



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter **of the** Appeal of)
DALE AREA)

For Appellant: Dale Area, 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 Dale Area against proposed assessments of additional personal income tax and penalties in the total amounts of **\$1,103.61** and **\$2,358.08** for the years 1976 and 1977, respectively.

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For the year 1976, appellant filed a timely California return which used a "conversion factor" to report Federal Reserve notes as income at **le-ss than** their face value. This method of computation led appellant to report no tax liability and **to claim a refund of** all of the tax withheld **by his** employer. After examining the return, respondent disallowed appellant's use of the "conversion factor" and recomputed appellant's income in terms of Federal Reserve notes at their face value. This, together with a negligence penalty, resulted in the deficiency for **1976** now before **us**.

With respect to the 1977 taxable year, respondent learned from appellant's **Form W-2** that he should have filed a return for that year. When it discovered that he had not filed, respondent demanded in writing that he do so. Since appellant did not reply, respondent computed his income on the basis of the **W-2 and** issued a **deficiency** assessment. Penalties for failure to file, failure to file after notice and demand, negligence, and underpayment of estimated tax were included in the assessment.

Respondent's determinations are presumptively correct, and the taxpayer bears the burden of proving them wrong. (Appeal of Richard T. Herrington, Cal. St. Bd. of Equal., Nov. 14, 1979; Appeal of Harold G. Jindrich, Cal. St. Bd. of Equal., April 6 1977.) This rule applies equally to the penalties levied in this case. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980.) **Appellant has** failed to produce any evidence in his favor. Indeed, the only evidence we have, consisting of appellant's **W-2's** for both 1976 and 1977, shows that respondent's calculations of his income were, if anything, more favorable to him than they might have been. Appellant objects to the assessments on the **usual** grounds espoused by those who think Federal Reserve notes are not taxable at their face value, but all such arguments have been uniformly rejected. (See, e.g., Appeal of Robert S. Means, Cal. St. Bd. of Equal., Jan. 9, 1979.) No useful purpose would be served by going over the same ground again. **Respondent's** action in this case will be sustained., .-.---"

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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 Dale Area against proposed assessments of additional personal income tax and penalties in the total amounts of **\$1,103.61** and **\$2,358.08** for the years 1976 and 1977, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 28th day of October , 1980, by the State Board of Equalization; with Members Nevins, Reilly, Dronenburg and Bennett present.

Richard Nevins _____, Chairman

George R. Reilly _____, Member

Ernest J. Dronenburg, Jr. _____, Member

William M. Bennett _____, Member

_____ , Member