

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 20076327
P. ABBOTT AND)
S. ABBOTT)
_____)

OPINION

Representing the Parties:

For Appellants: P. Abbott
S. Abbott

For Respondent: Rachel Abston, Senior Legal Analyst

N. DANG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, P. Abbott and S. Abbott (appellants) appeal an action by respondent Franchise Tax Board (FTB) affirming its proposed assessment of \$1,283 in additional tax, a \$256.60 accuracy-related penalty, and applicable interest, for the 2016 tax year.

Appellants waived their right to an oral hearing, and therefore, we decide the matter based on the written record.

ISSUE

Whether appellants have shown error in FTB’s proposed assessment, which is based on a federal deficiency determination for the 2016 tax year.

FACTUAL FINDINGS

1. Appellants filed a joint California Resident Income Tax Return for the 2016 tax year.
2. Thereafter, FTB received information from the Internal Revenue Service (IRS) indicating that it had: (1) increased appellants’ adjusted gross income based on third-party information reporting; and (2) imposed an accuracy-related penalty based on negligence.
3. FTB applied these federal adjustments to appellants’ state income tax return and issued a Notice of Proposed Assessment to appellants reflecting those changes.

4. On appeal, FTB concedes to reduce the additional tax to \$1,276 and the accuracy-related penalty to \$255.20 (based on its review of appellants' 2016 federal wage and income transcript).

DISCUSSION

R&TC section 18622(a) requires a taxpayer to concede the accuracy of a federal determination or state where the change is erroneous. It is well settled that FTB's proposed assessment which is based on a federal determination is presumptively correct. (*Appeal of Gorin*, 2020-OTA-018P.) Appellants therefore bear the burden of proof in this matter.

Appellants contend that there is no longer any basis for FTB's proposed assessment because the underlying federal determination was subsequently withdrawn, as evidenced by the fact that they do not have any outstanding federal tax liability. In support, appellants provided a 2016 federal tax return transcript dated June 9, 2020.

To prevail in this matter, appellants must demonstrate that the federal determination upon which FTB's proposed assessment is based was either erroneous or withdrawn. They have done neither.

Appellants' federal wage and income transcript shows that they received income which they failed to report on their return. Appellants do not dispute the receipt or recognition of this income, nor have they provided any explanation for their underreporting which might warrant penalty abatement.

Appellants' reliance on their tax *return* transcript is also sorely misplaced. A tax return transcript contains data transcribed from the original return and changes to correct input or computational errors, but does *not* show adjustments made to the account after the original return has been processed. (Internal Revenue Manual, § 21.2.3.2.1 (June 16, 2016).) Thus, this document is irrelevant to establishing that the federal determination was either withdrawn or reduced.

To make this determination we instead look to appellants' 2016 tax *account* transcript dated July 22, 2020, which is a record of adjustments made to appellants' account as of that date. (Internal Revenue Manual, § 21.2.3.2.2 (September 1, 2013).) This document plainly shows that appellants' zero balance was the result of their having paid the federal determination, and not that it was withdrawn or reduced.

Accordingly, we find appellants have not shown error in FTB’s proposed assessment.

HOLDING

Appellants have failed to show error in FTB’s proposed assessment.

DISPOSITION

FTB’s action is modified as conceded on appeal.

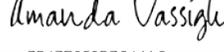
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Nguyen Dang
Administrative Law Judge

We concur:

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Cheryl L. Akin
Administrative Law Judge

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Amanda Vassigh
Administrative Law Judge

Date Issued: 12/9/2020