



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeals of
. JESSE W. AND LOUELLA M. FRAKES

Appearances:

For Appellant: Jesse W. Frakes, in pro. per..
For Respondent: Lawrence C. Counts
Counsel

O P I N I O N

These appeals are made pursuant to section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protests of Jesse W. and Louella M. Frakes against proposed assessments of additional personal income tax and penalties in the aggregate amounts of \$964.97, \$28.44 and \$28.29 for the years 1957, 1958 and 1959, respectively.

The Internal Revenue Service conducted an audit of appellant's income. In accordance with the revenue agent's reports for the years in question respondent Franchise Tax Board determined that appellants owed additional state income taxes, interest and penalties.

Subsequent to the hearing before this board, respondent made certain concessions. It concedes that appellants are entitled to additional deductions for 1957, thereby reducing taxable income to \$18,817.48 and the tax from \$919.02 to \$276.35 for that year and that \$792.90 should not have been included as rental income in 1959, thereby reducing the tax from \$21.76 to \$14.56 for that year. It has also agreed to withdraw the negligence penalty for all three years.

Respondent's determination of -deficiencies based upon a federal audit report is presumed to be correct and

Appeal of Jesse W. and Louella M. Frakes

the burden is on the taxpayers to show that it is erroneous. (Appeal of Horace H. & Mildred E. Hubbard, December, 13, 1961; Appeal of Nicholas H. Obritsch, Cal. St. Bd. of Equal., February 17, 1959.) Appellants have offered no evidence to show that respondent's proposed assessments of tax, as revised by the concessions, are in error, or to show that the penalties for failure to file returns for 1958 and 1959 are not justified. The penalty for 1959 should be reduced, however, inasmuch as the tax is decreased from \$21.76 to \$14.56.

O R D E R .

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protests of Jesse W. and Louella M. Frakes against proposed assessments of additional personal income tax and penalties in the aggregate amounts of \$964.97, \$28.44, and \$28.29 for the years 1957, 1958, and 1959, respectively, be and the same is hereby modified in accordance with the concessions made by respondent. In all other respects the action of the Franchise Tax Board is sustained.

Done at Sacramento, California, this 6th day of June, 1968, by the State Board of Equalization.

, Chairman
 , Member
 , Member
_____, Member
_____, Member

ATTEST: , Secretary