

1 issued an assessment, including interest² and penalties for late payment, against Appellants. The
2 Department also included income from sales Appellants failed to prove were sales for resale. Finally, the
3 Department assessed tax for months during which Appellants failed to file returns.

4 After the Department issued the assessment, Appellants subsequently filed amended returns
5 apparently seeking refunds for certain transactions Appellants believed to be tax-exempt sales for resale.
6 The Department denied the refund claims.

7 After a number of unsuccessful protests before the Department and the Office of Administrative
8 Hearings, Appellants now appeal to this Board.

9 DISCUSSION

10 The issues before the Board are whether Appellants are liable for the tax, penalty and interest
11 assessed, and whether they are entitled to the refunds claimed. Appellants bear the burden of proof as
12 to all issues of fact. A.A.C. R16-3-118.

13 The job printing classification is comprised of the business of job printing, engraving, embossing
14 and copying. A.R.S. § 42-5066 (formerly A.R.S. § 42-1310.06). The tax base for the job printing
15 classification is the gross income derived from the business. *Id*(B).

16 Appellants do not dispute the fact that they are engaged in these activities. However, Appellants
17 deducted from the tax base 50% of the income attributable to transactions with the federal government.
18 This exemption for sales to the federal government is available only under the retail classification. A.R.S.
19 § 42-5061(L) (formerly A.R.S. § 42-1310.01(L)). There is no such deduction available under the job
20 printing classification. Appellants may only claim exemptions available under the job printing
21 classification. See, *Brink Elec. Constr. Co. v. Arizona Dep't of Rev.*, 184 Ariz. 354, 909 P.2d 421 (1995)
22 (finding that a contractor may claim exemptions listed in the contracting classification only, and not those
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² The Department previously abated a portion of the interest.

1 contained in the retail classification). Therefore, the gross income from transactions with the federal
2 government is subject to tax.

3 Additionally, Appellants have not presented sufficient documentation to establish that certain
4 income was attributable to tax-exempt resale transactions. A taxpayer must substantiate a deduction
5 from its tax base for a resale by obtaining an exemption certificate from the purchaser or by presenting
6 facts establishing entitlement to the deduction. A.R.S. § 42-5009 (formerly A.R.S. § 42-1316).

7 Appellants did not obtain any exemption certificates from their customers during the Audit Period
8 and have not presented facts sufficient to establish entitlement to the deduction. Apparently, an auditor
9 from the Department investigated transactions claimed as exempt transactions for resale, and was able to
10 substantiate most of them. These transactions are not at issue. The auditor determined, however, that
11 two printing projects were for materials that were not resold. Accordingly, Appellants are not entitled to a
12 deduction for these sales.

13 Appellants presented no evidence indicating they are entitled to the refunds claimed under the
14 amended returns they filed; thus, they are not entitled to the refunds. Further, Appellants have not shown
15 that their failure to pay the tax due and owing was due to reasonable cause; therefore, the penalties may
16 not be abated. A.R.S. § 42-1125(A) (formerly A.R.S. § 42-136(D)). Finally, the interest remaining at
17 issue represents a reasonable interest rate on the tax due and owing and is made part of the tax by
18 statute; therefore, it may not be abated. A.R.S. § 42-1123(C) (formerly A.R.S. §42-134(B)). *Biles v.*
19 *Robey*, 43 Ariz. 276, 286, 30 P.2d 841 (1934).

20 CONCLUSIONS OF LAW

21 1. Appellants' gross income from transactions with the federal government is subject to tax
22 under the job printing classification. A.R.S. § 42-5066.

23 2. Appellants have not shown that certain income was attributable to exempt resale transactions.
24 A.R.S. § 42-5009.

25 3. Because Appellants presented no evidence indicating they are entitled to the refunds claimed
under the amended returns filed, they are not entitled to the refunds. A.A.C. R16-3-118.

1 4. Appellants have not shown that their failure to pay the tax at issue is due to reasonable cause;
2 therefore, the penalties may not be abated. A.R.S. § 42-1125(D) (formerly A.R.S. § 42-136(D)).

3 5. The interest remaining at issue represents a reasonable interest rate on the tax due and owing
4 and is made part of the tax by statute; therefore, it may not be abated. *Biles v. Robey*, 43 Ariz. 276, 286,
5 30 P.2d 841 (1934).

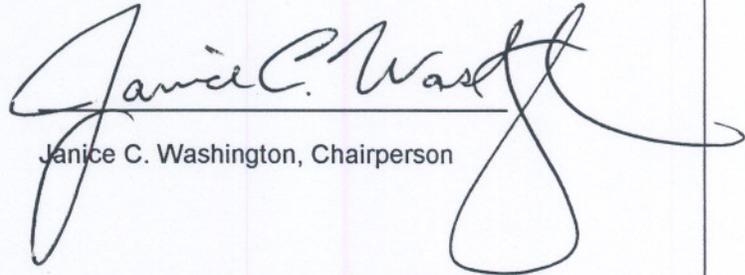
6 ORDER

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

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

11 DATED this 6th day of March, 2001.

12 STATE BOARD OF TAX APPEALS

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14
15 Janice C. Washington, Chairperson

16
17 JCW:ALW

18 CERTIFIED

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