

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
KUMAR GUNDAVARAPU

) OTA Case No. 18073419
)
) Date Issued: August 26, 2019
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)
)

OPINION

Representing the Parties:

For Appellant: Kumar Gundavarapu

For Respondent: Rachel Abston, Senior Legal Analyst

For Office of Tax Appeals: Sarah Fassett, Tax Counsel

A. ROSAS, Administrative Law Judge: Under Revenue and Taxation Code (R&TC) section 19045, appellant Kumar Gundavarapu (Gundavarapu)¹ appeals Franchise Tax Board’s (FTB) action proposing \$1,046 of additional tax, plus interest, for the 2014 tax year. He waived his right to an oral hearing; therefore, we decide the matter based on the written record.

ISSUE

Whether Gundavarapu has shown error in FTB’s proposed assessment, which is based on a final federal determination.

FACTUAL FINDINGS

1. Gundavarapu and his spouse filed a joint 2014 California Resident Income Tax Return.
2. The Internal Revenue Service (IRS) subsequently provided to FTB a CP2000 DataSheet, showing the IRS adjusted Gundavarapu’s 2014 federal income tax return for unreported income from the sales of securities totaling \$16,390.

¹ Gundavarapu filed a joint return with his spouse but filed this appeal in his name only.

3. In September 2017, FTB issued a Notice of Proposed Assessment (NPA), applying the federal adjustments to Gundavarapu's 2014 California tax account and proposing additional tax of \$1,046, plus interest.
4. Gundavarapu protested the NPA.²
5. In April 2018, FTB issued a position letter, which included a copy of Gundavarapu's 2014 CP2000 Data Sheet and explained that the information from the IRS did not show that the IRS had cancelled or reduced its federal assessment. FTB indicated that if Gundavarapu had additional information that he wanted FTB to consider, he should provide such information by May 14, 2018.
6. When Gundavarapu did not reply, FTB issued a Notice of Action (NOA) affirming the NPA on May 25, 2018. Gundavarapu filed this timely appeal.

DISCUSSION

A taxpayer shall either concede the accuracy of a federal determination or state wherein it is erroneous. (R&TC, § 18622(a).) It is well-settled that a deficiency assessment based on a final federal determination is presumptively correct and that a taxpayer bears the burden of proving, with documentation or evidence, that the determination is erroneous. (*Appeal of Brockett* (86-SBE-109) 1986 WL 22731; *Appeal of Thorpe* (87-SBE-072) 1987 WL 50200.) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof with respect to an assessment based on a federal action. (*Appeal of Magidow* (82-SBE-274) 1982 WL 11930.) The mere assertion of the incorrectness of a federal determination does not shift the burden to FTB to justify the deficiency assessment or its correctness. (*Appeal of Nichols* (80-SBE-064) 1980 WL 4994.)

California imposes tax upon the entire taxable income of every resident of California. (R&TC, § 17041(a).) Here, Gundavarapu does not dispute that he received the unreported income or claim that the federal determination is erroneous. Further, there is no evidence to suggest that FTB's proposed assessment, which is based on the federal determination, is incorrect.

Gundavarapu asserts that he reviewed the documentation he used to file his return and did not find any items that he failed to include on the return. But he accepted the federal

² He stated that he disagreed with FTB's findings and proposed assessment because he verified all the documents used to file his 2014 return and found no items that were not included on the return.

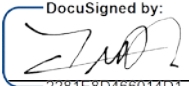
determination that his 2014 federal return did not include \$16,390 of income he received from unreported securities sales. He also states that he made a payment of \$1,316 to the United States Treasury in 2016 in response to a federal notice for his 2014 tax year, and he attached a copy of the duplicate of the check. While Gundavarapu contends that he paid the liability at issue, it appears he is confusing the IRS with FTB. However, he provided no evidence, nor does he contend, that he paid the \$1,046 state income tax liability to FTB. He has not provided any specific arguments, explanations, or evidence as to why the federal adjustment or FTB’s corresponding proposed assessment is incorrect. As such, Gundavarapu has not satisfied his burden of showing error in FTB’s proposed assessment.

HOLDING

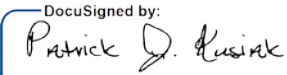
Gundavarapu did not show error in FTB’s proposed assessment of additional tax based on a final federal determination for the 2014 tax year.

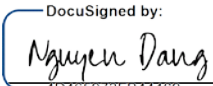
DISPOSITION

We sustain FTB’s action in full.

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Alberto T. Rosas
Administrative Law Judge

We concur:

DocuSigned by:

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Patrick J. Kusiak
Administrative Law Judge

DocuSigned by:

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Nguyen Dang
Administrative Law Judge