

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
GERALD LONG)

Appearances:

For Appellant: Gerald Long, 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 Gerald Long against proposed assessments of additional personal income tax and penalties in the total amounts of **\$1,443.02** and **\$2,066.56** for the years 1977 and 1978, respectively.

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After receiving information that appellant was required to file California returns for 1977 and 1978, respondent formally demanded that he file returns for those years. Appellant responded to the demands with letters indicating his unwillingness to comply. Consequently, respondent issued notices of proposed assessment based upon information received from appellant's employer, the Los Angeles Department of Water and Power. The **assessments** included various penalties for failure to file, failure to file after notice and demand, negligence and underpayment of estimated tax. Appellant contends that he incurred no tax liability for the appeal years **because he** received no "income" as the term is commonly defined. In addition, appellant makes several constitutional arguments.

Respondent's determinations of additional tax and 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.) Here, as in Durham, no error has been shown. **Appellant's** constitutional arguments are so clearly without merit as to be completely frivolous. (See Appeal of Arthur W. Keech, Cal. St. Bd. of Equal., July 26, 1977.) Respondent's action will be sustained.

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ORDER

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 Gerald Long against proposed assessments of additional personal income tax and penalties in the total amounts of **\$1,443.02** and **\$2,066.56** for the years 1977 and 1978, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 18th day
of November, 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