on line 10 of their federal Schedule A form.
12 Appellants then used the mortgage interest when calculating their home office business expense as a
13 miscellaneous itemized deduction on line 20 of the form.¹ As clearly explained on page 19 of I.R.S
14 Publication 587 addressing the "Business Use of Your Home,"

15 "Although you generally deduct expenses for the business use of your home on line 20 of
16 Schedule A (Form 1040), do not include any deductible home mortgage interest on that
17 line. Instead, deduct both the business and nonbusiness parts of this interest on line 10
18 or 11 of Schedule A."

19 Even if Appellants had not improperly reported their mortgage interest twice, the presumption is
20 that an assessment of additional income tax is correct, and Appellants bear the burden of proving
21 otherwise. See *Arizona State Tax Commission v. Kieckhefer*, 67 Ariz. 102, 191 P.2d 729 (1948).
22 Appellants have not provided any cancelled checks, receipts or other suitable records substantiating any
23 expenses related to a home office.

24 Accordingly, the Board finds that Appellants are not entitled to the miscellaneous itemized
25 deduction claimed, and are, therefore, liable for the tax assessed. Further, A.R.S. § 42-1123(C) provides
that if the tax "or any portion of the tax is not paid" when due "the department shall collect, as a part of the

¹ Although it does not affect the decision in this case, the Board notes that there is a discrepancy between the amount of mortgage interest claimed on the federal and Arizona income tax forms.

1 tax, interest on the unpaid amount" until the tax has been paid." Therefore, Appellants are liable for the
2 interest assessed.

3 CONCLUSIONS OF LAW

4 1) Appellants are not entitled to the miscellaneous itemized deduction claimed; therefore,
5 they are liable for the tax assessed. A.R.S. § 43-102.

6 2) Appellants are liable for the interest assessed. A.R.S. § 42-1123(C).

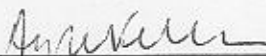
7 ORDER

8 THEREFORE, IT IS HEREBY ORDERED that the appeal is denied, and the final order of the
9 Department is affirmed.

10 This decision becomes final upon the expiration of thirty (30) days from receipt by the taxpayer,
11 unless either the State or taxpayer brings an action in superior court as provided in A.R.S. § 42-1254.

12 DATED this 5th day of March, 2013.

13 STATE BOARD OF TAX APPEALS

14 
15 Amy W. Fellner, Chairperson

16 AWF:ALW

17 CERTIFIED

18 Copies of the foregoing
Mailed or delivered to:

19 Edmund D. and Kathleen M. Kahn
601 North Keen Place
Tucson, Arizona 85710

20 Amy C. Sparrow
21 Assistant Attorney General
Civil Division, Tax Section
22 1275 West Washington Street
Phoenix, Arizona 85007