

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
SUMMER SPRAGGINS

) OTA Case No. 19014266
)
) Date Issued: October 24, 2019
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)
)

OPINION

Representing the Parties:

For Appellant: Summer Spraggins

For Respondent: Di T. Nguyen, Graduate Student Assistant

D. CHO, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, Summer Spraggins (appellant) appeals an action by respondent Franchise Tax Board (FTB) proposing \$2,114 of additional tax and applicable interest for the 2014 taxable year.

Appellant waived her right to an oral hearing; therefore, the matter is being decided based on the written record.

ISSUE

Whether appellant has established that FTB erred in its proposed assessment of additional tax for the 2014 taxable year based on a federal determination.

FACTUAL FINDINGS

1. Appellant and Richard Natividad¹ timely filed a joint 2014 California tax return reporting California taxable income of \$75,492, which FTB accepted as filed.
2. Subsequently, FTB received information from the Internal Revenue Service (IRS) that appellant’s joint 2014 federal return had been audited and that adjustments were made to appellant’s account. Specifically, the IRS disallowed expenses totaling \$26,997, allowed one-half of the self-employment tax deduction, and reduced the medical, dental, and

¹ Mr. Natividad is not a party to this appeal.

unreimbursed employee expenses. This resulted in an increase to appellant and Mr. Natividad's federal taxable income by \$28,100, from \$61,155 to \$89,255.

3. Based on the federal adjustments, FTB made corresponding California adjustments and proposed to increase appellant and Mr. Natividad's taxable income by \$27,473, from \$75,492 to \$102,965. This resulted in an additional tax of \$2,114, and FTB issued a Notice of Proposed Assessment (NPA) dated August 31, 2018, informing appellant and Mr. Natividad of the proposed assessment.
4. Appellant protested the NPA stating that she had supporting documentation for the disallowed expenses; however, appellant never provided such documentation to FTB.
5. FTB issued a Notice of Action that affirmed the NPA.
6. This timely appeal followed.

DISCUSSION

R&TC section 18622(a) requires a taxpayer to concede the accuracy of a federal change to a taxpayer's income or to state where the change is erroneous. It is well settled that a deficiency assessment based on a federal adjustment to income is presumed to be correct and a taxpayer bears the burden of proving that FTB's determination is erroneous. (*Todd v. McColgan* (1949) 89 Cal.App.2d 509, 514; *Appeal of Brockett* (86-SBE-109) 1986 WL 22731.) Furthermore, deductions are a matter of legislative grace, and a taxpayer who claims a deduction has the burden of proving that he or she is entitled to that deduction. (See *New Colonial Ice Co. v. Helvering* (1934) 292 U.S. 435, 440.)

Appellant's sole contention on appeal is that she would like to make installment payments as to the tax liability for the 2014 taxable year because she cannot afford to pay the liability. Appellant has not disputed the federal determination or indicated whether the disallowance of the expenses was done in error. Therefore, we find that appellant has not met her burden of proof that FTB's proposed assessment is erroneous.

With respect to appellant's request to make installment payments, the Office of Tax Appeals has no jurisdiction to force FTB to accept or create an installment payment plan for appellant. This is something that appellant will have to work directly with FTB on.

HOLDING

Appellant has not demonstrated error in FTB's proposed assessment.

DISPOSITION

FTB's action is sustained in full.

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Daniel Cho

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Daniel K. Cho

Administrative Law Judge

We concur:

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Linda C. Cheng

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Linda C. Cheng

Administrative Law Judge

DocuSigned by:

Neil Robinson

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Neil Robinson

Administrative Law Judge