

- adjusted appellants' 2014 federal return. As applicable to this appeal, the Fedstar Sheet indicated that the IRS disallowed claimed medical and dental expenses, disallowed claimed unreimbursed employee expenses, and made an adjustment for unreported other/ordinary dividends income. The IRS increased appellants' 2014 federal taxable income, assessed additional tax, and imposed an accuracy-related penalty.
3. Based on the information provided by the IRS, respondent made corresponding adjustments to appellants' California taxable income and issued a Notice of Proposed Assessment (NPA). The NPA explained that respondent allowed the standard deduction, instead of itemized deductions, because after the adjustments were applied, the standard deduction exceeded the allowable itemized deductions. The NPA increased appellants' 2014 California taxable income by \$61,599, and proposed additional tax of \$4,474, plus applicable interest.
 4. Appellants timely protested the NPA, asserting that they did not agree with the federal adjustments and that their federal appeal was pending a final ruling. Respondent acknowledged appellants' protest.
 5. Subsequently, respondent sent appellants a protest determination letter stating that the federal information did not show that the IRS cancelled or reduced its assessment, and that respondent's assessment was correct. Respondent also stated that if the IRS did cancel or reduce its assessment, appellants should provide a copy to respondent for consideration. Respondent attached a copy of the Fedstar Sheet to the letter. After receiving no response from appellants, respondent issued a Notice of Action, affirming 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 correct and a taxpayer bears the burden of proving that respondent's determination is erroneous. (*Todd v. McColgan* (1949) 89 Cal.App.2d 509, 514.) Unsupported assertions are insufficient to satisfy a taxpayer's burden of proof. (*Appeal of Magidow* (82-SBE-274) 1982 WL 11930.)

R&TC section 17041(a)(1) provides, in pertinent part, that tax shall be imposed upon the entire taxable income of every resident of California. R&TC section 17071 incorporates Internal Revenue Code section 61, which defines “gross income” as including “all income from whatever source derived,” including dividends.

Income tax deductions are a matter of legislative grace, and a taxpayer who claims a deduction has the burden of proving by competent evidence that he or she is entitled to that deduction. (*New Colonial Ice Co. v. Helvering* (1934) 292 U.S. 435; *Appeal of Myers* (2001-SBE-001) 2001 WL 37126924.) In order to carry that burden, a taxpayer must point to an applicable statute and show by credible evidence that the transactions in question come within its terms. (*Appeal of Telles* (86-SBE-061) 1986 WL 22792.)

Appellants provide no substantive arguments contending that respondent’s proposed assessment is in error. Appellants do not deny receiving the unreported income, nor do they contend that they properly reported the income on their 2014 federal or California returns. Appellants also do not contend that they are entitled to the disallowed claimed deductions, nor do they provide documentation substantiating the claimed deductions. Rather, appellants contend that their 2014 federal determination is under appeal and request that this appeal be stayed in pending status.¹

In the appeal record, there is a letter from the IRS dated September 29, 2016, which notifies appellants of the federal changes to appellants’ 2014 return as a result of an examination. The letter includes copies of the federal examination report, which provided appellants with available options if they did not agree with the federal changes. A handwritten note on the letter indicates that appellants filed a timely “petition to tax court.” According to appellants’ 2014 federal Individual Master File (IMF) transcript, the IRS assessed additional tax, an accuracy-related penalty, and applicable interest, on August 7, 2017, almost a year after the

¹ Appellants argue they did not receive respondent’s protest determination letter, which is why they did not provide a response. While it is unclear if appellants are making a due process claim, we note that “due process is satisfied with respect to tax matters so long as an opportunity is given to question the validity of a tax at some stage of the proceedings.” (*Appeals of Bailey* (92-SBE-001) 1992 WL 44503.) Even if appellants did not receive due process during respondent’s protest process, they have received due process during this appeal.

Furthermore, Office of Tax Appeal’s (OTA) Rules for Tax Appeals expressly prohibits OTA from considering whether an appellant is entitled to a remedy for respondent’s actual or alleged violation of any substantive or procedural right, unless the violation affects the adequacy of a notice, the validity of an action from which a timely appeal was made, or the amount at issue in the appeal. (Cal. Code Regs., tit. 18, § 30104(d).) As appellants’ contention regarding the non-receipt of respondent’s letter does not meet the requirements that the alleged violation affects the adequacy of a notice, the validity of an action from which a timely appeal was made, or the amount at issue, we do not address this contention further.

September 29, 2016 letter. The IMF does not show that the federal determination was cancelled or revised. Furthermore, appellants have not provided any evidence to show that the IRS is examining their 2014 tax return and that the federal determination is not final.

Thus, appellants have not met their burden of proving error in respondent’s proposed assessment for 2014, or in the federal determination upon which respondent based its proposed assessment.

HOLDING

Appellants have failed to demonstrate error in respondent’s proposed assessment of additional tax, which is based upon a federal adjustment.

DISPOSITION

Respondent’s action is sustained.

DocuSigned by:
Sheriene Anne Ridenour
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Sheriene Anne Ridenour
Administrative Law Judge

We concur:

DocuSigned by:
Tommy Leung
0C90542BE88D4E7

Tommy Leung
Administrative Law Judge

DocuSigned by:
Richard Tay
F8E81582726E448

Richard Tay
Administrative Law Judge

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