

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:
R. ZHU

) OTA Case No. 21027221
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OPINION

Representing the Parties:

For Appellant: R. Zhu

For Respondent: Rachel Abston, Senior Legal Analyst

N. DANG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, R. Zhu (appellant) appeals an action by the Franchise Tax Board (respondent) proposing additional tax of \$2,823 and applicable interest for the 2015 tax year.

We decide the issue based on the written record because appellant waived the right to an oral hearing.

ISSUE

Whether appellant has shown error in respondent’s proposed assessment, which is based upon a federal deficiency determination.

FACTUAL FINDINGS

1. The IRS disallowed appellant’s various claimed business-related expenses for the 2015 tax year.
2. Respondent thereafter issued a Notice of Proposed Assessment to appellant based on this federal adjustment.
3. After a protest period, respondent issued a Notice of Action affirming its proposed assessment, and this appeal followed.

DISCUSSION

R&TC section 18622(a) requires a taxpayer to concede the accuracy of a federal adjustment or state wherein it is erroneous. A deficiency assessment based upon a federal adjustment is presumed to be correct and the taxpayer bears the burden of proving that respondent's determination is erroneous. (*Appeal of Gorin*, 2020-OTA-018P.) Unsupported assertions are insufficient to satisfy a taxpayer's burden of proof. (*Ibid.*)

Appellant's sole contention is that the federal deficiency determination is still being appealed. However, this assertion, even if true, does not demonstrate that the IRS made any adjustments in appellant's favor. Moreover, because the federal deficiency determination upon which respondent's proposed assessment is based involves the disallowance of various claimed business-related expenses, appellant carries the additional burden of substantiating those deductions. (*INDOPCO, Inc. v. Commissioner* (1992) 503 U.S. 79, 84.) Appellant did not provide any evidence to support these claimed deductions. Thus, we find no error in respondent's proposed assessment.

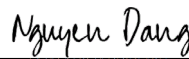
HOLDING

Appellant has not shown error in respondent's proposed assessment.

DISPOSITION

We sustain respondent's action.

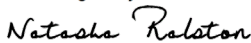
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Nguyen Dang
Administrative Law Judge

We concur:

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Natasha Ralston
Administrative Law Judge

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Huy "Mike" Le
Administrative Law Judge

Date Issued: 8/20/2021