



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
Hyman and Mabel K. Krieger)

For Appellants: Hyman Krieger, in pro. per.

For Respondent : Crawford H. Thomas
Chief Counsel

Richard A. Watson
Counsel

O P I N I O N

This appeal is made pursuant to section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Hyman and Mabel K. Krieger against a proposed assessment of additional personal income tax in the amount of \$358.40 and penalties in the amount of \$107.52 for the year 1964.

Appellants' state and federal income tax returns for 1964 were both delinquent. An audit by the Internal Revenue Service of their federal return for that year resulted in a substantial increase in appellants' 1964 taxable income. Appellants agreed to accept the additional assessment together with a 25 percent penalty for late filing and a 5 percent penalty for negligently calculating depreciation. Respondent Franchise Tax Board issued a notice of proposed assessment which followed the federal changes. The sole issue presented by this appeal is whether the Franchise Tax Board's assessment based upon the federal audit report was proper.

Respondent's determination of deficiencies based upon a federal audit report is presumed to be correct, and the burden is on the taxpayer to show that it is erroneous. (Anneal of Horace H. and Mildred E. Hubbard, Cal. St. Bd. of Equal., Dec. 13, 1961; Anneal

Appeal of Hyman and Mabel K. Krieger

of Nicholas H. Obritsch, Cal. St. Bd. of Equal., Feb. 17, 1959.)

In the instant case appellants have not alleged that any errors were made in the federal audit, nor have they specifically stated wherein respondent's proposed assessment is incorrect. Consequently, appellants have failed to carry their burden and respondent's determination of a tax deficiency and **assessment of penalties** must be upheld.

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 protest of Hyman and Mabel K. Krieger against a proposed assessment of additional personal income tax in the **amount** of \$358.40 and penalties in the amount of \$107.52 for the year 1964, be and the same is hereby sustained.

Done at **Sacramento, California**, this 27th day of **October**, 1971, by the **State Board of Equalization**.

[Signature], Chairman
[Signature], Member
[Signature], Member
[Signature], Member
[Signature], Member

ATTEST: [Signature], Secretary