



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
LUZ C. CRGUERRA)

For Appellant: Luz c. Ceguerra, 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 Luz C. Ceguerra against a proposed assessment of additional personal income tax in the amount of \$58.94 for the year 1976.

Appeal of Luz C. Ceauerra

The sole question presented is whether appellant has established error in respondent's deficiency assessment, which was based upon a federal audit report.

On both her federal and California personal income tax returns for the year 1976, appellant claimed a deduction for miscellaneous expenses in the total amount of **\$1,275.00**. Those expenses were itemized on her state return as follows:

Political contributions	\$ 50.00
Employment education expense	400.00
Working clothes and shoes	380.00
Laundry and dry cleaning	373.00
Court and traffic fines	72.00
	<u>\$1,275.00</u>

The Internal Revenue Service audited appellant's federal return and disallowed **\$1,179.00** of the **\$1,275.00** miscellaneous expense deduction. Appellant indicated her consent to that adjustment by signing the audit report. Upon receipt of the federal audit report, respondent made a corresponding adjustment in appellant's reported taxable income for state income tax purposes and issued the deficiency assessment here in issue.

Section 18451 of the Revenue and Taxation Code provides, in part, that a taxpayer shall either concede the accuracy of a federal determination or state wherein it is erroneous. It is well settled that an assessment issued by respondent on the basis of a federal audit is presumed to be correct, and the burden is on the taxpayer to overcome that presumption. (Todd v. McColgan, 89 Cal. App. 2d 509 [201 P.2d 414] (1949); Appeal of Khristi A. Shultz, Cal. St. Bd. of Equal., Sept. 27, 1978; Appeal of Nicholas H. Obritsch, Cal. St. Bd. of Equal., Feb. 17, 1959.)

Appellant herein has made no effort to establish error in the federal determination upon which respondent's deficiency assessment was based. Instead, she appears to be arguing that there were some additional deductible expenses that she failed to claim as deductions on her 1976 return. After this appeal was filed, respondent wrote to appellant requesting clarification of her position, but she did not reply to that letter. On the basis of the existing record, we must conclude that appellant has not provided sufficient information for either respondent or this board to determine whether, in fact, she was entitled to deduct the additional amounts claimed. Nor

