

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
K. L. DURHAM )

For Appellant: K. L. Durham, in pro. per.  
For Respondent: John A. Stilwell, Jr.  
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on **the protest** of K. L. Durham against proposed assessments of additional personal income tax and penalties in the total amounts of \$973.19, \$665.50, and **\$1,236.31** for the years 1975, 1976, and 1977, respectively.

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Following receipt of information that appellant was required to file California income tax returns for 1975, 1976, and 1977, respondent advised him that it had no record of his having filed returns for those years, and it demanded that he file. Appellant replied that respondent's information was incorrect, and declined to file any returns. Respondent thereupon issued proposed assessments against appellant based upon information obtained from the California Employment Development Department and appellant's employer. Included in the assessments were penalties for failure to file a timely return, for failure to file after notice and demand, for negligence, and for failure to pay estimated tax. Appellant contends on appeal that respondent's computations of his income are incorrect and that he was not required to file returns for the years in issue, but he has failed to produce any evidence in support of these contentions.

It is settled law that respondent's determinations are presumptively correct, and that the taxpayer bears the burden of proving them erroneous. (Appeal of Richard T. Herrington, Cal. St. Bd. of Equal., Nov. 14, 1979; Appeal of Harold G. Jindrlich, Cal. St. Bd. of Equal., April 6, 1977; see also Todd-v. McColgan, 89 Cal. App. 2d 509 [201 P.2d 4141 (1949)].) This rule also applies to the penalties assessed in this case. (Appeal of Harold G. Jindrlich, supra (failure to file timely, and failure to file after notice and demand); Appeal of Myron E. and Alice Z. Gire, Cal. St. Bd. of Equal., Sept. 10, 1969 (negligence); see Appeal of Kenton A. Dean, Cal. St. Bd. of Equal., July 31, 1973 (estimated tax).) Since appellant has made no effort to provide us with any specific grounds for concluding that any part of respondent's assessments was incorrect or unjustified, we are compelled to hold that he has not satisfied his burden of proof. The assessments will, therefore, be sustained.

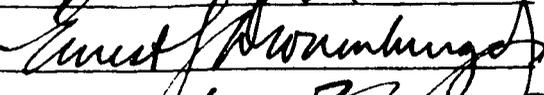
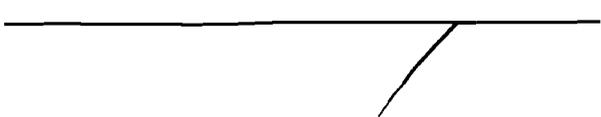
ORDER

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

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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 K. L. Durham against proposed assessments of additional personal income tax and penalties in the total amounts of \$973.19, \$665.50, and **\$1,236.31** for the years 1975, 1976, and 1977, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 4th day of March , 1980, by the State Board of Equalization.

	Chairman
	Member
	Member
	Member
	Member