

ARIZONA TAX COURT

TX 2003-000743

05/01/2006

HONORABLE MARK W. ARMSTRONG

CLERK OF THE COURT
L. Slaughter
Deputy

FILED: _____

ARIZONA STATE DEPARTMENT OF
REVENUE

FRANK BOUCEK III

v.

QUESTAR SOUTHERN TRAILS PIPELINE CO, PAUL J MOONEY
et al.

**ORAL ARGUMENT
MATTER TAKEN UNDER ADVISEMENT
LATER UNDER ADVISEMENT RULING**

Northeast – Courtroom 109.

1:30 p.m. This is the time set for Oral Argument on Plaintiff’s Request for Entry of Judgment. Plaintiff is represented by counsel, Frank Boucek III. Defendant is represented by counsel, Paul Mooney.

Court reporter, Jessica Casto Moroz, is present.

Additionally, a digital audio recording of this proceeding is being made by CD using the “For the Record” recording system.

Argument is heard.

IT IS ORDERED taking this matter under advisement.

1:55 p.m. Hearing concludes.

LATER:

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The issue is whether the State is entitled to interest from the date of underpayment (judicially determined) of property taxes under A.R.S. § 42-16214(A).¹

The Court appreciates that the language of the prefatory clause of A.R.S. § 42-16214(A) appears to be clear and unambiguous on its face. However, in light of the language of paragraph A(3) regarding “underpayment,” and notwithstanding Mr. Mooney’s example of the rare taxpayer seeking a higher valuation, the Court believes further inquiry is necessary to discern the Legislature’s intent. There is no question that the predecessor statutory scheme allowed interest to the government. *See Arizona Department of Revenue v. Trico Elec. Co-op*, 151 Ariz. 544, 729 P.2d 898 (1986). Therefore, the Session Law stating that the new scheme was intended solely to recodify existing law is persuasive, particularly when A.R.S. § 42-16214(A)(3) is read *in pari materia* with A.R.S. § 42-16213(B)(3). *See* 1997 Ariz.Sess.Laws, Ch. 150, § 175(A).

In conclusion, while the Court generally agrees with Defendant’s argument that statutory ambiguity is to be construed in favor of the taxpayer, this rule of statutory construction is subordinate to the Legislature’s own expression of its intent. Therefore, the Court has signed the amended form of judgment presented by Mr. Boucek at oral argument.

¹ The Court accepts Defendant’s explanation regarding the timing of its objection, and declines to rule on the basis that the objection was untimely.