



1 burden of overcoming that presumption. See *Arizona State Tax Commission v. Kieckhefer*, 67 Ariz. 102,  
2 191 P.2d 729 (1948).

3 The Arizona Legislature has the authority to levy and collect taxes under the Arizona Constitution.  
4 Ariz. Const. art. IX, § 12. Accordingly, the legislature has enacted Titles 42 and 43 of the Arizona  
5 Revised Statutes and has granted the Department the powers and duties to enforce them. A.R.S. § 42-  
6 1004.

7 Pursuant to this authority, the legislature enacted A.R.S. § 43-102(A) providing that it is the intent  
8 of the legislature by the adoption of Title 43 to accomplish the following objectives:

- 9 (1) To adopt the provisions of the federal internal revenue code relating  
10 to the measurement of adjusted gross income for individuals, to the  
11 end that adjusted gross income reported each taxable year by an  
12 individual to the internal revenue service shall be the identical sum  
13 reported to this state, subject only to modifications contained in this  
14 title.
- 15 (2) To impose on each resident of this state a tax measured by taxable  
16 income wherever derived.<sup>1</sup>

17 Appellant argues that, notwithstanding *Kieckhefer*, the Department bears the burden of proving  
18 he received the income in this case because the federal information is inadmissible; thus, there is no  
19 evidence supporting the Department's "naked" assessments.<sup>2</sup>

20 As noted by the Board in a similar case, the court of appeals has rejected the argument that the  
21 federal information is inadmissible See *Steve Hernandez v. Arizona Dep't of Rev.*, Docket No. 1880-02-1  
22 (BOTA 2003). Further, Appellant has offered no evidence that controverts this information.

23 Appellant next argues that the assessments for tax years 1996 and 1997 are void because the  
24 Director of the Department ("Director") did not delegate his authority to assess tax to the auditor in writing.  
25 The Department is authorized to administer and enforce Arizona tax laws. A.R.S. § 42-1004.A. The

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23 <sup>1</sup> The United States Supreme Court has noted that a state has the authority to tax all the income of its residents. See  
24 *Oklahoma Tax Comm'n v. Chickasaw Nation*, 115 S.Ct. 2214 (1995).

25 <sup>2</sup> See, generally, *Weimerskirch v. Commissioner*, 596 F.2d 358 (9<sup>th</sup> Cir. 1979); *United States v. Janus*, 428 US 433  
(1976) (holding that when an assessment has no rational foundation whatsoever, it is considered to be "naked" and is  
not properly subject to the usual rule of the presumption of correctness and the burden of proof in tax cases).

1 Director is responsible for the direction, control and operation of the Department. A.R.S. § 42-1002.B.  
2 The Director has the discretion to delegate such administrative functions, duties or powers as he deems  
3 necessary to carry out the efficient operations of the Department. A.R.S. § 42-1005.A.7. The statutes do  
4 not require this delegation be in writing.

5 Having reviewed this matter, the Board finds that the Department's assessments are valid.  
6 Therefore, Appellant is liable for the tax at issue. Further, Appellant has not shown that his failure to  
7 timely file income tax returns was due to reasonable cause; thus, the penalties imposed may not be  
8 abated. A.R.S. § 42-1125(A). Finally, because the interest imposed represents a reasonable interest  
9 rate on the tax due and owing and is made part of the tax by statute, it may not be abated. *Biles v.*  
10 *Robey*, 43 Ariz. 276, 286, 30 P.2d 841 (1934).

11 CONCLUSIONS OF LAW

12 1. The assessment is valid, and Appellant is liable for the tax assessed. See *Arizona State Tax*  
13 *Commission v. Kieckhefer*, 67 Ariz. 102, 191 P.2d 729 (1948); A.R.S. §§ 42-1004, 43-102.

14 2. Because Appellant has not shown that his failure to timely file income tax returns was due to  
15 reasonable cause, the interest imposed represents a reasonable interest rate on the tax due and owing and is  
16 made part of the tax by statute; therefore, it may not be abated. *Biles v. Robey*, 43 Ariz. 276, 286, 30  
17 P.2d 841 (1934).

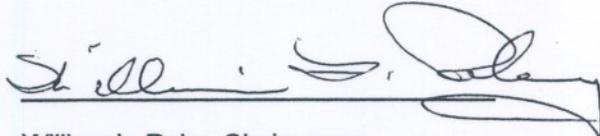
18 ORDER

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

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

3 DATED this 2nd day of September, 2003.

4 STATE BOARD OF TAX APPEALS

5  
6   
7 William L. Raby, Chairperson

8 WLR:ALW

9 CERTIFIED

10 Copies of the foregoing  
11 Mailed or delivered to:

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