

1 dependent deductions, personal exemptions and itemized deductions accordingly. The Department also
2 allowed a credit of \$2,751 for taxes paid to New Jersey, in accordance with the amount reported as
3 Appellants' tax liability on their New Jersey return.

4
5 Appellants protested the assessment claiming that they were full-time residents of both Arizona
6 and New Jersey in 2001. The Department modified the assessment to reflect the full-time residency
7 status claimed by Appellants resulting in additional income tax and interest due. Appellants then
8 protested the modified assessment to the Department's hearing officer arguing that they were entitled to a
9 credit of taxes paid to New Jersey in the amount of \$4,597.42 withheld by Appellant's New Jersey
10 employer. The hearing officer denied the protest and Appellants now timely appeal to this Board.

11 DISCUSSION

12 The issue before the Board is whether Appellants are liable for the income tax and interest
13 assessed by the Department. Appellants argue that they are not liable for tax assessed because the
14 Department did not fully credit them for taxes paid to New Jersey.

15 A.R.S. § 43-1071 provides that:

16 residents² shall be allowed a credit against the taxes imposed by [Arizona] for *net income*
17 *taxes* imposed by and paid to another state or country on income taxable [by Arizona],"
subject to certain conditions. (Emphasis added.)

18 The Arizona Administrative Code (A.A.C. R15-2C-501.A.6) defines "net income tax" as:

19 a tax that grants deductions or exemptions from gross income. A system of taxation that
20 assesses taxes on gross income, gross receipts, or gross dividends is not a net income
tax. *Taxes withheld from income do not constitute a net income tax.* (Emphasis added.)

21 This interpretation has been accepted by Arizona courts. See, *State ex rel. Arizona Dep't of*
22 *Rev. v. Short*, 192 Ariz. 322, 965 P.2d 56 (App. 1998).

23 _____
24 ² Appellants' residency is not in dispute.

