

1 adjustments to the assessments. Appellant now timely appeals the modified assessment to this Board.¹

2 DISCUSSION

3 The issue before the Board is whether Appellant is liable for the assessment for tax years 1994,
4 1995 and 1996. The presumption is that an assessment of additional tax imposed by the Department is
5 correct. *Arizona State Tax Comm's v. Kieckhefer*, 67 Ariz. 102, 191 P.2d 729 (1948).

6 The evidence shows that Appellant made several errors on the income tax returns filed for the
7 years at issue. Several modifications to the assessments have been made based on supporting
8 documentation. Appellant claims he forgot to claim a number of other deductions that he is entitled to for
9 the years at issue, but he has failed to provide sufficient evidence to substantiate any further deductions.
10 Therefore, Appellant is liable for the additional income tax assessed for tax years 1994, 1995 and 1996.

11 Additionally, Appellant is liable for the late payment penalties assessed because he did not show
12 that his failure to timely pay the tax at issue was due to reasonable cause and not willful neglect. A.R.S.
13 § 42-1125.D. Finally, because the interest at issue is made a part of the tax by statute and represents a
14 reasonable interest rate on the tax due, it may not be abated. A.R.S. § 42-1123; *Biles v. Robey*, 43 Ariz.
15 276, 286, 30 P.2d 841 (1934).

16 CONCLUSIONS OF LAW

17 1. Appellant is liable for the tax assessed. *Arizona State Tax Comm's v. Kieckhefer*, 67 Ariz.
18 102, 191 P.2d 729 (1948).

19 2. Appellant has not shown that his failure to timely pay the tax at issue was due to reasonable
20 cause and not willful neglect; therefore, the penalty imposed may not be abated. A.R.S. § 42-1125(D).

21 3. Because the interest at issue is made a part of the tax by statute and represents a reasonable
22 interest rate on the tax due, it may not be abated. A.R.S. § 42-1123; *Biles v. Robey*, 43 Ariz. 276, 286, 30
23 P.2d 841 (1934).

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¹ After the telephonic hearing before the Board, the Department made final adjustments to the assessment changing Appellant's filing status to head of household and allowing a dependent deduction for tax year 1995.

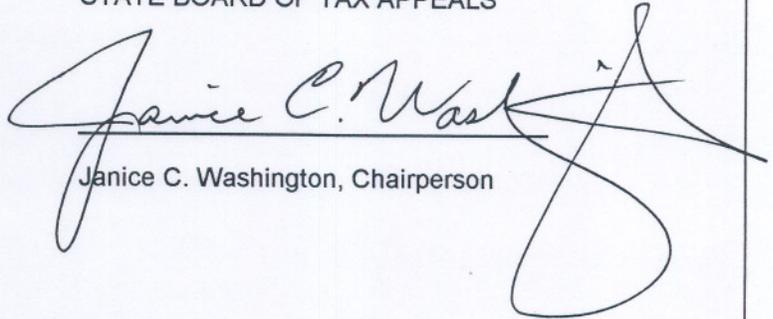
ORDER

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 26th day of March, 2002.

STATE BOARD OF TAX APPEALS



Janice C. Washington, Chairperson

JCW:ALW

CERTIFIED

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