

1 This fact is confirmed by the Department's long-standing guidance concerning Fannie Mae
2 interest payments. Arizona Individual Income Tax Rulings ITR 6-1 and ITR 02-1, and the Arizona
3 Guidelines for Exempt Securities G 91-4 clearly indicate that these interest payments are subject to
4 Arizona income tax. Furthermore, the instructions for line C18 of the 2001 Arizona Form 140 income tax
5 return directs a taxpayer, "Do not subtract interest earned on FNMA or GNMA bonds since this interest is
6 taxable by Arizona. For details, see the department's Guidelines for Exempt Securities, G 91-4."
7 Because Appellant's Fannie Mae interest income does not fall within the scope of the deduction, the
8 Department properly disallowed the subtraction and assessed tax on Appellant's income.

9 At the hearing before the Board, Appellant conceded that the tax is due but argues that her
10 accountant made the error, thus, the Department should pursue him. However, it is well settled that the
11 filing of a tax return is a personal, nondelegable duty of the taxpayer and generally it is no excuse that the
12 matter was put in charge of an accountant, no matter how trustworthy that person may be. *Ferrando v.*
13 *United States*, 245 F.2d 582 (1957). Appellants' reliance on a hired tax professional does not relieve her
14 of her own tax obligations to the State. Appellant earned the interest income and is, therefore, liable for
15 the tax on that income.

16 Appellant next argues that the Department should void the assessment at issue because a
17 department auditor told her that the tax could be forgiven in total. The Department contends that the
18 auditor told Appellant only that he would not assess *penalties* in this case. In any event, the Department is
19 not bound by oral advice given to a person by one of its employees. See A.R.S. § 42-2052. Further,
20 Appellant incurs no injury when she must pay tax legitimately owed under the law. *Valencia Energy Co. v.*
21 *Ariz. Dep't of Rev.*, 191 Ariz. 565, 959 P.2d 1256, (1998).

22 Finally, Appellant asserts that the Department should waive interest because it did not conduct
23 the audit until a few months before the expiration of the statute of limitations. The evidence shows that the
24 Department issued the proposed assessment within the four-year statute of limitations established in

1 A.R.S. § 42-1104. The Department has no obligation to audit taxpayers every year. A.R.S § 42-1123(C)
2 provides that if the tax "or any portion of the tax is not paid" when due, "the department shall collect, as a
3 part of the tax, interest on the unpaid amount" until the tax has been paid. Therefore, Appellant is liable for
4 the interest assessed for the time period between when she should have paid the tax and when she
5 actually paid the tax.

6 CONCLUSIONS OF LAW

7 1. The Department properly disallowed the subtraction of interest income paid by Fannie Mae.
8 See ITR 6-1 and ITR 02-1; Arizona Guidelines for Exempt Securities G 91-4; and, the instructions for line
9 C18 of the 2001 Arizona Form 140 income tax return.

10 2. Appellant is liable for the interest assessed. A.R.S § 42-1123(C).

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ORDER

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

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

DATED this 1st day of May, 2007.

STATE BOARD OF TAX APPEALS

Janice C. Washington
Janice C. Washington, Chairperson

JCW:ALW

CERTIFIED

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