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HEARING
OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Franchise/
Income Tax Appeals Hearing of:
RICKY T. BURNINGHAM, OTA Case No. 18010865
Appellant.
-----/

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, APRIL 30, 2019

10:00 A.M.

OFFICE OF TAX APPEALS
400 R STREET
SACRAMENTO, CALIFORNIA

Reported by AMY E. PERRY, CSR No. 11880

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APPEARANCES

Panel Lead:

ALBERTO ROSAS, ADMINISTRATIVE LAW JUDGE
STATE OF CALIFORNIA
OFFICE OF TAX APPEALS
400 R Street
Sacramento, California 95811

Panel Members:

TOMMY LEUNG, ADMINISTRATIVE LAW JUDGE
JEFF ANGEJA, ADMINISTRATIVE LAW JUDGE

For Appellant:

RICKY BURNINGHAM, TAXPAYER

For Franchise Tax Board:

DAVID KOWALCZYK, TAX COUNSEL
STATE OF CALIFORNIA
FRANCHISE TAX BOARD
P.O. Box 1468
Sacramento, California 95812

NATASHA PAGE, TAX COUNSEL
STATE OF CALIFORNIA
FRANCHISE TAX BOARD
MS 1260
P.O. Box 1720
Rancho Cordova, California 95741

Also Present:

CRISTINA RUBALCAVA, SUPERVISOR
OFFICE OF TAX APPEALS
FOUNDATION SUPPORT

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EXHIBITS

APPELLANT'S EXHIBITS

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Exhibits 1-8 admitted into evidence 5

RESPONDENT'S EXHIBITS

Exhibits A,B,C,E admitted into evidence 5

(Exhibits premarked, described
and retained by Administrative
Law Judge.)

1 TUESDAY, APRIL 30, 2019 - 10:00 A.M.

2

3 ALJ ROSAS: Good morning. We are now on
4 the record in the matter of the appeal of Ricky T.
5 Burningham, OTA Case No. 18010865. This hearing is
6 taking place in Sacramento, California on April 30,
7 2019, and the time is approximately 10:00 a.m.

8 The panel of Administrative Law Judges
9 includes Tommy Leung and Jeffrey Angeja, as well as
10 me, Alberto Rosas. And although I may be the lead ALJ
11 for purposes of conducting this hearing, this panel,
12 the three of us, we're all equal decision makers.

13 We're going to get started with appearances.
14 Please state your names for the record, starting with
15 the taxpayer.

16 THE APPELLANT: Rick Burningham.

17 MR. KOWALCZYK: David Kowalczyk for
18 Respondent.

19 MS. PAGE: Natasha Page for Respondent.

20 ALJ ROSAS: I'd like to remind both parties
21 that we are on the record. This matter is being
22 recorded by a stenographer, so please remember to
23 speak slowly, speak clearly, and please try not to
24 speak over one another.

25 We held a pre-hearing conference earlier this

1 month on April 11, 2019, which resulted in five
2 orders. The first one is that Mr. Burningham's
3 Exhibits 1 through 8 were admitted into evidence.

4 (Appellant's Exhibits 1-8
5 admitted into evidence.)

6 ALJ ROSAS: Second, FTB's Exhibits Alpha,
7 Bravo, Charlie and Echo, that's A, B, C and E were
8 admitted into evidence.

9 (Respondent's Exhibits A, B, C, E
10 admitted into evidence.)

11 ALJ ROSAS: Number 3, only one witness,
12 Mr. Burningham, shall testify at today's proceeding.

13 Number 4, today's hearing is expected to take
14 no more than 50 minutes. And the parties are expected
15 to comply with the specific hearing time limits that
16 we discussed.

17 Fifth, Mr. Burningham was granted permission
18 to record the oral hearing using his own audio
19 recorder.

20 Is this an accurate summary of the
21 pre-hearing conference and orders, Mr. Burningham?

22 THE APPELLANT: I believe so.

23 ALJ ROSAS: FTB?

24 MR. KOWALCZYK: Yes, Judge.

25 ALJ ROSAS: In regards to your recording

1 device, Mr. Burningham, I would just like to point
2 out, I remind you that the stenographer's transcript
3 is the official record of today's proceeding.

4 Before we begin with the presentations, does
5 either side have any questions?

6 MR. KOWALCZYK: No, Judge.

7 THE APPELLANT: I have just one.

8 ALJ ROSAS: Yes, Mr. Burningham.

9 THE APPELLANT: During the oral phone
10 conference, we discussed the fact that I had a
11 complaint, that I would be able to read from that. I
12 brought copies for everybody in case they wanted to
13 review it.

14 ALJ ROSAS: We don't need copies. We have
15 the complete administrative file of everything that
16 was submitted in this case. But thank you for
17 offering, Mr. Burningham.

18 (Clarification by Reporter.)

19 ALJ ROSAS: Thank you, Ms. Perry. Thank you,
20 Mr. Burningham.

21 Mr. Burningham, whenever you're ready, if you
22 can please rise, and I will administer the oath.

23 Raise your right hand. Do you swear or
24 affirm that the testimony you are about to give shall
25 be the truth, the whole truth, and nothing but the

1 truth?

2 THE APPELLANT: Yes.

3 (Appellant sworn in.)

4 ALJ ROSAS: Thank you, Mr. Burningham.
5 Please be seated.

6 Mr. Burningham, you will have up to 20
7 minutes. You may begin your presentation whenever you
8 are ready.

9 THE APPELLANT: Okay. I'll start with the
10 fact that the FTB's presumption, that enforcement is
11 legitimate without examining the law. I think I
12 presented that with briefs that I had, the briefs that
13 were presented through the petitioning for a hearing
14 process, is that correct?

15 And you have those -- do you have my briefs,
16 my response briefs and everything? And the FTB did
17 not respond to the last brief that I had, is that
18 correct? So it was left un-responded.

19 I would like to start with the facts. I had
20 the brief from October 2nd, and that's Appellant's
21 reply brief to the respondent's brief of September
22 5th, this is dated. Appellant did present the brief.

23 There was a criminal complaint, Exhibit A, in
24 a timely fashion complete with the statutory and
25 regulatory references, provided facts that there was

1 no legal requirement to report any gross income in
2 order to file a 2013 California return as demanded by
3 the first notice which was the demand for a return.

4 Exhibit A, I go to page 2 of that exhibit.
5 The top left corner says, Steps to determine filing
6 requirement. Is your gross income -- no, it says
7 gross income, all income you receive from all services
8 in the form of money, goods, properties, services and
9 are exempt or that are not exempt from tax no more
10 than the amount shown on the table that is presented
11 on page 2 of this.

12 I presented that in a brief as a response to
13 that demand for a return. You have that record.
14 Okay? Respondent's presumption, the FTB has a
15 presumption that all receipts are gross income.

16 Right out of the starting gate, I want to
17 read from the Supreme Court, *Southern Pacific vs.*
18 *Lowe*, 247 U.S.330 (1928). We must reject the broad
19 contention submitted on behalf of the government that
20 all receipts, everything that comes in are income.
21 Okay. I presented statutory explanation of why that
22 is.

23 The foundation of the FTB and the presumption
24 that we owe tax or add gross income is Section 61,
25 adopted Revenue and Taxation Code in the California

1 Revenue and Taxation Code. Okay? That's a foregone
2 conclusion.

3 Section 61, if you know what 61 is. Excuse
4 me. General definition says, gross income defines
5 Section 61, general definition, A, except as otherwise
6 provided in subtitle, gross income means all income,
7 whatever source derived between but limited to the
8 following items, and then gives Items 1 through 14.

9 The first phrase, except as otherwise
10 provided in the subtitle, it's very important to note.
11 Okay? That's a subordinating clause. It's like
12 saying notwithstanding Section 61, if there's another
13 subtitle or if there's another statutory or any other
14 explanation on gross income or what it means and what
15 it is, you have to take that into consideration.

16 I thoroughly and exhaustively and
17 articulately explain Section 82. You can't escape
18 Section 83. If you go to Section 61(b) which it says,
19 cross-references, it says for items specifically
20 included in gross income, see Section 71 and the
21 following. If you look at the list like 71 through
22 like 90-something.

23 Section 83 is in there. It's for those
24 things that are specifically included in gross income.
25 For the purposes of this -- for the purposes of this

1 hearing, Section 83, this is the [inaudible] --

2 (Clarification by Reporter.)

3 THE APPELLANT: The operative language of the
4 section. I'm not going to read all of it, inoperative
5 language.

6 Property transfer for performance of
7 services. In connection with the performance of
8 services, property is transferred in excess of the
9 fair market value of such property over the amount, if
10 any, paid for such property shall be included in gross
11 income of the person who performs such services.

12 Section 83(a) explains how property received
13 in exchange for services is taxed. See *Montelepre*
14 *Systemed vs. CIR*, 956 F2d Page 496, 498 (1992). A
15 court of appeals on three different circuits rule that
16 Section 83 applies to all compensation for services
17 and it explains how the tax of one would be
18 hard-pressed to explain how 83 allows the fair market
19 value to be included in gross income.

20 Section 83 addresses fair market value,
21 excess and gross income, but only the excess is
22 associated with gross income. How could an individual
23 include the fair market value and gross income without
24 violating Section 83. It cannot be done.

25 Regulations refer to all the other sections

1 of statute that allow deductions and talk about the --
2 the basis, associated basis and everything, the basis
3 for what you call the -- let me get this -- adjusted
4 basis and everything that you deduct, all the
5 operating, all the -- excuse me, I'm very nervous.

6 All the implementing regulations due refer to
7 property exchanged with connection with performance of
8 services, that it applies, Section 83 applies. It
9 refers to other sections of the code. It's in my
10 criminal complaint.

11 Sections 1001, 1011, 1012 all refer to basis
12 and adjusted basis, what can be deducted, what can be
13 included in gross income. These are all included in
14 the criminal complaint as being violated by the
15 Franchise Tax Board. Okay.

16 I have an immense amount of information here.
17 Please bear with me. I would like to talk about
18 property, property rights. My labor is property, that
19 all property is cost. And I'd like to read from, a
20 little bit from Black's dictionary, Law Dictionary. I
21 have one, my personal one, 4th edition.

22 But anyway, property, that which is peculiar
23 or proper to any person that which belongs excessively
24 to one in the strict legal sense, an aggregate of
25 rights which are guaranteed and protected by the

1 government determines, said to extend to every species
2 of valuable right of interest, more specifically
3 ownership and unrestricted and exclusive right to a
4 thing, the right to dispose of a thing in every legal
5 way to dispose of it, to use it and to exclude
6 everyone else from interfering with it, the dominion
7 or indefinite right of use or disposition which one
8 may lawfully exercise over particular things or
9 subjects, the exclusive right of possessing, enjoying
10 and disposing of a thing, the highest right of a man
11 that can have to anything being used to refer to the
12 right which one has to lands or tenements, goods or
13 chattels which no one depends on another man's
14 courtesy, property within constitutional protection in
15 those group of rights inherent in citizen's relation
16 to physical thing, things as rights to possess, use
17 and possess of, it is goodwill. Goodwill is property.

18 Intangible property, property which cannot be
19 touched because it has no physical existence such as
20 claims, interest and rights.

21 Personal property, a right or interest in
22 things personal or right or interest less than a
23 freehold in realty or any right or interest which one
24 has in things movable. Personal property includes
25 money, goods, chattels, things in [unintelligible].

1 That is California Evidence Code.

2 We'll move into Supreme Court rulings
3 regarding property. I already read one, which was
4 *Southern Pacific vs. Lowe*.

5 In *Butchers' Union vs. Crescent City* (1884),
6 it's 111 U.S.746 at pages 756 through 757. It is in
7 our inner course with our fellow men certain
8 principles of morality are assumed to exist, without
9 which society would be impossible. So certain
10 inherent rights lie at the foundation of all action
11 and upon recognition of them alone can free
12 institutions be maintained.

13 These inherent rights have never been more
14 happily expressed than in the Declaration of
15 Independence or organic law, that new evangel of
16 liberty to the people.

17 We hold these truths to be self-evident, that
18 it is plain that their truth is recognized upon the
19 mere statement that all men are endowed, not like
20 edicts of men or treason, pardon or acts of Congress
21 but by the creator with certain inalienable rights.
22 That is rights which cannot be bartered away or given
23 away or taken away except in punishment of crime.

24 And among these are life, liberty and pursuit
25 of happiness and to secure these, not grant them, but

1 secure them, Government's institute among men deriving
2 their just powers from the consent of the governed.

3 In Butchers' Union, among these -- this is
4 part of that Butchers' Union. Among these inalienable
5 rights is proclaimed in the document is the right of
6 man to pursue their happiness by which it is meant the
7 right to pursue any unlawful business or vocation in
8 any manner not inconsistent with the equal rights of
9 others which may increase their prosperity or
10 development their faculties, so as you give their
11 highest enjoyment.

12 The common business and callings of life and
13 ordinary trades of pursuits which are innocuous in
14 themselves have been followed in all communities from
15 time of memorial. They must therefore be free in this
16 country, and all alike upon some same conditions, the
17 right to pursue them without lead or hindrance except
18 that which is applied to persons of the same age, sex,
19 condition is distinguished -- is a distinguished
20 privilege of citizens of the United States and an
21 essential element of that freedom which they claim as
22 their birth right.

23 Within that, within this case that I quote
24 now is an excerpt from Adam Smith, quote, it has been
25 well said that property which every man has is his own

1 labor as it is the original foundation of all other
2 property. So it is the most sacred and invaluable.
3 The [inaudible] the poor man lies in his strength and
4 dexterity at his own hand [unintelligible] strength
5 and dexterity in what man he thinks proper without
6 injury to his neighbor is in plain violation of the
7 most sacred property.

8 ALJ ROSAS: Mr. Burningham, just as a
9 courtesy, I want to let you know you have a little
10 more than five minutes.

11 THE APPELLANT: Thank you. Unquote. In
12 *Coppage vs. Kansas*, another Supreme Court ruling
13 (1915) included in the right of personal liberty and
14 the right of private property for taking in the nature
15 of each is the right to make contracts for the
16 acquisition of property. Chief among such contracts
17 is that of personal employment by which labor and
18 other services are exchanged for money or other forms
19 of property.

20 Every man has a natural right to the fruits
21 of his own labor, and this is by moving on. Every man
22 has a right -- let me explain this. The Antelope or
23 the 23 U.S.66 Page 120. Every man has a natural right
24 to the fruits of his own labor, and as generally
25 admitted that no other person can rightfully deprive

1 him of those fruits and appropriate them against his
2 will.

3 In *Evans vs. Gore*, 253 U.S.245 (1920),
4 Sixteenth Amendment. It does not justify the taxation
5 of persons with things previously immune. It was
6 intended only to remove the occasion of any
7 apportionment of income taxes among the states for
8 which the Supreme Court, taking off Supreme Court in
9 [unintelligible] excised tax which has to be following
10 the rule of apportion -- or, excuse me, of -- it's not
11 apportionment, it's -- I'm sorry. Uniformity. Excuse
12 me. Sorry for that lapse. The Constitutional
13 Amendment Sixteen authorized --

14 THE COURT REPORTER: Can you slow down,
15 please.

16 THE APPELLANT: Constitutional Amendment
17 Sixteen authorizes Congress to collect taxes on
18 incomes from whatever source derived without
19 apportionment among the states. Does not extend the
20 taxing power to new or accepted subjects, but merely
21 removes all occasion.

22 I'd like to point out the fact that when the
23 Sixteenth Amendment was supposedly ratified, that
24 people, that wages, salaries, labor was not taxed.
25 Okay? It was only until 1942 when the tax was taken

1 when we were in war. You'll see for Section 61.

2 In the United States statutes at large, we
3 have record of gross income being defined, Section 22,
4 the predecessor of 61 today. General definition,
5 Section 62, gross income includes gains, profits and
6 income underlined, derived from salaries, wages and
7 compensation, personal service. It has to be a
8 derivative.

9 Courts have already explained that very, very
10 clearly. Supreme courts have done it. I don't know
11 why there's so much contention about that with Federal
12 District Courts. It's certainly a due process
13 problem. Okay?

14 The history of the Section 61, because the
15 Franchise Tax Board uses it as its foundation, Section
16 22 of the 1939 code. It originated in 1918 with the
17 Simmons, Underwood-Simmons Act, it was a Tariff Act.

18 If you look at all the income tax acts, you
19 look at the regulations, you look at the history of
20 income taxes, there's a nexus to foreign, non-resident
21 aliens and foreign corporations.

22 ALJ ROSAS: Mr. Burningham, you have
23 approximately two minutes left. If you can start
24 wrapping it up. Thank you, sir.

25 THE APPELLANT: Okay. Thank you. So

1 nothing's changed most of these tax laws from tax acts
2 from year to year were in lieu of tax acts before
3 Congress declared Section 61 is no different than
4 section -- has the same meaning of Section 22 of the
5 1939 code that very specifically talks about the fact
6 that it has to be derived from salaries, wages and
7 income.

8 It's not taxed on labor. It never has been
9 and I don't see where the law says anything otherwise.
10 Presumptions of everything that came in comes in as
11 gross income is not verified or based upon law and
12 Supreme Court justice or Supreme Court rulings.

13 I think under the circumstances, I have
14 plenty of regulations saying that Section 83, which is
15 the statute that governs the taxation of those who
16 provide services for the exchange of property, I can't
17 define the paycheck any better than that.

18 I think I can summarize everything, the fact
19 that Section 83 stands, has been there since 1969
20 before I started filing and before I figured out that
21 I didn't owe this tax and have no requirement. I
22 don't believe for one minute that I have a duty, a
23 lawful duty to pay this income tax that they call an
24 income tax.

25 I think I have plenty of articulated briefs

1 that explain that in detail, and it's never been
2 challenged. The record is barren from the Franchise
3 Tax Board of any language of Section 83, and the
4 stipulated related sections of the code, 1001, 1011,
5 1012 that is in violation of their sections of Revenue
6 and Taxation Code 1700 or 1781, 17,201 and 18,301.

7 They're in violation, and on the record I
8 need to make it known as my criminal complaint says,
9 they are violating Title 18, Section 241, conspiracy
10 against my rights; Section 1341, frauds and swindles;
11 Section 1343, mail fraud; Section 1951, extortion;
12 1962, is it? I believe. Let me verify that, 1962.

13 ALJ ROSAS: Mr. Burningham, past the time,
14 but we'll return back to you after FTB has their
15 presentation so you will have the last word, sir.

16 THE APPELLANT: Thank you.

17 ALJ ROSAS: Mr. Kowalczyk, do you have any
18 questions for Mr. Burningham?

19 MR. KOWALCZYK: No, Judge.

20 ALJ ROSAS: Judge Leung, do you have any
21 questions for Mr. Burningham?

22 ALJ LEUNG: No.

23 ALJ ROSAS: Judge Angeja, do you have any
24 questions?

25 ALJ ANGEJA: No.

1 THE APPELLANT: Excuse me.

2 ALJ ROSAS: Mr. Burningham, I also don't have
3 any questions for you at this time. We will now turn
4 it over to the Franchise Tax Board to make their
5 presentation.

6 FTB, you will have up to 15 minutes. You may
7 begin whenever you're ready.

8 MR. KOWALCZYK: Good morning. The issues
9 before us today is whether Appellant has met his
10 burden of proof to show error in Respondent's proposed
11 assessment and reasonable cause to debate the
12 delinquent filing penalty for tax year 2013.

13 Appellant has failed to file 2013 tax return
14 and has made the same frivolous arguments that many
15 taxpayers have made before. Appellant's arguments
16 relating to Section 83 of the Internal Revenue Code is
17 a variation of the theme that wages are not taxable.

18 The Office of Tax Appeals, the State Board of
19 Equalization and the Federal Courts have all
20 emphatically, uniformly and consistently held for many
21 years that wages are taxable. Appellant's federal
22 wage and income transcript confirm Appellant received
23 \$53,466 in wages from Brentwood Electric Roof, Inc.,
24 and \$6,836 in wages from Sprig Electric.

25 Appellant has not denied he received these

1 wages or was employed by either of these companies.

2 In regards to the delinquent filing penalty, Appellant
3 has not provided any reasonable cause explanation for
4 why he has not filed a tax return besides the
5 frivolous arguments.

6 Accordingly, Appellant has not met his burden
7 of proof to establish error in Respondent's proposed
8 assessment or reasonable cause to abate the delinquent
9 filing penalty. Therefore, Respondent's action must
10 be sustained. Thank you.

11 ALJ ROSAS: Thank you, Mr. Kowalczyk.

12 Judge Leung, do you have any questions for
13 FTB?

14 ALJ LEUNG: No, I do not.

15 ALJ ROSAS: Judge Angeja?

16 ALJ ANGEJA: No, thank you.

17 ALJ ROSAS: And I also do not have any
18 questions for FTB. Thank you.

19 Mr. Burningham, we will now return to you.
20 You will have the last word. You will have up to an
21 additional five minutes. You may begin whenever you
22 are ready, sir.

23 THE APPELLANT: All I've presented in this
24 court, in this hearing are Supreme Court rulings,
25 statutory pleadings and regulations. I presented to

1 the Franchise Tax Board a brief and response with the
2 66-page copy of the current, which they refer to by
3 within their correspondence that gave me the sites and
4 everything to go to. I copied that out and I sent it
5 back to them.

6 If petitioning Government for redress of
7 grievances is a frivolous argument, then it will go on
8 this record, public record right now. Okay?
9 Everything I presented is not on that list -- of that
10 list. That's the official list. They've had Section
11 83 for 25 years, and it's not in that list.

12 Now, if petitioning Government for redress of
13 grievances is a crime, then I deserve the penalties
14 that I've been receiving from the Franchise Tax Board,
15 then we need to address that now. We need to address
16 that.

17 I received three frivolous submission
18 penalties from the Franchise Tax Board. They base, by
19 adoption, they base these things on Section 6702,
20 subtitle F. All right? Apparently they haven't read
21 subtitle F.

22 Congress shall make no law preaching the
23 right of the people to petition the government for
24 redress of grievances. First Amendment. State of
25 California is inseparable for part of the American

1 union. And the Constitution of the United States is
2 the supreme law of the land. All men are free and
3 independent and have certain inalienable rights.
4 Among them will [inaudible] enjoying pending life,
5 liberty and inquiring, possessing and protecting
6 property.

7 Appellant jealously guards his fundamental
8 rights. There is to be no exception to revenue
9 collection purposes and wage none. It is his wish the
10 State of California, which is a municipal for-profit
11 corporation, cease interfering with his right to
12 redress his grievances in the forum and cease
13 harassing his family.

14 The first appearance of Section 6702 was
15 found in 1986, subtitle F. It imposed \$500 frivolous
16 penalty. In 2006, it was increased to \$5,000 and
17 changed the subject to any person filing a frivolous
18 return or statement. The amendment has mandated from
19 the secretary to treasury shall prescribe and
20 periodically revise a list of positions that the
21 secretary has identified as being frivolous.

22 I presented that to the Franchise Tax Board.
23 They never returned one iota. As far as I know,
24 that's their responsibility to answer my questions.
25 If they can put their finger on the taxpayer, they

1 need to put their finger on the tax law. Excuse me
2 for being angry.

3 Any penalty arbitrarily assessed against a
4 natural individual man for the purpose of interfering
5 with free exercise of the constitutionally-protected
6 rights such as free speech or redress must be reported
7 as a criminal act of oppression and extortion.

8 Cal Penal Code 55 -- or 518 through 527.
9 Congress expressly withheld the application of the
10 frivolous filing penalty. If you read Section 7851
11 (a)(6)(a), you'll find it has never been enacted.
12 There is not an enactment date to that subtitle or to
13 subtitle F. Okay.

14 And they use it if they have a tantrum every
15 time and they come after you and say, withdraw your
16 protest, which they call a protest. I call it a
17 redress, a petition for redress of grievance. And
18 I've always put that in my writing. It's always been
19 in writing.

20 They say, withdraw that or be subject to this
21 fine. If I withdrew it, I would submit to the fact
22 that they say that you owe this, okay, whether I owe
23 it or not by law or by statute or anything. Policy
24 and practices and procedures are not law. This is
25 fake law. Let me put that on the record.

1 If a law has no purpose, then it shields to
2 the assertion of constitutional rights by penalizing
3 those who exercise them, then it is patently
4 unconstitutional. The term person that's used in this
5 chapter includes the officer or employee of a
6 corporation or member or employee or partnership who
7 is such officer, employee or member as under penalty
8 to perform the act and respect to which the violation
9 occurs.

10 Appellant, not being a creation of the state,
11 denies that he possesses the requisite corporate
12 response to be charged with any duty to perform any
13 act for which the amended subject designation of
14 person could possibly apply. The type of tax that the
15 classic persons liable for the penalty are ruled
16 inapplicable to the personal income tax by the Supreme
17 Court in 1978. Any state court, tax court, USDC
18 decision or bureau publication to the contrary
19 notwithstanding.

20 ALJ ROSAS: Mr. Burningham, we're past the
21 five minutes. If you could just wrap it up in the
22 next 30 or 60 seconds, that would be great. Thank
23 you.

24 THE APPELLANT: Okay. When Congress added
25 the phrase modifying person, it was not seeking

1 further to describe the class of persons to define in
2 67 or 6671(b) upon who fell the responsibility for
3 collecting taxes.

4 I think I've explained it good enough that
5 that is a violation of law. It's not been enacted.
6 They cannot prove with implementing regulations nor an
7 enactment date that that's even law. It's under the
8 color of the law. And I state it here on the record.

9 ALJ ROSAS: Thank you, Mr. Burningham. That
10 concludes the hearing in the appeal of Ricky T.
11 Burningham, OTA Case No. 18010865. The record in this
12 matter is now closed. And this matter is submitted as
13 of today, April 30, 2019. This panel will issue a
14 written decision to the parties no later than 100 days
15 from today. Thank you all very much.

16
17 (Whereupon the proceedings were
18 adjourned at 10:34 a.m.)
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REPORTER'S CERTIFICATE

I, Amy E. Perry, a Certified Shorthand Reporter in and for the State of California, duly appointed and commissioned to administer oaths, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, Amy E. Perry, a duly qualified Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewritten form by means of computer-aided transcription.

I further certify that I am not of counsel or attorney for any of the parties to said hearing or in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of May, 2019.

AMY E. PERRY
Certified Shorthand Reporter
License No. 11880