



Appeal of Ralph Durso

Following receipt of information that indicated appellant was required to file a California income tax return for 1976, respondent advised him that it had no record of his having filed a return, and it demanded that he file one. When appellant failed to comply, respondent issued a proposed assessment based upon information obtained from the California Employment Development Department. Included in the assessment were penalties for failure to file a timely return and for failure to file after notice and demand. Appellant contends that he is not subject to the Personal Income Tax Law, that payment of state income taxes is voluntary (and he declines to be a volunteer), and that filing a return and paying income tax would violate various of his state and federal constitutional rights.

Respondent's determinations of additional tax and failure to file penalties are presumptively correct, and the taxpayer has the burden of proving that they are wrong. (See Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980) and the cases cited therein.) Here, as in Durham, no error has been shown. Aside from the various **frivolous** arguments noted above, appellant has made no effort to show that respondent's computation of his income tax was incorrect in any respect, or that the penalties were unjustified. We are compelled to conclude, therefore, that he has not satisfied his burden of proof, and that respondent's action in this matter must be sustained. (See Appeal of Harry Sievert, Cal. St. Bd. of Equal., April 8, 1980. )

