



\$34,224 and that appellants failed to report a premature distribution tax on a \$20,224 premature retirement account distribution to appellant-wife.<sup>1</sup>

3. After learning of the federal audit adjustments, FTB proposed comparable adjustments to appellants' California taxable income for 2014. Pursuant to those adjustments, FTB determined that appellants owed \$3,585 of additional state tax, consisting of addition income tax of \$3,080 and a premature distribution tax of \$505.
4. Appellants filed this timely appeal from FTB's determination.

### DISCUSSION

R&TC section 18622(a) provides that a taxpayer shall either concede the accuracy of a federal determination or state wherein it is erroneous. Moreover, a proposed deficiency assessment that is based on a final federal adjustment is presumptively correct and the taxpayer bears the burden of proving otherwise. (*Todd v. McColgan* (1949) 89 Cal.App.2d 509; *Appeal of Brockett* (86-SBE-109) 1986 WL 22731.) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Appeal of Magidow* (82-SBE-274) 1982 WL 11930.)

In their appeal letter, appellants claim that they disagree with FTB's proposed assessment because "[t]he computation numbers [FTB] provided do not match to those I filed with IRS for the 2014 tax year," and that the "tax amount [we] owed to the State of California for the 2014 tax year was \$2,127.00 an amount that was satisfied years ago."<sup>2</sup> Appellants attached to their appeal letter an excerpt from their originally filed federal return for 2014 showing that they reported federal adjusted gross income of \$161,511 and that they paid FTB \$2,127 with their state tax return for 2014 (this amount includes a \$19 failure to pay estimated tax penalty).

While appellants are correct in noting that FTB's proposed tax computations do not match the income reported on appellants' originally filed federal return, that is because the IRS determined that appellants had underreported their income and tax in 2014 and adjusted appellants' return. Those federal adjustments have become final, and FTB properly incorporated

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<sup>1</sup> The IRS initially determined that appellants also had unreported gambling income, but it ultimately eliminated that adjustment after taking into account appellants' gambling losses.

<sup>2</sup> In their administrative protest of FTB's determination, appellants had claimed that they had an unspecified amount of additional gambling losses and that they had "satisfied" the gambling income/loss issue with the IRS. In fact, both the IRS and the FTB have allowed appellants to offset *all* of their gambling income with gambling losses. Appellants have not shown that they are entitled to any additional gambling losses. (See generally Int. Rev. Code, § 165(d) [providing, in pertinent part, that "[l]osses from wagering transactions shall be allowed only to the extent of the gains from such transactions".])

them into its proposed adjustments to appellants’ state tax liability for 2014.  
Appellants have shown no error in either the final federal adjustments or the proposed state adjustments that are based thereon. Accordingly, FTB’s proposed adjustments are sustained.

HOLDINGS

Appellants have not shown any error in FTB’s proposed adjustments.

DISPOSITION

FTB’s proposed adjustments are sustained in full.

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Jeffrey I. Margolis  
Administrative Law Judge

We concur:

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*Andrew J. Kwee*  
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Andrew J. Kwee  
Administrative Law Judge

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*Amanda Vassigh*  
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Date Issued: 2/28/2020