

BEFORE THE STATE BOARD OF TAX APPEALS
STATE OF ARIZONA
100 North 15th Avenue - Suite 140
Phoenix, Arizona 85007
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4 ALLEN R. CAHILL,

5 Appellant,

6 vs.

7 ARIZONA DEPARTMENT OF REVENUE,

8 Appellee.

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)
) Docket No. 1955-06-1
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)
) NOTICE OF DECISION
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
)

9 The State Board of Tax Appeals, having considered all evidence and arguments presented, and
10 having taken the matter under advisement, finds and concludes as follows:

11 FINDINGS OF FACT

12 Through an exchange of information agreement with the Internal Revenue Service ("IRS"),
13 authorized by 26 U.S.C. § 6103(d), the Arizona Department of Revenue ("Department") learned that Allen
14 R. Cahill ("Appellant") had taxable income for tax years 1993, 1994, 1995, 1996 and 1997 and had
15 underreported his federal adjusted gross income ("FAGI") for these years. The Department reviewed its
16 records and discovered that Appellant had not filed Arizona income tax for the same tax years. Based on
17 the I.R.S information, the Department assessed Appellant income tax, interest and penalties for failure to
18 timely file for the years at issue. Appellant protested the assessment to the Department's hearing officer
19 who upheld the assessment. Appellant then protested to the Director of the Department who summarily
20 affirmed the hearing officer's decision because Appellant raised no facts or arguments that would warrant
21 a review. See A.A.C.R. 15-10-131(H)(2). Appellant now timely appeals to this Board.
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1 DISCUSSION

2 The issue before the Board is whether Appellant is liable for the income tax, penalties and
3 interest assessed.¹

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

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

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

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

13 A.R.S. § 43-102(A)(1) and (4).

14 An assessment of additional income tax is presumed correct. *Arizona State Tax Comm'n v.*
15 *Kieckhefer*, 67 Ariz. 102, 191 P.2d 729 (1948). Appellant does not refute the fact that he is an Arizona
16 resident. Further, he concedes that there is some tax due. The Department calculated the tax due based
17 on the I.R.S. information, and Appellant has presented no evidence that the information is incorrect.
18 Therefore, Appellant is liable for the tax assessed.

19 The failure to timely file penalty may be abated only upon a showing that the failure is due to
20 reasonable cause and not due to willful neglect. A.R.S. § 42-1125(A). Appellant has not demonstrated
21 that his failure to timely file was due to reasonable cause. Therefore, the penalty may not be abated.

22 For Arizona purposes, interest is a part of the tax and generally may not be abated unless the tax
23 to which it relates is found not to be due for whatever reason. A.R.S. § 42-1123(C). The tax in this case
24 is due and the associated interest cannot be abated.

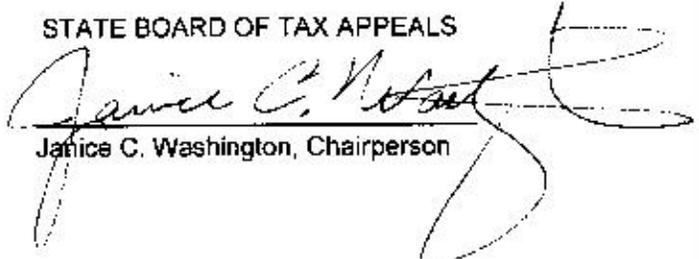
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¹ The assessment of tax, penalties and interest for tax years 1993, 1994, 1995, 1996 and 1997, with interest calculated through
September 30, 2005, totals \$66,888.51. Interest continues to accrue.

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 18th day of July, 2007.

4 STATE BOARD OF TAX APPEALS

5 
6 Janice C. Washington, Chairperson

7
8 JCW:ALW

9 CERTIFIED

10 Copies of the foregoing
11 Mailed or delivered to:

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