



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeals of)
MILDRED C. JOHNSON)

Appearances:

For Appellant: Bradford **Henschel**

For Respondent: James C. Stewart,
Counsel

O P I N I O N

These appeals are made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protests of Mildred C. Johnson against proposed assessments of additional personal income tax and penalties in the total amounts of \$1,268.29 and \$1,497.79 for the years 1977 and 1978, respectively.

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Appellant failed to file California personal income tax returns for 1977 and 1978, and refused to do so even after respondent formally demanded that she file. Consequently, based on wage information obtained from the Employment Development Department and from appellant's employer, respondent issued the proposed assessments in question. Included in the assessments were penalties for failure to file a timely return, failure to file after notice and demand, negligence, and underpayment of estimated tax.

Respondent's determinations of additional tax and penalties are presumptively correct, and the taxpayer has the burden of proving that they are wrong. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980.) No error has been shown. Appellant's catalogue of constitutional objections to this nation's tax and monetary systems has been repeatedly rejected in prior cases, and merits no further comment. (See, e.g. Appeal of Arthur W. Keech, Cal. St. Bd. of Equal., July 26, 1977; Appeal of Donald, Cal. St. Bd. of Equal., October 6, 1976.) More specifically, appellant has challenged respondent's allowance of the standard deduction and its computation of the estimated tax penalties. With respect to the standard deduction, **respondent** allowed it for each year because appellant failed to **provide** any information regarding her allowable itemized deductions. Appellant seems to believe that she can defeat the assessments in their entirety by refusing to accept the standard deduction, on the theory that, without that deduction, her liability will be impermissibly based on her gross income rather than on her taxable income.

Needless to say, one may not escape taxation by means of such transparent stratagems. Appellant has not shown that respondent incorrectly calculated her gross income, that she was entitled to any deductions from that figure in arriving at adjusted gross income (Rev. & Tax. Code, **§ 17072**), or that she was entitled to any itemized deductions, in excess of the standard deduction, in computing her taxable income. Under these circumstances, respondent's allowance of the standard deduction was clearly proper. (See William T. Anderson, ¶ 73,155 P-H Memo. T.C. (1973).)

With respect to the estimated tax penalties, appellant objects to them on the ground that they were based on 80 percent rather than on 100 percent of the tax. Under the law, however, 80 percent is the proper

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standard in this case. (Rev. & Tax. Code, § 18685.8.)
We are satisfied that respondent correctly computed
these penalties.

For the above reasons, respondent's action in
this matter will be sustained.

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
protests of Mildred C. Johnson against proposed assess-
ments of additional personal income tax and penalties
in the total amounts of **\$1,268.29** and **\$1,497.79** for the
years 1977 and 1978, respectively, be and the same is
hereby sustained.

Done at Sacramento, California, this 29th day
of September, **1981**, by the State Board of Equalization,
with Board Members Mr. Dronenburg, Mr. Reilly and
Mr. Nevins present.

Ernest J. Dronenburg, Jr., Chairman
George R. Reilly, Member
Richard Nevins, Member
_____, Member
_____, Member