

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
P. ORNGARD

) OTA Case No. 20025795
)
)
)
)
)

OPINION

Representing the Parties:

For Appellant: P. Orngard

For Respondent: Rachel Abston, Senior Legal Analyst

H. LE, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, P. Orngard (appellant) appeals an action by Franchise Tax Board (respondent) proposing \$920 of additional tax, and applicable interest, for the 2015 tax year.

Appellant waived the right to an oral hearing; therefore, we decide this matter based on the written record.

ISSUE

Whether appellant has demonstrated error in respondent’s proposed assessment for the 2015 tax year.

FACTUAL FINDINGS

1. Appellant filed a timely 2015 California resident income tax return, reporting federal adjusted gross income (AGI) of \$13,805.
2. Respondent subsequently received information from the Internal Revenue Service (IRS) showing federal AGI of \$38,627.
3. Based on information from the IRS, respondent issued a Notice of Proposed Assessment (NPA) that increased appellant’s federal AGI to \$38,627 and proposed additional California income tax of \$920, plus interest.

4. Appellant protested the NPA. Respondent subsequently issued a Notice of Action, affirming the NPA. This timely appeal followed.
5. On appeal, appellant submitted his 2015 Iowa Individual Income Tax Form, and proof of Iowa income tax payment.

DISCUSSION

Whether appellant has demonstrated error in respondent's proposed assessment for the 2015 tax year.

Respondent's determination is presumed correct, and a taxpayer has the burden of proving error. (*Appeal of Davis*, 2020-OTA-182P.) Unsupported assertions are not sufficient to satisfy that burden. (*Ibid.*)

California residents are taxed upon their entire taxable income regardless of source. (R&TC, § 17041(a).) Here, it is undisputed that appellant was a California resident for the entire 2015 tax year. Therefore, his entire 2015 income is subject to tax in California. However, to provide relief for the potential double taxation of income that is also taxed by another state, R&TC section 18001 allows California residents to claim an Other State Tax Credit (OSTC) against their "net tax" (as defined in R&TC section 17039) for net income taxes imposed by and paid to another state on income subject to California income tax.

Here, appellant argues he paid taxes in both California and Iowa. During this appeal, appellant submitted his 2015 Iowa Individual Income Tax Form and his proof of payment to Iowa. Based on these documents, respondent has calculated and now allows an OSTC of \$619 for the 2015 tax year. Accordingly, respondent now proposes to revise the additional tax from \$920 to \$301. Appellant has not argued against the allowance or calculation of the OSTC. Thus, appellant has not demonstrated error in respondent's remaining proposed additional tax of \$301.

HOLDING

On appeal, appellant has demonstrated error in respondent's proposed assessment for the 2015 tax year, as now conceded by respondent. Thus, appellant is allowed the OSTC of \$619, and the 2015 tax year's proposed additional tax will be reduced from \$920 to \$301, plus interest.

However, appellant has not demonstrated error in respondent’s remaining proposed additional tax of \$301.

DISPOSITION

Respondent’s action is modified, as conceded by respondent on appeal, following the holding above. Respondent’s action is otherwise sustained.

DocuSigned by:
Huy "Mike" Le
A11783ADD49442B...
Huy "Mike" Le
Administrative Law Judge

We concur:

DocuSigned by:
Sheriene Anne Ridenour
67F043D83BF547C
Sheriene Anne Ridenour
Administrative Law Judge

DocuSigned by:
[Signature]
88E905C811E1DA
Andrew J. Kwee
Administrative Law Judge

Date Issued: 4/6/2021