1 BEFORE THE STATE BOARD OF TAX APPEALS STATE OF ARIZONA 101 North First Avenue - Suite 2340 2 Phoenix, Arizona 85003 602.528.3966 3 4 ROWLAND SETYONO, Docket No. 1855-01-I 5 Appellant, 6 VS. NOTICE OF DECISION: FINDINGS OF FACT AND 7 ARIZONA DEPARTMENT OF REVENUE, CONCLUSIONS OF LAW Appellee. 8 9 10 11

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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

Through an exchange of information agreement with the Internal Revenue Service ("IRS"), the Arizona Department of Revenue ("Department") learned that the IRS had corrected the adjusted gross income and itemized deductions on the 1995 federal income tax return of Rowland Setyono ("Appellant"). Appellant did not file an amended return to report these changes to Arizona as required by statute. A.R.S. § 43- 327.

The Department reviewed Appellant's Arizona income tax returns for 1994 and 1996 as well as 1995. Appellant filed part-year resident Arizona income tax returns for 1994 and 1995 and a non-resident Arizona income tax return for 1996. Appellant also filed non-resident California income tax returns for all the years at issue. Appellant deducted the full amount of his federal schedule A deductions on both his Arizona and California returns for each of the years in question resulting in negative taxable income and the subsequent refunding of all of Appellant's withholding under each return.

The Department issued proposed assessments of additional income tax and late payment penalties for 1994, 1995 and 1996. Based on additional information, the Department made various

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adjustments to the assessments. Appeilant now timely appeals the modified assessment to this Board.1

## DISCUSSION

The issue before the Board is whether Appellant is liable for the assessment for tax years 1994, 1995 and 1996. The presumption is that an assessment of additional tax imposed by the Department is correct. Arizona State Tax Comm's v. Kieckhefer, 67 Ariz. 102, 191 P.2d 729 (1948).

The evidence shows that Appellant made several errors on the income tax returns filed for the years at issue. Several modifications to the assessments have been made based on supporting documentation. Appellant claims he forgot to claim a number of other deductions that he is entitled to for the years at issue, but he has failed to provide sufficient evidence to substantiate any further deductions. Therefore, Appellant is liable for the additional income tax assessed for tax years 1994, 1995 and 1996.

Additionally, Appellant is liable for the late payment penalties assessed because he did not show that his failure to timely pay the tax at issue was due to reasonable cause and not willful neglect. A.R.S. 💲 42-1125.D. Finally, because the interest at issue is made a part of the tax by statute and represents a reasonable interest rate on the tax due, it may not be abated. A.R.S. § 42-1123; Biles v. Robey, 43 Ariz. 276, 286, 30 P.2d 841 (1934).

## CONCLUSIONS OF LAW

- 1. Appellant is liable for the tax assessed. Arizona State Tax Comm's v. Kieckhefer, 67 Ariz. 102, 191 P.2d 729 (1948).
- 2. Appellant has not shown that his failure to timely pay the tax at issue was due to reasonable cause and not willful neglect; therefore, the penalty imposed may not be abated. A.R.S. § 42-1125(D).
- 3. Because the interest at issue is made a part of the tax by statute and represents a reasonable interest rate on the tax due, it may not be abated. A.R.S. § 42-1123; Biles v. Robey, 43 Ariz. 276, 286, 30 P.2d 841 (1934).

After the telephonic hearing before the Board, the Department made final adjustments to the assessment changing Appellant's filing status to head of household and allowing a dependent deduction for tax year 1995.

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JCW:ALW

CERTIFIED

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## <u>ORDER</u>

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

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

DATED this  $_{26\text{th}}$  day of  $_{\text{March}}$  , 2002.

STATE BOARD OF TAX APPEALS

Janice C. Washington, Chairperson

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