

1 (1993).

2 In the 1989 Arizona individual income tax instruction booklet, the Department provided a "Notice
3 to Federal Retirees" and a claim form for tax years 1985 through 1988. Federal retirees who had paid
4 Arizona income tax on their retirement benefits could fill out the form and submit it to the Department in
5 order to preserve their rights to a potential refund of the tax. By the time the booklet was published,
6 claims for years prior to 1985 were barred by the statute of limitations. See A.R.S. § 42-1106. After the
7 *Davis* decision was issued, taxpayers had until April 17, 1989 to file a timely refund claim or amended
8 return for tax year 1984. The Department issued press releases which were disseminated through
9 various newspapers and television newscasts in an attempt to notify all federal retirees of the impending
10 deadlines, even though the Department had no absolute duty to do so.

11 The issue now before the Board is whether Appellants are entitled to a refund for Arizona income
12 tax paid on federal retirement benefits in tax years 1985 through 1988. Appellants bear the burden of
13 proof. See A.A.C. R16-3-118.

14 A.R.S. § 42-1106 provides that a claim for a tax year must be filed within four years of filing the
15 return for that year. "The failure to begin an action for refund or credit within the time specified . . . is a
16 bar against recovery of taxes by the taxpayer." A.R.S. § 42-1106.C. Further, such a claim must "be in
17 writing and . . . state the specific grounds on which it is founded." A.R.S. § 42-1118.E.

18 Nothing in either the *Davis* or *Harper* decision precludes the operation of the State's statute of
19 limitations or negates the procedural requirements which must be followed in order to receive a refund.
20 A 1993 income tax ruling issued by the Department explains that only those federal retirees "who filed
21 timely amended returns, claims for refunds, or the protective claims for refund included in the
22 instructions to the 1989 income tax return" are entitled to relief. ITR 93-15 (July 23, 1993).

23 Appellants maintain that an employee of the Department erroneously advised them by telephone
24 that filing the 1984 amended return would suffice as a refund claim for years 1984 through 1988.
25 Appellants have provided no evidence to support this assertion, and, in any event, the Department
26 cannot be bound by the erroneous oral advice of its employees. A.R.S. § 42-2052.B.

27 The 1984 amended return filed by Appellants specifically applied to tax year 1984 only;
28 therefore, the Department properly denied the refund for tax years 1985 through 1988.

