

1  
2 BEFORE THE OFFICE OF TAX APPEALS

3 JEFF ANGEJA, PANEL LEAD

4 KENNY GAST AND LINDA CHENG, PANEL MEMBERS  
5  
6

7 In the Matter of: )

8 PAUL SHEVLIN, )

9 Appellant, )

) No. 18032422

10 OFFICE OF TAX APPEALS )

STATE OF CALIFORNIA, )

11 Respondent. )

12 \_\_\_\_\_ )  
13  
14  
15

## 16 TRANSCRIPT OF PROCEEDINGS

17 Van Nuys, California

18 Monday, October 22, 2018  
19  
20  
21

22 Reported by:

23 SUSAN GALLAGHER

Hearing Reporter  
24  
25

## BEFORE THE OFFICE OF TAX APPEALS

JEFF ANGEJA, PANEL LEAD

KENNY GAST AND LINDA CHENG, PANEL MEMBERS

In the Matter of: )  
)  
PAUL SHEVLIN, )  
)  
Appellant, )  
) No. 18032422  
OFFICE OF TAX APPEALS )  
STATE OF CALIFORNIA, )  
)  
Respondent. )  
\_\_\_\_\_)

TRANSCRIPT OF PROCEEDINGS, taken at  
California State Building Offices,  
6150 Van Nuys Boulevard, Van Nuys, California,  
commencing at 9:56 a.m. and concluding at  
10:16 a.m. on Monday, October 22, 2018,  
heard before JEFF ANGEJA, Panel Lead,  
KENNY GAST, Panel Member, and LINDA CHENG,  
Panel Member, reported by SUSAN GALLAGHER,  
Hearing Reporter.

## 1 APPEARANCES:

2  
3 For the DEPARTMENT OF GI NAM  
TAX AND FEE LEGAL DIVISION  
4 ADMINISTRATION: 450 N. Street, MIC:82  
P.O. Box 942879  
5 Sacramento, California  
94279-0082

6  
7 For the APPELLANT: PAUL SHEVLIN  
IN PRO PER

## I N D E X

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## E X H I B I T S

(None)

1 Van Nuys, California, Monday, October 22, 2018

2 9:56 a.m.

3  
4  
5 HEARING OFFICER ANGEJA: Would you please raise your  
6 right hand?

7  
8 PAUL SHEVLIN,  
9 called as a witness, and having been first duly sworn by the  
10 Hearing Officer, was examined and testified as follows:

11 HEARING OFFICER ANGEJA: Are you ready?

12 MR. SHEVLIN: This is a case about conformity with the IRS  
13 tax code, and in the IRS tax code on Schedule A, you're allowed  
14 to deduct your state and local income taxes from -- you're  
15 allowed to add it to your Schedule A and then deduct it. But  
16 when you get to the State, the State makes you subtract it, and  
17 so there's this inequity created where they utilized the  
18 nonconformity language in the tax code to single out a group of  
19 taxpayers, those that itemize deductions, to pay a higher tax  
20 because they give you the three options on that line to use your  
21 state -- the state tax or your general sales tax.

22 And so if you flip the numbers, if you use the general sales  
23 tax number, you actually pay less, and -- but then you've got to  
24 use that same number on your federal returns. So your federal  
25 return is reduced. And so it's like they found a loophole where

1     they can use their authority as the State to create this  
2     discriminatory situation for people that itemized their  
3     deductions.

4             People that do not itemize their deductions do not have this  
5     dilemma in the tax code for them. And so I think this is grossly  
6     unfair. And when I called -- when I realized this problem, I  
7     called the FTB a couple of times, and I can't get an explanation  
8     as to why they've done this.

9             Nobody seems to know, and there has to be some rationale as  
10    to why they did this. Yet, nobody seems to know. They hide  
11    behind their authority as the State to not conform. And so I  
12    just think it's unfair, and so I think that if you're single like  
13    me and you filed zero, at the end of the year your taxes should  
14    be a wash. You shouldn't have to pay in at the end of the year  
15    because of this nonconformity with the federal tax code.

16            If it was more in compliance with the IRS, I wouldn't be  
17    here. So they made it overly complicated, and nobody seems to  
18    want to explain why. Nobody seems to know when they did this.  
19    Nobody seems to have any answers. They've just done it, and the  
20    tax payer has no rights except to appear here. So I'm here.

21            HEARING OFFICER ANGEJA: And does that conclude your  
22    testimony?

23            MR. SHEVLIN: That's it, yeah.

24            HEARING OFFICER ANGEJA: And you'll have an opportunity to  
25    ask questions.

1 Do you have any questions for Mr. Shevlin?

2 MR. NAM: No questions.

3 HEARING OFFICER ANGEJA: No? All right. So with that we'll  
4 turn it over to the Franchise Tax Board. Would you please  
5 explain your position.

6 MR. NAM: Yes. My name is Gi Nam. I am representing the  
7 Franchise Tax Board. Referring to Exhibit D, the 2013 Notice of  
8 Proposed Assessment and Joint Exhibit A, appellant's 2013  
9 California tax return, it would be helpful towards following  
10 along with my questions.

11 So first, as shown, we are here today because appellant has  
12 not properly --

13 HEARING OFFICER ANGEJA: Let me stop you real quick. Do you  
14 have copies of the exhibits?

15 MR. NAM: Yes. So repeating myself, it's Exhibit D and  
16 Exhibit A.

17 HEARING OFFICER ANGEJA: Exhibit A?

18 MR. NAM: Exhibit A and Exhibit D.

19 HEARING OFFICER ANGEJA: Okay. Exhibit A, page 1.

20 MR. NAM: So I'll be generally referring to these two  
21 exhibits. Exhibit A is appellant's 2013 California tax return,  
22 and Exhibit D is respondent's 2013 Notice of Proposed Assessment.  
23 I'll be going item by item on every proposed assessment.

24 So we're here today because appellant has not properly  
25 reported his federal adjusted gross income and improperly

1       deducted his federal itemized deductions and then carried it over  
2       to the California -- on his California tax return.

3           As shown on Exhibit D, there are three adjustments to  
4       appellant's 2013 taxable income. The first one was a \$19  
5       deduction of gross income, and then the second one is a \$971  
6       increase, and then the third one is -- there's a \$3,722 increase.  
7       These adjustments were made because the appellant failed to  
8       report his correct federal adjusted and gross income and properly  
9       reduced federal itemized deductions.

10           So to explain the first \$19 reduction, the \$19 deduction to  
11       appellant's gross income was made because appellant recorded that  
12       his federal adjusted gross income in his federal record was \$19  
13       less than when he reported in his California tax return. So he  
14       actually received the benefit. We reduced it by \$19.

15           And the next one is there's a \$971 increase, and the \$971  
16       increase, appellant's gross income was made because appellant  
17       improperly reported a federal AGI amount that excluded the \$971  
18       California state tax refund, and that's on page 2 of Exhibit A.  
19       You'll see where he excluded \$971 a second time.

20           Appellant's federal adjusted gross income on line 13 should  
21       be \$79,309, but appellant inaccurately reported that his federal  
22       AGI was \$78,338, which was an amount that excluded the \$971  
23       California state tax refund.

24           By reporting an incorrect federal AGI, appellant essentially  
25       reduced his gross income by \$971 twice, and there's -- that

1 explains our second adjustment.

2 Our third adjustment, \$3,722 increase, was because  
3 appellant's gross income was made because appellant improperly  
4 reduced his federal itemized deduction in Part 2 of the Schedule  
5 CA 540 by \$862. That's Exhibit A, page 7.

6 Appellant's total federal Schedule A adjustment on line 39  
7 should be his state and local income tax in the amount of \$4,584,  
8 which is the amount that appellant reported on his federal  
9 Schedule 8, Line 5. Appellant is not allowed to pick and choose  
10 a lesser amount between his general sales tax or his state and  
11 local income tax. What he was required to do was accurately  
12 report what he reported on his Federal Schedule A, line 5, which  
13 in this case was \$4,584.

14 And to answer appellant's question, this was -- this is  
15 required because California Revenue Taxation Code Section 17-220  
16 provides that state and local income taxes are not deducted for  
17 California purposes, and this was in effect since 1983.

18 And in conclusion, these adjustments were made because  
19 appellant failed to report his correct Federal AGI and failed to  
20 make a correct adjustment to his federal itemized deductions.

21 I'll be happy to answer any questions. Thank you.

22 HEARING OFFICER ANGEJA: Thank you.

23 Mr. Shevlin, do you have any questions for the department?

24 MR. SHEVLIN: Why can't the taxpayer have a choice here?

25 It's like the State has put the taxpayer in a choice where there

1 is no option. The basic premise, I guess, of the tax code,  
2 though, was that the taxpayer should not be penalized and that  
3 they should pay as little as possible. But the language in this  
4 line gives the taxpayer no choice but to put what is on the  
5 federal return on line 39, unless you want to swap out and use  
6 your general sales tax deduction on your federal return, which  
7 then lowers your federal return.

8 And so it's a lose/lose, and so this seems punitive to me.  
9 And like I said, when I called and I kept asking around, nobody  
10 had any answers, and so I thought, well, okay. I'm just going to  
11 do what I want to do. Even though I know it's wrong, I'm going  
12 to go ahead and do it anyway because you're going to get -- or  
13 what I think is fair. And eventually they will catch it, and  
14 then we'll end up here, where we were today.

15 And so I think that the California State Tax Code should be  
16 either brought into compliance with the IRS or on line 39 here,  
17 we should have the option of taking the lower amount, which is  
18 what's in the Federal Tax Code. You pay the lower amount. And  
19 so that's my question to you. Why can't we do that?

20 HEARING OFFICER ANGEJA: I'd like you guys to answer that  
21 given that essentially it's the heart of the dispute. It seems  
22 that he's had unanswered questions throughout. So this could go  
23 a long way towards helping to understand the case.

24 MR. NAM: And our answer is very is simple. The law --  
25 California recommended Taxation Code Section 17-220 simply does

1 not allow California taxpayers to deduct their state and local  
2 income taxes, which is why we require them to reduce it when they  
3 file a return.

4 MR. SHEVLIN: No questions.

5 HEARING OFFICER ANGEJA: Okay. And I give you the  
6 opportunity to have the last word, to have a rebuttal, if you'd  
7 like.

8 MR. SHEVLIN: I've pretty much stated my case, and if I  
9 could have gotten an answer -- he sounds just like the two people  
10 I talked to on the phone. "Well, it just isn't allowed."

11 Well, what's the rationale behind that? There has to be a  
12 reason for everything. You can't just single out the taxpayers,  
13 hem them in, just box them into this corner, and then make them  
14 pay more taxes without a reason. Nobody seems to have a reason.

15 They just hide behind, "The law 17-220 says it's not  
16 allowed." There's no rationale, except they just have singled  
17 this little niche of taxpayers out to pay a higher tax.

18 HEARING OFFICER ANGEJA: I understand your position. That  
19 concludes the Franchise Tax Board's presentation.

20 And you have nothing further?

21 MR. SHEVLIN: No, sir.

22 HEARING OFFICER ANGEJA: All right. Colleagues, no further  
23 questions? All right. So at this point I'll close the record  
24 and conclude this hearing. I do want to thank each party for  
25 coming in. This is my first time here. It's a little bit hard

1 to find.

2 Following this hearing, my colleagues and I will discuss the  
3 matter. We will write up a decision that we will be issuing  
4 about 100 days from today's date, and I think that's it. So  
5 we'll close this hearing.

6 Thank you.

7 (Hearing concluded at 10:16 a.m.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## 1 REPORTER'S CERTIFICATION

2  
3 I, the undersigned, a Hearing Reporter for the  
4 State of California, do hereby certify:

5 That the foregoing proceedings were taken before  
6 me at the time and place herein set forth; that any  
7 witnesses in the foregoing proceedings, prior to  
8 testifying, were duly sworn; that a record of the  
9 proceedings was made by me using machine shorthand, which  
10 was thereafter transcribed under my direction; that the  
11 foregoing transcript is a true record of the testimony  
12 given.

13 Further, that if the foregoing pertains to the  
14 original transcript of a deposition in a federal case,  
15 before completion of the proceedings, review of the  
16 transcript [] was [] was not requested.

17 I further certify I am neither financially  
18 interested in the action nor a relative or employee of any  
19 attorney or party to this action.

20 IN WITNESS WHEREOF, I have this date subscribed  
21 my name.

22 Dated: November 19, 2018

23  
24   
25