



Appeal of Stanley and Lou Mitchell

Appellants filed California personal income tax returns for the years 1975 and 1976. In their 1975 return, they claimed a deduction for moving expenses. In their 1976 return, they claimed the benefits of income averaging. Upon examination of the returns, respondent disallowed the moving expense deduction and determined that appellants was not eligible for income averaging. Respondent then issued notices of proposed assessment, with the one for 1975 containing a delinquent filing penalty.

Respondent's determination of 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 appellants have not submitted any information to show that the proposed assessments are erroneous. Instead, appellants have made a variety of frivolous "constitutional" objections to the proposed assessments. (See Appeal of Harry Sievert, Cal. St. Bd. of Equal., April 8, 1980; Appeal of Arthur W. Keech, Cal. St. Bd. of Equal., July 26, 1977.) Under the circumstances, we must sustain respondent's action in this matter.

