

HEARING

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Franchise /

Income Tax Appeals Hearing of:

ZAKI N. KIRIAKOS,

OTA Case No. 18053178

Appellants.

/

REPORTER'S TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, SEPTEMBER 25, 2019

11:54 A.M.

OFFICE OF TAX APPEALS
1400 R STREET
SACRAMENTO, CALIFORNIA

Reported by: Gigi Lastra

CALIFORNIA REPORTING, LLC
229 Napa Street, Rodeo, California 94572 (510) 224-4476

APPEARANCES

Panel Lead:

ALBERTO ROSAS, ADMINISTRATIVE LAW JUDGE

STATE OF CALIFORNIA
OFFICE OF TAX APPEALS
1400 R STREET
SACRAMENTO, CALIFORNIA

Panel Members:

MICHAEL GEARY, ADMINISTRATIVE LAW JUDGE

JOSHUA LAMBERT, ADMINISTRATIVE LAW JUDGE

For Appellant:

Pro se

For Franchise Tax Board:

SHANNON PAVAO, TAX COUNSEL
NATASHA PAGE, TAX COUNSEL

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1 WEDNESDAY, SEPTEMBER 25, 2019 - 11:54 A.M.

2 ALJ ROSAS: We are on the record in the matter of the
3 appeal of Zaki N. Kiriakos, OTA Case Number 18053178.

4 This hearing is taking place in Sacramento,
5 California, September 25th, 2019, and the time is
6 approximately 11:55 a.m.

7 The panel of administrative law judges consists of
8 Michael Geary, Josh Lambert, and me, Alberto Rosas. And
9 although I may be the lead administrative law judge for
10 purposes of conducting this hearing, I would like to point
11 out that the three of us, we are all equal participants,
12 equal decision makers.

13 We're going to get started with stating your names
14 for the record. We'll start with taxpayer.

15 APPELLANT KIRIAKOS: Yes, Your Honor. Zak Kiriakos.

16 ALJ ROSAS: Thank you.

17 MR. PAVAO: Shannon Pavao, representing the Franchise
18 Tax Board.

19 MS. PAGE: Natasha Page, Franchise Tax Board.

20 ALJ ROSAS: Thank you, everyone. And we'd like to
21 point out this hearing is being recorded, we have a
22 stenographer. So I would like to just remind everyone to
23 please speak slowly, speak clearly, and please try not to
24 speak over one another.

25 I just want to go over a few administrative matters.

1 We held a telephonic prehearing conference earlier this month
2 on September the 4th. We discussed various matters that
3 resulted in issuance of five orders. I'm just going to
4 discuss those on the record.

5 Mr. Kiriakos, your Exhibits 1 through 4, 7 through
6 10, and 12 through 14 were admitted into evidence without
7 objection.

8 And to the other two, FTB, you objected to
9 Exhibits 5, 6, and 11. Your objections were overruled. And
10 Exhibits 5, 6, and 11 were admitted into evidence over FTB's
11 objection. And Mr. Pavao, in a moment I will give you an
12 opportunity to voice your objections for the benefit of the
13 panel.

14 [EXHIBITS ADMITTED]

15 MR. PAVAO: Thank you.

16 ALJ ROSAS: Item Number 3, FTB's Exhibits A through
17 G, that's alpha through golf, were admitted into evidence
18 without objection.

19 Number 4, we agree that one witness Mr. Kiriakos will
20 testify at today's oral hearing.

21 Number 5, we agree that the parties will comply with
22 specific time limits and that today's oral hearing should
23 take no more than one hour.

24 Is this an accurate summary of the prehearing
25 conference orders?

1 APPELLANT KIRIAKOS: Yes, Your Honor.

2 MR. PAVAO: Yes, Judge Rosas.

3 ALJ ROSAS: In terms of the objections discussed,

4 Mr. Pavao previously objected to Exhibits 5, 6, and 11.

5 Please, my all means, explain your objections.

6 MR. PAVAO: Thank you. In Respondent's prehearing
7 conference statement, it only reserved a right to object to
8 Exhibits 5, 6, and 11, absent an offer of proof from the
9 Appellant. At the prehearing conference, the Appellant made
10 an offer of proof as to why he believed those documents were
11 relevant. And at that conference, the Appellant stated that
12 he believed Exhibits 5 and 6 concerning decisions from the
13 Veteran's Administration saying that he was disabled as of a
14 certain date were relevant to prove disability. And he made
15 the same offer of proof in regards to Exhibit 11 which was a
16 finding that he was disabled as of a certain date for the
17 Social Security Administration.

18 The Respondent still does not see how those
19 documents, Exhibits 5, 6, and 11 are relevant to show that
20 the -- that the payments made by Lockheed Martin constituted
21 paid family leave. So with that being said and that
22 clarification issued, the Respondent still objects to the
23 introduction of Exhibits 5, 6, and 11 because they are not
24 relevant to the issue that we're here to decide today.

25 And we thank you for letting us put it on the record.

1 ALJ ROSAS: Thank you, Mr. Pavao.

2 Mr. Kiriakos, would you like to respond?

3 APPELLANT KIRIAKOS: Yes, Your Honor. I believe that
4 by excluding these exhibits that I'm offering as my only
5 proof that there is a large period of 2011 where I was
6 unemployed due to disability. That takes away my ability to
7 prove and the burden of proof is on myself to show the reason
8 why I'm claiming what I'm claiming.

9 During my conference hearing with the -- with the FTB
10 officer back in 2017, what I will state in my case to her at
11 the time, she basically said anything that you could provide
12 that would prove what you're telling me by following this
13 plead, it would do so. So this is why I provided this
14 evidence.

15 It's not -- the intent is not to go through them in
16 detail, it's -- they are official records that show that
17 there is substantial evidence that supports my claim.

18 ALJ ROSAS: Thank you. As I mentioned, these
19 exhibits had been admitted, but I want to thank you. Once
20 again, the panel will take this into consideration when we
21 decide what weight to give Exhibits 5, 6, and 11.

22 MR. PAVAO: Thank you.

23 ALJ ROSAS: We will now move into the next phase,
24 oral testimony and presentation.

25 Mr. Kiriakos, as we discussed, you will have up to 20

1 minutes.

2 Before you begin, I'm going to ask our stenograph to
3 administer an oath.

4 THE COURT RECORDER: Will you please raise your right
5 hand.

6 Do you solemnly swear or affirm that the testimony
7 you're about to give will be the truth, the whole truth, and
8 nothing but the truth?

9 APPELLANT KIRIAKOS: I do.

10 THE COURT RECORDER: Thank you.

11 ALJ ROSAS: Mr. Kiriakos, it's my understanding
12 you're reading from a prepared statement. Whenever you're
13 ready, sir, you may begin.

14 APPELLANT KIRIAKOS: Thank you, sir.

15 ALJ ROSAS: Take your time.

16 APPELLANT KIRIAKOS: Honorable members of the panel,
17 this is my declaration. I just wanted to give you a
18 background as how we're here.

19 It all began with an honest response to a seemingly
20 straightforward in every question in a 2011 version of Turbo
21 Tax. The question was: Is any portion of your income due to
22 family leave or separation pay. I responded by checking the
23 yes box. And just fast-forward through a timeline very
24 briefly for you.

25 And what is important to get from that is that I was

1 prompt in every response and my actions were very timely,
2 consistent, and wanting to resolve matters as soon as they
3 became -- I became aware of them between myself and FTB.

4 So on February 24, 2012, I did file a timely 2011 --
5 2011 tax return. I filed it electronically and it was
6 accepted on that day and I have provided proof for that as
7 Exhibit 7.

8 On September 25th, 2015, which was more than three
9 and a half years later, I was issued a notice of proposed
10 assessment from FTB and that is found in Exhibit B -- I'm
11 sorry, 8, which I received on October 9, 2015. That NPA
12 stated that a claimed income deduction of approximately
13 \$106,152 was disallowed from my filed return and as a result,
14 FTB had proposed an additional tax liability amount of
15 \$10,096.31. Excuse me.

16 On October 13th, 2015, I contacted FTB to get further
17 clarification as to what caused -- what caused that
18 additional assessment. And the FTB examiner that I spoke
19 with at the time informed me that it seems as though my
20 entire scheduled deductions for that return was rejected and
21 that the return was currently under audit conditions. So he
22 wasn't able to provide me any more detail, but he did advise
23 me to respond to the notice within the timeline that it was,
24 you know, that was stated.

25 So I did respond. I had no other information except

1 what was given to me by the -- that initial examiner, and I
2 filed my response on November 14th, 2015.

3 On November 22nd, 2016, which was a year later, more
4 than one year later, FTB sent me a reply to not protest and
5 which I didn't receive till early December. And in that
6 reply, basically it stated that this allowed subtractions of
7 wages, that didn't conform to California law. So on
8 December 6th of 2016, I accepted their request for an oral
9 hearing, and on November 15, 2017, a year later, I had my
10 oral hearing.

11 So I attended that telephone hearing with a very
12 understanding with my FTB hearing officer, Ms. Selena
13 Navengan (phonetic). Before I actually had that meeting with
14 her, I sent her a lot of documents. I just sent everything I
15 had. It was difficult for me to dig them out because we had
16 just got back to the house from being evacuated after the
17 fires we had down in Santa Rosa in October. So. But I sent
18 everything that I could possibly find that related to the
19 case.

20 So in that conference, Ms. Navengan, she honed in on
21 a certain pair of item which is submitted here as Exhibit 2
22 and 13, if I might direct your attention. Exhibit 13 is a
23 lot clearer, it's the same -- it's the same thing but it's
24 just a clearer version. She noted there's some entries on my
25 pay stub.

1 Now Lockheed Martin is a government contractor, so by
2 law, they are required to annotate anything that relate
3 directly to earned pay that -- as it pertained to the
4 government contract. I was a government contracting officer
5 so I was also very familiar with how current pay should be
6 reported. Anything that's fringe benefit or anything that's
7 related to a fringe benefit needs to be addressed separately.
8 So the pay stub was detailed in that. It broke it up in
9 that, however, and she was actually looking at that.

10 But what she did tell me that the earned pay amount
11 is clear for regular pay to be \$57,744.01. And she said
12 absent of a 1099-G filed with the state of California, she
13 could do not admit anything else that would relate to sick
14 leave, family leave, or paid leave that isn't reflected on
15 the required form. Now that in itself was a problem because
16 Lockheed Martin and I were not on the best of terms and I --
17 she encouraged me to reach out to them and try to get that
18 particular form. She said without that form, she didn't have
19 the authority to overrule or to adjust the NPA.

20 So then I immediately contacted Lockheed Martin. And
21 the exhibit that I submitted as Exhibit 14 basically captures
22 their response which was flat out we're not going to do it
23 and with the -- a citing of basically federal regulations as
24 to why it wouldn't apply in this case, which wasn't true. I
25 worked -- I clearly worked on a government contract,

1 government-funded contract, therefore, anything that they
2 relate to a regular pay that was part of the fringe benefit,
3 and in this case is substantiated would have to be reported.
4 But they -- they didn't do it.

5 So in March of 2018, I received the final notice of
6 action and that was for the amount of \$9,208 plus interest
7 accrued to a total of \$11,004.78.

8 Now what I wanted to kind of explain to you because
9 Ms. Navengan encouraged me to also pursue or (indiscernible),
10 to higher authority, if you will, than herself and request
11 the special -- special dispensation based on my
12 circumstances.

13 So in order to avail what are those circumstances, I
14 want to kind of take you through a quick timeline of 2011,
15 how my personal situation was.

16 On April 28th of 2011, so roughly one-third of the
17 year in, I was placed on a paid suspension from Lockheed
18 Martin until July 4th of that year. Meanwhile, an official
19 correspondence from Lockheed Martin, again a copy which was
20 also provided to Ms. Navengan that -- which all my
21 department, I had 168 plus people in my department telling
22 them that their senior manager was basically -- was on family
23 leave, taking care of person business.

24 On June 16th of that year, that same year, so roughly
25 six weeks later, my former wife Carol, she filed for divorce.

1 And the arrangement was I had a job with Lockheed Martin
2 Space Systems company in Sunnyvale. My home was in Encino,
3 San Fernando Valley, Los Angeles. So I would commute to work
4 weekdays and I would be back in Los Angeles on weekends.

5 Well, she demanded that I would actually stay at my apartment
6 in Sunnyvale. And when a couple of weeks after that Lockheed
7 Martin changed my status to unpaid suspension and recommended
8 my termination from the corporation.

9 So I had no choice but to try to appeal that decision
10 to Lockheed Martin Corporation. But because they gave me an
11 official termination at that time, I was able to file for
12 unemployment compensation with the state. And so on
13 September 7th, Lockheed Martin Corporation upheld the
14 company's decision and basically cemented my termination
15 status and coded my personnel file as ineligible for rehire
16 and which basically sealed my fate. And then the final check
17 pay stub is what you see here as Exhibits 2 and 13.

18 So that in itself was the personal side. On the
19 financial side, I was dealing with a lot of financial issues,
20 had \$400, roughly \$400 a week in unemployment as my only
21 source of income at the time. Some retirement money from --
22 not a lot. And VA benefits were not in place yet. So I had
23 rent, I had legal fees, divorce-related as well as
24 unemployment-related. And then I basically had no other
25 choice but to sell investment stocks that we had at loss,

1 great losses just so I can continue to survive. So that in
2 itself created some erroneous entries that I ended up making
3 and I can expand on those later.

4 So in reality, I lost unemployed as of April of that
5 year. I submitted Exhibits 5, 6, and 11, to clearly
6 substantiate my claim that supports the fact that I was
7 unemployed as of July 4th 2011, as clearly stated in
8 Exhibit 11. And not only was I unemployed, it's also say I
9 was unemployable.

10 So the earnings reflected for that year were
11 basically combination of unemployment benefits, regular pay,
12 and some inaccessible shared community property that was
13 generated from my selling of investment stocks. Those stocks
14 were seized or the revenue was seized, I have no access to
15 it. Nonetheless, it was reported as part of my income. And
16 that in itself made my liability much higher.

17 Excuse me, how am I doing on time? I'm sorry.

18 ALJ ROSAS: You've been speaking for about 13
19 minutes.

20 APPELLANT KIRIAKOS: Thank you, Your Honor.

21 So what am I asking specifically from the panel, from
22 the honorable panel, is an exception. I'm requesting that
23 line 7 on Exhibit F, Column B which is page -- I'm sorry,
24 page 4 of Exhibit F. And that's Respondent's Exhibit F,
25 line 7, Column B, specifically. I'm requesting that that

1 amount, instead of the \$106,000 as reported, it should be
2 adjusted to only \$48,408, taking into effect that my regular
3 pay, which is consistent with the Exhibit 13, is only -- is
4 \$57,744. Which in reality, when you look at my pay rate at
5 the top of that same exhibit, is \$170,644. That is for the
6 entire year, that's my annual pay rate. So a third of that,
7 roughly, is that amount which correlates to what I'm saying
8 is that after April, I was not earning a pay in a regular
9 sense.

10 So by taking that out and making that exception to
11 be -- or the deduction be 48,408. And also because of the --
12 because of the community property division of assets that
13 we -- that ended up happening after I liquidated our
14 investment stocks, only half of that amount should be
15 recorded as additional pay or additional income. It's
16 reported as capital gains and that is on line 13 of the same
17 page, and that's Column C.

18 So 81,919, if that was split in half, as it was done,
19 my -- my individual capital gains income would be 40,959. So
20 by taking those adjustments and then that takes my -- my
21 deduction to 119,000 which would be on page 1 of Exhibit F,
22 and that would be line 17, would be \$119,665 as opposed to
23 what was reported initially.

24 ALJ ROSAS: Mr. Kiriakos, you have four more minutes
25 and --

1 APPELLANT KIRIAKOS: Yes, sir.

2 ALJ ROSAS: -- I'm not sure if you want to play that
3 audiotape which takes about a minute and a half. You've got
4 four more minutes.

5 APPELLANT KIRIAKOS: I -- thank you, Your Honor.

6 ALJ ROSAS: Certainly.

7 APPELLANT KIRIAKOS: So line 14 that was reported as
8 a -- I'm sorry. And line -- I've lost my place here for a
9 second. Line 13 which was reported -- I apologize again.

10 It's line 17 on page 1 of Exhibit F. Instead of the
11 102,881, it becomes 119,665. So roughly 120,000 instead of
12 102,000. Now Respondent has not disputed my itemized
13 deduction. And they -- if I were to keep the same itemized
14 deductions of 78,964, taking that from that new total, my
15 taxable income would be 40,701 for that year which in reality
16 takes my net liability to just around \$992, and that would be
17 a calculation based on that. Just making those two
18 exceptions for my circumstance.

19 Thank you for your time.

20 ALJ ROSAS: Mr. Kiriakos, do you want to play that
21 audiotape at this time or want to proceed without it?

22 APPELLANT KIRIAKOS: Okay, Your Honor.

23 ALJ ROSAS: It's up to you.

24 APPELLANT KIRIAKOS: It's a minute and a half.

25 ALJ ROSAS: Certainly. Just to be clear, this is the

1 audio file associated with Exhibit 14, correct?

2 APPELLANT KIRIAKOS: Yes, Your Honor.

3 [Audio file played]

4 APPELLANT KIRIAKOS: That was -- that was all.

5 ALJ ROSAS: Thank you, Mr. Kiriakos.

6 FTB, do you have any questions of this witness?

7 MR. PAVAO: No.

8 ALJ ROSAS: Turn it over to my copanelists.

9 Mr. Geary, do you have any questions for this
10 witness?

11 ALJ GEARY: Mr. Kiriakos, regarding the reduction of
12 the capital gains, is that -- you're requesting a deduction
13 because half of that money went to your ex-wife; is that the
14 reason?

15 APPELLANT KIRIAKOS: That is exactly the reason, Your
16 Honor. In fact, I did not have access to that money until
17 March of 2013 which is when the divorce was made final.

18 ALJ GEARY: Okay. Thank you, that was my only
19 question.

20 ALJ ROSAS: Mr. Lambert?

21 ALJ LAMBERT: No questions.

22 ALJ ROSAS: As for me, Mr. Kiriakos, I just wanted
23 some clarification. What was the amount that you were saying
24 Lockheed Martin paid you in 2011 that is related to family
25 paid leave?

1 APPELLANT KIRIAKOS: There are -- they're both in a
2 few line items, Your Honor. One of them is clearly
3 articulated on there as family leave, paid leave, 31,000.
4 There was also another amount that was personal business, and
5 the vacation payout. All of these were used with conjunction
6 with my -- my case, my status, my condition. I basically
7 used up everything I had available to me.

8 The -- I think the legal mandate whether it's applied
9 to the (indiscernible) and wages or other -- other mandates
10 is that they only have a certain allotment of fringe benefits
11 per employee and once one is exhausted, it would use the
12 other one as well. And like there's one that colored as
13 personal time versus sick time versus family time or paid
14 leave -- paid leave. They're all different but they're all
15 actually in essence used for the same intent. But they're
16 recorded differently -- or reported differently.

17 ALJ ROSAS: Next question. Walk me through because
18 during your presentation, you're indicating that a reduction
19 should be -- one second here. In your referencing
20 Exhibit F --

21 APPELLANT KIRIAKOS: Yes, sir.

22 ALJ ROSAS: -- during your presentation, page 4 when
23 you said the subtractions -- subtractions should be \$48,408.

24 APPELLANT KIRIAKOS: Yes, Your Honor.

25 ALJ ROSAS: So walk me through. How did you arrive

1 at that number? And I see on the pay stub that 36,000 you
2 were talking about. But it's -- walk me through this
3 (indiscernible) difference, how you totaled.

4 APPELLANT KIRIAKOS: I only considered the regular
5 pay on the pay stub, Your Honor, which is \$57,744.01 as the
6 reported -- that should be reported as regular pay, which is
7 what is reported. Anything else superlative of that I
8 considered that to be due to my condition at the time and
9 that should be considered the subtraction. And when you
10 total those amounts, that's basically what I put in there,
11 Your Honor.

12 ALJ ROSAS: Thank you, Mr. Kiriakos for that
13 explanation.

14 At this point I'm going to turn it over to the
15 Franchise Tax Board for their presentation. You have up to
16 ten minutes and you may begin whenever you're ready.

17 MR. PAVAO: Thank you, Judge Rosas.

18 Good morning, Judge Geary. Good morning, Judge
19 Lambert. I'm going to refer to all three of you as a panel
20 for purposes of my argument. I hope that doesn't -- you
21 don't take any offense to that.

22 This panel should affirm FTB's notice of proposed
23 assessment of additional tax and interest of \$10,096.31
24 because FTB properly disallowed the Appellant's Schedule CA,
25 line 7 deduction of \$106,152. It's -- the Appellant has the

1 burden to prove that that amount was entitled to be deducted.

2 As we're aware, the Respondent conforms to Section 61
3 of the Internal Revenue Code for the definition of gross
4 income except when it doesn't. For items like paid family
5 leave, those items are taxable at the federal level pursuant
6 to IRC Section 85. RNTC Section 17073 says that Section 85
7 does not apply, therefore the Respondent properly disallowed
8 the deduction of \$106,152 from the tax return.

9 Now the Appellant is alleging that a portion of that
10 amount was attributable to paid family leave. But the
11 evidence doesn't show that. The evidence actually shows that
12 no amount was for paid family leave. If you go ahead and
13 turn to Exhibit E of Respondent's exhibits, it's a letter
14 from the California Employment Development Department. And
15 when FTB is dealing with paid family leave, it sends a letter
16 to the California Employment Development Department to see if
17 that agency issued a 1099-G for paid family leave. And
18 Exhibit E illustrates that no amount was issued on a 1099-G
19 to the Appellant for paid family leave. So there's no paid
20 family leave issued by the California Employment Development
21 Department.

22 This process works and it's evidenced in the receipt
23 of a 1099-G for the unemployment insurance compensation that
24 Mister -- that the Appellant referenced in his opening. If
25 you give me one second, that is -- what is Exhibit D. If you

1 look at Exhibit D, page 3 of 5, you will see a 1099-G issued
2 by the California Employment Development Department to the
3 Appellant in the amount of \$10,350 for unemployment
4 insurance. That's what we should see if any amount of the
5 106,152 that was deducted on Schedule CA, line 7 was for paid
6 family leave. That's how that program works.

7 The Appellant is pointing us to Exhibit 2, a copy of
8 his last pay stub. And let's go ahead and turn and look at
9 Exhibit -- actually, let's look at Exhibit 13 because it is
10 more clear. And when you look at Exhibit 13, on the top
11 under "Hours, Earnings, and Reimbursements," you will see on
12 the very last line item it says absence, non-FMLA, Family
13 Medical Leave Act, paid. Follow that across, you'll see
14 hours, 368, \$31,806.22. The key there is non-FMLA. And
15 that's consistent with the receipt of unemployment insurance
16 during that paid suspension time.

17 The Appellant's own testimony says I was on a paid
18 absence, suspended. So that means during that period of
19 time, he was not on FMLA, he was on a paid suspension absence
20 from his position with Lockheed Martin.

21 The Regulation CFR 1.85-1 specifically says if it's
22 not for paid family leave or another government-type of
23 compensation like unemployment insurance, disability
24 insurance, and those type of insurances, then you revert back
25 to Section 61. And that's what we -- that's what the

1 Respondent has done here and that's what this panel should
2 affirm because that is -- that is the law. There hasn't been
3 evidence submitted to this panel today to show that any
4 amount is entitled to a characterization of paid family
5 leave.

6 And that would be the same for the vacation payout.
7 If you're paid vacation, that's included in gross income as
8 well. So no amount should be allowed in regards to the
9 106,152 and this panel should affirm the Respondent's
10 position in this case.

11 I will just reference that the sole issue in front of
12 this panel today is whether or not the Respondent's actions
13 in disallowing the 106,152 on Schedule CA, line 7, was
14 appropriate. It was. And there's been no credible competent
15 evidence to the contrary on that point.

16 And with that, the FTB submits. Thank you very much.

17 ALJ ROSAS: Thank you, Mr. Pavao.

18 Mr. Kiriakos, if you wish, you now have an
19 opportunity to rebut FTB's presentation by making a closing
20 statement and provide additional testimony. And you'll have
21 up to ten minutes.

22 APPELLANT KIRIAKOS: Thank you, Your Honor.

23 I'm not arguing with California law as far as the
24 proper reporting based on having 1099-G, Your Honor. And
25 that was why we're here is because it was explained to me

1 absent of that 1099-G would take a higher authority to make
2 an exception. But my effort to provide the panel with proof
3 that I was in a status that was somewhat difficult at the
4 time, physically, psychologically, emotionally, I could not
5 get into a lot of detail, Your Honor, obviously with the time
6 that we have. I did provide exhibits that would show that
7 there are two federal agencies that found that to be true and
8 determined I was unemployable as of a certain date. Also
9 which I finally disabled as of that date in 2011.

10 I cannot provide a 1099-G because I have a former
11 employer who didn't want to provide one. I was on a -- for a
12 portion of -- a portion of family paid leave. I don't know
13 why it's not categorized as such than proper paperwork filed.
14 That, I have no answer for.

15 But just to go back to Respondent's comment about
16 vacation payout, when -- I can refer you back to the 48,408
17 figure that you had asked me about, Judge Rosas. I did not
18 include in that number the entire \$27,311 which was a
19 vacation payout. Only a fraction of that was included in
20 that amount.

21 There is a portion that's thirty-one, almost 32,000
22 and there are some other figures that I did not include. So
23 I'm not asking for a consideration in the entire amount, what
24 I'm asking for is basically something that really pertained
25 to my -- my family paid leave that I truly was under but I

1 have no way to prove, Your Honor.

2 ALJ ROSAS: Thank you, Mr. Kiriakros.

3 At this point I'm going to turn it over to my
4 copanelists to see if they have any questions of either
5 party.

6 Mr. Geary?

7 ALJ GEARY: I have no further questions.

8 ALJ ROSAS: Mr. Lambert?

9 ALJ LAMBERT: No questions.

10 ALJ ROSAS: I just have a few clarifying questions,
11 Mr. Kiriakos.

12 APPELLANT KIRIAKOS: Yes, Your Honor.

13 ALJ ROSAS: I understand your position in terms of
14 the objections that you made. Some of it, based on your
15 testimony here today, is that it was vacation pay or your
16 other testimony that some of it was paid family leave.

17 Help me see this from your point of view so I can
18 wrap my brain around this. What is your position in terms of
19 why you believe Lockheed Martin paid you paid family leave
20 when you left.

21 APPELLANT KIRIAKOS: I was physically and mentally
22 unable to perform the job for them. And I was placed on a
23 family paid leave status and was communicated accordingly.
24 And that was -- that was also communicated through the
25 government who -- Respondent's were on.

1 Other than that, Your Honor, going through the
2 interview with -- excuse me, Your Honor.

3 ALJ ROSAS: Take your time, Mr. Kiriakos.

4 APPELLANT KIRIAKOS: I'm sorry, but I just passed a
5 kidney stone last week so I'm parched.

6 The interview question was simplistic but looking
7 back, that Turbo Tax question I referred you to created a lot
8 of problems. I clicked yes but there was no opportunity to
9 even put in a figure. It's just one of those things where it
10 goes from one screen to the next and how it shoots the
11 California Income Tax Return, which is very different from
12 the federal income tax return.

13 My -- my particular exhibit which had the federal
14 portion shows that the itemized deductions were well over a
15 hundred and -- I think twenty thousand, or something like
16 that, a hundred and twenty four. And -- which is well --
17 well above the \$78,000 figure that the State of California
18 laws allowed for that return.

19 So I did not think twice about -- at the time, I
20 didn't even think twice about is there a problem with it? It
21 wasn't until 2015, three and a half years later when I got
22 notice that there was a problem in that figure because it
23 went from that screen to completing a return. When in
24 reality, I thought in my head it did not matter what portion
25 of my family -- what portion of my income was family paid

1 leave because my hundred and twenty-something thousand dollar
2 deductions made it all seem moot, you know, obsolete. So it
3 wasn't until later, three and a half years later we're
4 actually going through those numbers and I figured well,
5 there's the problem.

6 And I hope that answered your question, Your Honor.

7 ALJ ROSAS: I does. Thank you, Mr. Kiriakos.

8 FTB, is there anything else you would like to add?

9 MR. PAVAO: Nothing further, thank you.

10 ALJ ROSAS: Mr. Kiriakos, you are the taxpayer, the
11 Appellant, you do have the burden of proof so we want to give
12 the last word. Other than what you've already testified here
13 today, other than what you've already submitted in your
14 pleadings and in your exhibits, is there anything else that
15 you think this panel needs to know in order to make a ruling
16 and form a decision?

17 APPELLANT KIRIAKOS: None, Your Honor.

18 ALJ ROSAS: Thank you, Mr. Kiriakos.

19 In that case, that concludes the case here in the
20 appeals of Zaki N. Kiriakos, OTA Case No. 18053178.

21 The record is now closed and the matter is submitted.
22 And today is September 25th, 2019. This panel will issue a
23 written decision to the parties no later than 100 days from
24 today.

25 Thank you all very much.

1 MR. PAVAO: Thank you.

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IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of October, 2019.



Eduwiges Lastra
CER-915

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Jill Jacoby
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