



1 Appellant protested the assessment to the Department's hearing officer who upheld the  
2 assessment. Appellant then protested to the Director of the Department who summarily affirmed the  
3 hearing officer's decision because Appellant raised no facts or arguments that would warrant a review.  
4 See A.A.C.R. 15-10-131(H)(2). Appellant now timely appeals to this Board.

5 DISCUSSION

6  
7 The issue before the Board is whether Appellant is liable for the tax assessed.

8 Under the Arizona Constitution, the legislature has authority to levy and collect taxes. Ariz.  
9 Const. art. IX, § 12. Pursuant to this authority, the legislature enacted the following:

10 (A) It is the intent of the legislature . . . to accomplish the following objectives:

11 (1) To adopt the provisions of the federal internal revenue code relating to the  
12 measurement of adjusted gross income for individuals, to the end that adjusted gross  
13 income reported each taxable year by an individual to the internal revenue service shall  
14 be the identical sum reported to this state, subject only to modifications contained in this  
15 title.

16 (4) To impose on each resident of this state a tax measured by taxable income wherever  
17 derived.

18 A.R.S. § 43-102(A)(1) and (4).

19 In measuring adjusted gross income, the Arizona Legislature chose to adopt the provisions of the  
20 Internal Revenue Code ("IRC"). Accordingly, an individual taxpayer computes Arizona taxable income by  
21 starting with FAGI. See A.R.S. § 43-1001. The IRC provides that "gross income" means "all income from  
22 whatever source derived, including . . . (1) Compensation for services . . ." 26 U.S.C. § 61(a).

23 Appellant does not deny that he was an inhabitant of and domiciled in the State of Arizona during  
24 tax year 2002. Instead, Appellant argues that he has relinquished his rights as a "U.S citizen-subject." He  
25 claims that because he is not a federal citizen, he has no federal liability, and because Arizona predicates  
its tax on the federal law, there is no Arizona liability. The Board disagrees.

1 Arizona has the authority to impose its own income tax on its residents. The United States  
2 Supreme Court has confirmed this principle:

3 That the receipt of income by a resident of the territory of the taxing sovereignty is  
4 a taxable event is universally recognized. Domicile itself affords a basis for such  
5 taxation. Enjoyment of the privilege of residence in the state and the attendant  
6 right to invoke the protection of its laws are inseparable from responsibility for  
7 sharing the costs of government . . . .

8 See *Oklahoma Tax Comm'n v. Chickasaw Nation*, 515 U.S. 450, 463 (1995) (quoting *New York ex rel.*  
9 *Cohn v. Graves*, 300 U.S. 308, 312-313 (1937)). The State's power to tax is not based on federal liability.  
10 Its independence to tax includes the ability to determine how the tax is to be calculated. *Department of*  
11 *Rev. v. Arthur*, 153 Ariz. 1, 734 P.2d 98 (App. 1986). The references to the IRC in A.R.S. § 43-1001, *et*  
12 *seq.*, are limited to the method used to calculate "gross income." They do not require that a taxpayer  
13 ultimately owe any tax to the federal government.

14 Arizona requires its residents to file returns if the individual has any of the following:

- 15 1. An Arizona adjusted gross income of five thousand five hundred dollars or over, if single  
16 or married filing a separate return.
- 17 2. An Arizona adjusted gross income of eleven thousand dollars or over, if married filing a  
18 joint return . . . .
- 19 3. A gross income of fifteen thousand dollars or over, regardless of the amount of taxable  
20 income.

21 A.R.S. § 43-301(A).

22 Appellant had gross income and Arizona adjusted gross income well in excess of these statutory  
23 amounts. Appellant meets the requirements under Arizona law for filing and paying income tax to the  
24 State. He has a tax liability to Arizona regardless of his federal tax liability.

25 An assessment of additional income is presumed correct. *Arizona State Tax Commission v.*  
*Kieckhefer*, 67 Ariz. 102, 191 P. 2d 729 (1948). Records obtained by the Department indicate that

1 Appellant received taxable income in tax year 2002. Appellant has not shown this information to be in  
2 error. Therefore, Appellant is liable for the tax assessed.

3 CONCLUSIONS OF LAW

4 Appellant is liable for the tax assessed. See *Oklahoma Tax Comm'n v. Chickasaw Nation*, 515  
5 U.S. 450, 463 (1995); *Department of Rev. v. Arthur*, 153 Ariz. 1, 734 P.2d 98 (App. 1986); A.R.S. §§ 43-  
6 102(A)(1) and (4) and A.R.S. § 43-301(A).

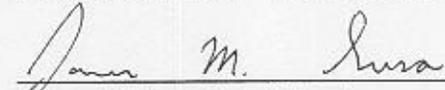
7 ORDER

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 13<sup>TH</sup> day of APRIL, 2010.

13 STATE BOARD OF TAX APPEALS

14   
15 James M. Susa, Board Member

16 JMS:ALW

17 CERTIFIED

18 Copies of the foregoing  
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