



DISCUSSION

The issue before the Board is whether Appellant is liable for the tax assessed.

Under the Arizona Constitution, the legislature has authority to levy and collect taxes. Ariz.

Const. art. IX, § 12. Pursuant to this authority, the legislature enacted the following:

(A) It is the intent of the legislature . . . to accomplish the following objectives:

(1) To adopt the provisions of the federal internal revenue code relating to the measurement of adjusted gross income for individuals, to the end that adjusted gross income reported each taxable year by an individual to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in this title.

(4) To impose on each resident of this state a tax measured by taxable income wherever derived.

A.R.S. § 43-102(A)(1) and (4).

In measuring adjusted gross income, the Arizona Legislature chose to adopt the provisions of the Internal Revenue Code ("IRC"). Accordingly, an individual taxpayer computes Arizona taxable income by starting with FAGI. See A.R.S. § 43-1001. The IRC provides that "gross income" means "all income from whatever source derived, including . . . (1) Compensation for services . . ." 26 U.S.C. § 61(a).

Appellant does not deny that he was a resident of the State of Arizona during tax year 2003. Instead, Appellant argues that he is not a "taxpayer." This argument has been rejected as frivolous by federal and state courts alike. See *e.g. Edwards v. Commissioner*, 680 F.2d 1268 (9<sup>th</sup> Cir. 1982), *Arizona Department of Revenue v. Arthur*, 153 Ariz. 1, 734 P.2d 98 (App. 1986).

Appellant next argues that, since Arizona relies on IRS provisions to compute taxable gross income, he has no State liability because his federal liability has not been determined yet. However, Arizona has the authority to impose its own income tax on its residents. The United States Supreme Court has confirmed this principle:

1 That the receipt of income by a resident of the territory of the taxing sovereignty is  
2 a taxable event is universally recognized. Domicile itself affords a basis for such  
3 taxation. Enjoyment of the privilege of residence in the state and the attendant  
4 right to invoke the protection of its laws are inseparable from responsibility for  
5 sharing the costs of government . . . .

6 See *Oklahoma Tax Comm'n v. Chickasaw Nation*, 515 U.S. 450, 463 (1995) (quoting *New York ex rel.*  
7 *Cohn v. Graves*, 300 U.S. 308, 312-313 (1937)). The State's power to tax is not based on federal liability.  
8 Its independence to tax includes the ability to determine how the tax is to be calculated. *Department of*  
9 *Rev. v. Arthur*, 153 Ariz. 1, 734 P.2d 98 (App. 1986). The references to the IRC in A.R.S. § 43-1001, *et*  
10 *seq.*, are limited to the method used to calculate "gross income." They do not require that a taxpayer  
11 ultimately owe any tax to the federal government.

12 Arizona requires its residents to file returns if the individual has any of the following:

- 13 1. An Arizona adjusted gross income of five thousand five hundred dollars or over, if single  
14 or married filing a separate return.
- 15 2. An Arizona adjusted gross income of eleven thousand dollars or over, if married filing a  
16 joint return . . .
- 17 3. A gross income of fifteen thousand dollars or over, regardless of the amount of taxable  
18 income.

19 A.R.S. § 43-301(A).

20 Appellant had gross income and Arizona adjusted gross income well in excess of these statutory  
21 amounts. Appellant meets the requirements under Arizona law for filing and paying income tax to the  
22 State. He has a tax liability to Arizona regardless of his federal tax liability.

23 Appellant next argues that the filing of a tax return is voluntary. Voluntary compliance does not  
24 mean optional compliance. It means that individuals have the primary responsibility to keep records,  
25 complete their tax returns, determine the amount of tax due, and send in tax payments. Courts have  
consistently held that there are no constitutional, moral or legal grounds for a taxpayer's failure to file tax  
returns. See *McCoy v. Commissioner*, 76 T.C. 1027 (1981), *aff'd* 696 F.2d 1234 (9<sup>th</sup> Cir. 1983), *United*  
*States v. Payne*, 978 F.2d 1177 (19<sup>th</sup> Cir. 1992).

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2 Records obtained by the Department indicate that Appellant received taxable income in tax year  
3 2003. Appellant has not shown this information to be in error. Therefore, Appellant is liable for the tax  
4 assessed.

5 CONCLUSIONS OF LAW

6 Appellant is liable for the tax assessed. A.R.S. § 43-102(A)(1) and (4).

7 ORDER

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

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

12 DATED this 29th day of April, 2009.

13 STATE BOARD OF TAX APPEALS

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15 \_\_\_\_\_  
16 Amy W. Fellner, Chairperson

17 AWF:ALW

18 CERTIFIED

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