



1 B of the instructions, titled "When to File," states that if you are filing Arizona Form 140X for a refund, "you  
2 must file within four years from the date you filed the original return."

3 Appellant argues that paragraph A of the instructions provides four unconditional years in which  
4 to file an amended return. In other words, Appellant believes she could file an amended return for the  
5 1997 tax year return filed in 1998 any time in 2002. She contends that paragraph A provided all the  
6 information she needed to know to file the amended return. Thus, she did not read paragraph B.

7 A.R.S. § 42-1106(A) provides that the period within which a claim for a refund may be filed is the  
8 period within which the Department may make an assessment under A.R.S. § 42-1104. The failure to  
9 begin an action for a refund within this period is a bar against the recovery of taxes by the taxpayer.  
10 Id(C). A.R.S. § 42-1104(A) establishes a general four-year statute of limitations and provides in pertinent  
11 part:

12 . . . every notice of every additional tax due shall be prepared on forms  
13 prescribed by the department and mailed within four years after the report or  
14 return is required to be filed or within four years after the report or return is filed,  
whichever period expires later.

15 The requirements of the law are clear, and paragraphs A and B of the instructions correctly reflect  
16 these requirements. Although the paragraphs share some basic information, paragraph A focuses on  
17 *what* forms to file while paragraph B focuses on *when* to file. There is no statutory authority that allows  
18 the Department to waive the statute of limitations because a taxpayer fails to read all the pertinent  
19 instructions.

20 Appellant filed her claim on April 17, 2002, two days beyond the statute of limitations. This  
21 Board, as a creature of the legislature, has no power to waive the statute of limitations. Therefore, the  
22 Board must find that Appellant is not entitled to the refund claimed.

23 CONCLUSIONS OF LAW

24 Appellant is not entitled to the refund claimed. A.R.S. §§ 42-1104 and 42-1106.  
25

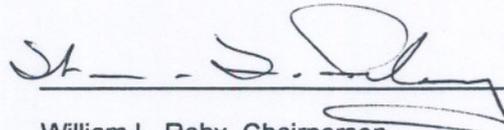
ORDER

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 20th day of October, 2003.

STATE BOARD OF TAX APPEALS



William L. Raby, Chairperson

WLR:ALW

CERTIFIED

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