

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, including income tax, under
4 the Arizona Constitution. Ariz. Const. art. IX, § 12. Pursuant to this authority, the legislature enacted
5 A.R.S. § 43-102(A) providing that it is the intent of the legislature by the adoption of Title 43 to accomplish
6 the following objectives:

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

10 . . .

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

12 An Arizona taxpayer's State adjusted gross income is the same as the taxpayer's federal
13 adjusted gross income subject to certain specifically enumerated additions, subtractions, exemptions and
14 deductions under Arizona law. A.R.S. §§ 1021, 1022 and 1023.

15 Appellant timely filed his 1998 Arizona income tax return claiming a refund of \$51. When the
16 Department's computer processed his return, it detected Appellant's failure to claim a personal
17 exemption. The computer automatically allowed the personal exemption and issued an increased refund
18 of \$112 to Appellant. The Department subsequently determined that Appellant had erroneously entered
19 his Arizona taxable income on his Arizona return where he should have reported his federal adjusted
20 gross income and issued the assessment that is the subject of this appeal.

21 Appellant argues that issuing an assessment against him after initially issuing a refund amounts
22 to "double jeopardy." He also claims that the exchange of information between the IRS and Arizona is
23 somehow flawed. Appellant offers no support for either argument.

24 The constitutional prohibition against "double jeopardy" was designed to protect an individual
25 from being subjected to the hazards of trial and possible conviction more than once for an alleged
offense. See, U.S. Const., 5th Amend.; Ariz. Const., art. II § 10. It has no relevance in this case. Further,

1 the exchange of information agreement between Arizona and the IRS is authorized under Internal
2 Revenue Code § 6103(d)(1).

3 Having reviewed this matter, the Board finds that the Department's assessment is valid.
4 Therefore, Appellant is liable for the tax at issue. Further, because the interest imposed represents a
5 reasonable interest rate on the tax due and owing and is made part of the tax by statute, it may not be
6 abated. *Biles v. Robey*, 43 Ariz. 276, 286, 30 P.2d 841 (1934).

7 CONCLUSIONS OF LAW

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

10 2. The interest imposed represents a reasonable interest rate on the tax due and owing and is
11 made part of the tax by statute; therefore, it may not be abated. *Biles v. Robey*, 43 Ariz. 276, 286, 30
12 P.2d 841 (1934).

13 ORDER

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

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

18 DATED this 10th day of June, 2003.

19 STATE BOARD OF TAX APPEALS

20 
21 _____
22 William L. Raby, Chairperson

23
24 WLR:ALW

25 CERTIFIED

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