



BEFORE THE STATE BOARD OF TAX APPEALS  
 STATE OF ARIZONA  
 101 North First Avenue - Suite 2340  
 Phoenix, Arizona 85003  
 602.528.3966

4	SANDRA L. SMITH,	)	Docket No. 1865-01-1
5	Appellant,	)	
6	vs.	)	NOTICE OF DECISION:
7	ARIZONA DEPARTMENT OF REVENUE,	)	FINDINGS OF FACT AND
8	Appellee.	)	<u>CONCLUSIONS OF LAW</u>
9		)	

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 agreement with the Internal Revenue Service ("IRS"), the Arizona Department of Revenue (the "Department") learned that Sandra L. Smith ("Appellant"), an Arizona resident, filed a 1998 federal individual income tax return but failed to report wages and pension income earned for that tax year. Appellant timely filed a 1998 Arizona return and reported her federal adjusted gross income as zero.

Subsequently, the Department issued a proposed assessment of additional income tax, penalties and interest for tax year 1998. This assessment was based on wage and pension income as reported by the IRS.

Appellant timely protested the assessment to the Department's hearing officer who upheld the assessment. Appellant then protested the hearing officer's decision to the Director of the Department who affirmed the hearing officer's decision. Appellant now timely appeals to this Board.

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 ...

1 DISCUSSION

2 The Arizona Legislature has the authority to levy and collect taxes under the Arizona Constitution.  
3 Ariz. Const. art. IX, § 12. Accordingly, the legislature has enacted Titles 42 and 43 of the Arizona  
4 Revised Statutes and has the authority to administer and enforce these and other laws assigned to it.  
5 A.R.S. § 42-1004.

6 Pursuant to this authority, the legislature enacted A.R.S. § 43-102(A) providing that it is the intent  
7 of the legislature by the adoption of Title 43 to accomplish the following objectives:

- 8 (1) To adopt the provisions of the federal internal revenue code relating  
9 to the measurement of adjusted gross income for individuals, to the  
10 end that adjusted gross income reported each taxable year by an  
11 individual to the internal revenue service shall be the identical sum  
12 reported to this state, subject only to modifications contained in this  
13 title.
- 14 (2) To impose on each resident of this state a tax measured by taxable  
15 income wherever derived.<sup>1</sup>

16 Appellant argues that she did not earn any income that is subject to tax for the year at issue.  
17 However, the W-2s issued to her for 1998 clearly reflect wages and pension income paid to Appellant.  
18 The United States Supreme Court has confirmed that such income is taxable income. *See, e.g., United*  
19 *States v. Lawson*, 670 F.2d 923, 935 (10<sup>th</sup> Cir. 1982). Thus, Appellant is liable for the tax assessed.

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

22 Because the interest imposed represents a reasonable interest rate on the tax due and owing and  
23 is made part of the tax by statute, it may not be abated. *Biles v. Robey*, 43 Ariz. 276, 286, 30 P.2d 841  
24 (1934).

25 CONCLUSIONS OF LAW

1. Appellant is liable for the tax assessed.
2. Because Appellant has not shown that her failure to timely pay the tax at issue was due to  
reasonable cause and not willful neglect, the penalty imposed may not be abated. A.R.S. § 42-1125(D).

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<sup>1</sup> The United States Supreme Court has found that a state has the authority to tax all the income of its residents. *See Oklahoma Tax Comm'n v. Chickasaw Nation*, 115 S.Ct. 2214.

1 3. The interest imposed represents a reasonable interest rate on the tax due and owing and is  
2 made part of the tax by statute; therefore, it may not be abated. *Biles v. Robey*, 43 Ariz. 276, 286, 30  
3 P.2d 841 (1934).

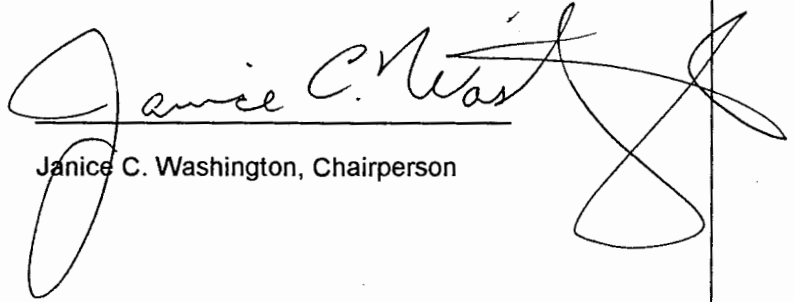
4 ORDER

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

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

9 DATED this 19<sup>th</sup> day of June, 2002.

10 STATE BOARD OF TAX APPEALS

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12 \_\_\_\_\_  
13 Janice C. Washington, Chairperson

14 WLR:alw

15 CERTIFIED

16 Copies of the foregoing  
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