

BEFORE THE STATE BOARD OF TAX APPEALS
STATE OF ARIZONA
100 North 15th Avenue - Suite 140
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LAWRENCE E. AND JOYCE HANLINE (deceased),

Appellants,

vs.

ARIZONA DEPARTMENT OF REVENUE,

Appellee.

Docket No. 1834-00-TC

NOTICE OF DECISION
FINDINGS OF FACT AND
CONCLUSIONS OF LAW

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

FINDINGS OF FACT

On March 16, 1995, Lawrence E. and Joyce Hanline ("Appellants," with the singular referring to Lawrence E. Hanline) filed a *Kerr*¹ protective claim for refunds of Arizona income tax paid on federal employee retirement contributions for tax years 1990 through 1994. The Arizona Department of Revenue ("Department") reviewed Appellants' refund claims and, on December 17, 1997, issued a credit determination allowing Appellants' claim for tax year 1990. Appellants protested the determination on February 5, 1998 and requested additional refunds for tax years 1984 through 1989. The Department denied Appellants' protest on April 24, 1998 based on the applicable statute of limitations. Appellant protested the decision to the Department's hearing officer who upheld the denial of the refund claims.

¹ The *Kerr* case involved a class action claim for refund on behalf of taxpayers who had paid Arizona income tax on federal employee retirement contributions. See *Kerr v. Killian*, 207 Ariz. 181, 84 P.3d 446 (2004).

1 Appellant timely appealed that decision to the Board. The appeal was held in abeyance pending a final
2 decision in the *Kerr* case.

3 Subsequently, all refund claims for tax paid on federal employee retirement contributions for tax
4 years 1985 through 1990 were settled between the Department and the taxpayers in *Kerr* in an
5 agreement approved by the Arizona Tax Court on August 4, 2006. Therefore, only tax year 1984 remains
6 at issue before the Board.²

7 DISCUSSION

8 The issue before the Board is whether the Department properly denied Appellants' refund claim
9 for 1984.

10 A.R.S. § 42-1118 provides that:

11 E. Each claim for refund shall be filed with the department in writing and shall identify
12 the claimant by name, address and tax identification number. Each claim shall
13 provide the amount of refund requested, the specific tax period involved and the
specific grounds on which the claim is founded.

14 A taxpayer must file the written refund claim with the Department within four years after the return is
15 required to be filed or within four years after the return is filed, whichever period expires later. A.R.S. §§
16 42-1104(A), 42-1106(A).

17 Arizona courts have recognized that "[t]he statutory administrative refund claim and appeal
18 process is not optional." *Estate of Bohn v. Waddell*, 174 Ariz. 239, 248, 848 P.2d 324 (App. 1993) and
19 have upheld the Department's denial of untimely refund claims. *McNutt v. Dep't of Rev.*, 196 Ariz. 255,
20 955 P.2d 691 (App. 1998).

21 Appellants timely filed their 1984 Arizona income tax return. Therefore, the deadline for
22 Appellants to file a refund claim for income that they reported on that return was April 15, 1989.

23
24 ² The settlement did not include tax year 1984 because there was no class claim asserted for that year.

1 Appellants did not file their refund claim within the time that the law prescribes. Therefore, their refund
2 claim for tax year 1984 is barred by the statute of limitations, and the Department properly denied the
3 claim.

4 CONCLUSIONS OF LAW

5 1. The refund claim for tax year 1984 is barred by the statute of limitations. A.R.S. §§ 42-
6 1104(A), 42-1106(A).

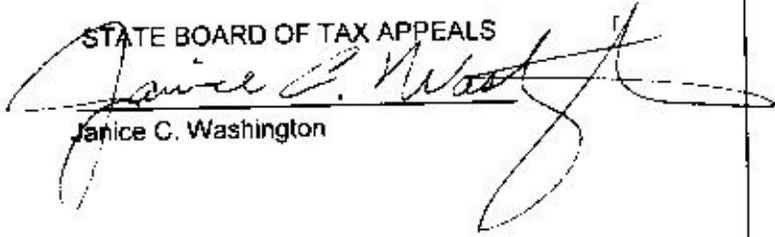
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8 THEREFORE, IT IS HEREBY ORDERED that the appeal is denied.

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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

7 JCW:ALW

8 CERTIFIED

9 Copies of the foregoing
10 Mailed or delivered to:

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