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BEFORE THE STATE BOARD OF TAX APPEALS
STATE OF ARIZONA
Bank of America Tower
101 North First Avenue - Suite 2340
Phoenix, Arizona 85003
(602) 528-3966

ROBERT H. ARGENTINO,)	
)	
Appellant,)	
)	Docket No. 1806-99-1
vs.)	
)	
ARIZONA DEPARTMENT OF REVENUE,)	NOTICE OF DECISION:
)	FINDINGS OF FACT AND
Appellee.)	<u>CONCLUSIONS OF LAW</u>
)	

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

Through an exchange of information between the Internal Revenue Service and the Arizona Department of Revenue (the "Department"), the Department learned of discrepancies in the amounts Robert H. Argentino ("Appellant") reported on his 1986 and 1987 federal and Arizona income tax returns.¹ Accordingly, the Department assessed Appellant additional tax, interest and penalties for negligence and late payment for the years in question. The Department subsequently abated the penalties and modified the assessment after Appellant provided additional information. Appellant protested the modified assessment to the Department's hearing officer who denied the protest. Appellant then protested to the Director who affirmed the hearing officer's decision. Appellant now timely appeals to this Board on the basis that the tax liability at issue has been discharged in bankruptcy proceedings.

DISCUSSION

The issue before the Board is whether Appellant is liable for the tax assessed. Appellant argues that he is not liable for the tax at issue because the liability has been discharged in bankruptcy

¹ The discrepancies were found on the joint returns filed by Appellant and his wife, Cindy Argentino, but only Appellant has appealed to the Board.

1 proceedings.

2 The Board has previously determined that it is within the jurisdiction of the bankruptcy court to
3 decide whether a tax liability has been discharged. *See, e.g., Yarbrough v. Arizona Dep't of Rev.*, No.
4 1430-959I (B.T.A. Nov. 5, 1996); *King v. Arizona Dep't of Rev.*, No. 1137-94-I (B.T.A. May 25, 1995).
5 This Board's subject matter jurisdiction is limited to deciding tax appeals from decisions of the
6 Department. A.R.S. § 42-171(A). Appellant has not provided any evidence to the Board indicating the
7 Department's assessment is erroneous. Therefore, the Board concludes it is valid.

8 Because the interest assessed represents a reasonable interest rate on the tax due and is made
9 part of that tax by statute, it may not be abated. *See* A.R.S § 42-1123(A); *see also Biles v. Robey*, 43
10 Ariz. 276, 30 P.2d 841 (1934).

11 CONCLUSIONS OF LAW

12 1. It is not within the jurisdiction of this Board to decide whether a tax liability has been
13 discharged in bankruptcy proceedings. *See* A.R.S. § 42-171(A); *see also, Yarbrough v. Arizona Dep't of*
14 *Rev.*, No. 1430-959I (B.T.A. Nov. 5, 1996); *King v. Arizona Dep't of Rev.*, No. 1137-94-I (B.T.A. May 25,
15 1995).

16 2. The interest assessed may not be abated because it represents a reasonable interest rate on
17 the tax due and is made part of that tax by statute. *See* A.R.S § 42-1123(A); *see also Biles v. Robey*, 43
18 Ariz. 276, 30 P.2d 841 (1934).

19 ORDER

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

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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 21st day of March, 2000.

STATE BOARD OF TAX APPEALS


Stephen P. Linzer, Chairman

SPL:AW
CERTIFIED

Copies of the foregoing
mailed or delivered to:

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