

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
FRANCIS J. PEARSON)

Appearances:

For Appellants: Francis J. Pearson
in pro. per.

For Respondent: Jon Jensen
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 Francis J. Pearson against a proposed assessment of additional personal income tax and penalties in the total amount of \$1,099.50 for the year 1977.

Appeal of Francis J. Pearson

Respondent received information from the State Employment Development Department that **appellant** had received \$15,783 in compensation from California sources in 1977. Respondent then advised appellant that it had no record of his having filed a return for that year, and demanded that he file. When appellant **then** failed to file a return, respondent issued a proposed assessment of tax for 1977 and added a 25% **penalty** for failure to file a timely return plus a 25% penalty for failure to file a return upon notice and demand.

Respondent's determination of additional tax and penalties is presumptively correct, and the taxpayer has the burden of proving that it is wrong. (See Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, **1980.**) In this case, appellant admits that he received the amount recorded by the Employment Development Department as wages from his employer, Systems Control, Inc., but argues that the exchange of work for wages cannot result in the accrual of any "income" within the meaning of the California Personal Income Tax Law. We do not agree.

Gross income is defined by section 17071 of the Revenue and Taxation Code, which reads, in part: "Except as otherwise provided in this part, gross income means all income from whatever source derived,, including ... the following items: (1) Compensation for services, including fees, commissions, and similar items; ..." This section is worded similarly to section 61 of the Internal Revenue Code and embraces the same concept. That gross income under both state and federal income tax laws includes wages paid by an employer to an employee as compensation for the employee's services is not open to question. For instance, in the Tax Court case of Katherine F. Miller, 39 T.C. 505 (1962), the sole issue was **whether** distributions from the **Genesee** Valley Club Christmas fund to the club's employees constituted income taxable to the recipients. The court remarked: "It is clear that payments for services, even though entirely voluntary, are compensatory in nature and constitute income taxable to the recipient." (Miller, supra, at p. 508.)

Since appellant has provided no direct evidence regarding his gross income, adjusted gross income, or his taxable income, respondent is presumptively correct in computing appellant's taxable income as gross income without any proven deductions

Appeal of Francis J. Pearson

other than the standard deduction contemplated by section 17171(b) of the Revenue and **Taxation Code.**

Appellant has made other written challenges to the Franchise Tax **Board's** action based on various "constitutional" objections about the value and equivalency of Federal Reserve notes and dollars. We find these arguments to be frivolous and completely without merit.

On the basis of the evidence before us, we can only conclude that respondent correctly computed appellant's tax liability, and that the imposition of the penalties was **fully justified.** Respondent's action in this matter will, therefore, be sustained.

Appeal of Francis J. Pearson

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 Francis J. Pearson against a proposed assessment of additional personal income tax and penalties in the total amount of **\$1,099.50** for the year **1977**, be and the same is hereby sustained.

Done at Sacramento, California, this **19th day** of May , 1981, by the State Board of Equalization, with all **Board** members present.

Ernest J. Dronenburg, Jr. , Chairman
George R. Reilly , Member
William M. Bennett , Member
Richard Nevins , Member
Kenneth Cory - - , Member