BEFORE THE STATE BOARD OF TAX APPEALS STATE OF ARIZONA Bank of America Tower 101 North First Avenue - Suite 2340 Phoenix, Arizona 85003 602.528.3966

TRANSOURCE SVC. CORP.,)) Docket No. 1838-00-S
Appellant,)
vs. ARIZONA DEPARTMENT OF REVENUE, Appellee.)) 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

Transource Svc. Corp. ("Appellant") is engaged in the business of selling computer equipment. The Arizona Department of Revenue (the "Department") audited Appellant for the period January 1992 through November 1995 ("Audit Period"). The Department determined that Appellant did not have sufficient documentation to substantiate certain exemptions claimed on its returns. Consequently, the Department issued an assessment against Appellant for additional transaction privilege tax, interest and penalties.

After working with Appellant to resolve various disputes informally, the Department subsequently modified the assessment, reducing the amount of tax and interest and abating all penalties. Appellant protested tax assessed on two transactions and the remaining interest to an administrative hearing officer who upheld the modified assessment. Appellant then protested to the Director of the Department. The Director abated the interest for periods totaling approximately 21 months but otherwise upheld the assessment. Appellant has paid the tax due and now appeals only a portion of the remaining interest.

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DISCUSSION

The issue before the Board is whether Appellant is entitled to have a portion of the remaining interest abated. Appellant bears the burden of proof as to all issues of fact. A.A.C. R16-3-118.

A.R.S. § 42-1123 provides that:

If the tax, whether determined by the department or the taxpayer, or any portion of the tax is not paid on or before the date prescribed for its payment the department shall collect, as a part of the tax, interest on the unpaid amount at the rate determined pursuant to this section from the date prescribed for its payment until it is paid.

A.R.S. § 42-2065 provides that:

- A. The director, in the director's discretion, may abate all or part of any assessment if additional interest has accrued on:
- 1. A deficiency due to any unreasonable error or delay by an officer or employee of the department acting in the employee's official capacity.
- 2. Any payment of tax to the extent that any error or delay in the payment is attributable to an officer or employee of the department being unreasonably erroneous or dilatory.

A.R.S. § 42-2065(C) states that the director's decision is the Department's final decision and is subject to appeal to this Board.

The Director has already abated, in his discretion and under the guidelines of A.R.S. § 42-2065, a portion of the interest imposed against Appellant. Appellant has not shown that it is entitled to further abatement or that the Director abused his discretion. Therefore, the Board finds that Appellant is liable for the remaining interest.

CONCLUSIONS OF LAW

The Board finds that Appellant is liable for the remaining interest. A.R.S. § 42-2065.

ORDER

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

Notice of Decision Docket No. 1838-00-S JCW:ALW **CERTIFIED**

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 1st day of , 2001. May

STATE BOARD OF TAX APPEALS

Jan/ce C. Washington, Chairperson

Copies of the foregoing Mailed or delivered to:

> Terry R. Eaton, Controller Transource Svc. Corp. 10850 N. 24th Ave., #102 Phoenix, Arizona 85029

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