

BEFORE THE STATE BOARD OF TAX APPEALS
STATE OF ARIZONA
100 North 15th Avenue - Suite 140
Phoenix, Arizona 85007
602.364.1102

RONALD P. REINERS, SR.,

Appellant,

vs.

ARIZONA DEPARTMENT OF REVENUE,

Appellee.

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) Docket No. 1982-10-1
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) NOTICE OF DECISION
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
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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

Ronald P. Reiners, Sr., ("Appellant") timely filed his 2003 Arizona income tax return but failed to include certain annuity/pension income and unemployment compensation in his Arizona income. The Internal Revenue Service ("IRS") issued a federal adjustment dated April 4, 2005 to include this income. Through an exchange of information agreement with the IRS, the Arizona Department of Revenue ("Department") received notice of the federal adjustment on May 22, 2007. The Department subsequently issued a proposed assessment for tax year 2003 dated May 29, 2008.¹ No penalties were assessed. Appellant paid the tax assessed but protested the imposition of interest to the Department's Hearing Officer who denied the protest. Appellant now timely appeals to this Board.

DISCUSSION

The issue in this appeal is whether Appellant is liable for the interest assessed.

A.R.S. § 43-102(A)(1) provides that is the intent of the Arizona Legislature to adopt the provisions of the federal Internal Revenue Code relating to the measurement of adjusted gross income for

¹ The assessment was subsequently modified to eliminate an erroneous adjustment made to Appellant's Arizona withholding.

1 individuals so that adjusted gross income reported to the IRS shall be the identical sum reported to
2 Arizona, subject only to modifications set forth in Title 43 of the Arizona Revised Statutes.

3 A.R.S. § 43-327 requires taxpayers to report a change or correction by the IRS or to file an
4 amended return with the Department within ninety days after the final determination of the federal change
5 or correction. If a taxpayer fails to report the adjustment or file an amended return, A.R.S. § 42-
6 1104(B)(5) allows the Department to assess any deficiency resulting from the federal adjustments within
7 four years after the change or correction is reported. Appellant did not report the federal adjustment or
8 file an amended return as required. He did eventually pay the additional tax that was owed due to the
9 adjustment but not the interest assessed.

10 A.R.S. § 42-1123(C) provides that if the tax "or any portion of the tax is not paid" when due "the
11 department shall collect, as a part of the tax, interest on the unpaid amount" until the tax has been paid."
12 Interest is not a penalty but is simply compensation to the State for the lost time value of money received
13 after the due date. *Valencia Energy Co. v. Arizona Dep't of Rev.*, 191 Ariz. 565, 577 959 P.2d 1256,
14 1268 (1998). Because the Department's assessment of tax was timely issued within the four years
15 allowed and because interest is a part of that tax, Appellant is liable for the interest assessed.

16 CONCLUSIONS OF LAW

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

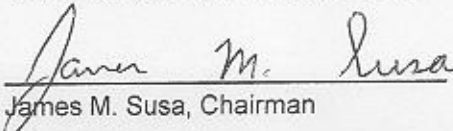
18 ORDER

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

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

23 DATED this 24TH day of MAY, 2011.

24 STATE BOARD OF TAX APPEALS

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James M. Susa, Chairman

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CERTIFIED

Copies of the foregoing
Mailed or delivered to:

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Machesney Park, IL 61115

Amy C. Sparrow
Assistant Attorney General