

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
EARL MILLER)

For Appellant: Earl Miller, in pro. per.

For Respondent: James T. **Philbin**
Supervising 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 Earl Miller against proposed assessments of additional personal income tax and penalties in the total amounts of **\$25,177.96** and **\$35,480.81** for the years 1977 and 1978, respectively.

Appeal of Earl Miller

The sole issue for determination is whether appellant has shown respondent's determination to be incorrect.

Appellant submitted California personal income tax forms for 1977 and 1978 which provided no information from which his income or expenses could be **calculated**. Instead, on almost every line he wrote in "object--self-incrimination." Respondent notified him that these forms did not constitute valid returns and demanded that he file proper returns. Appellant still failed to file any returns.

Respondent then issued proposed assessments, extrapolating sales tax information reported by appellant in connection with his business, Precision Vans, to arrive at an income amount. Penalties were also imposed for failure to timely file, failure to file after notice and demand, negligence, and failure to pay estimated tax. After a protest and hearing, at which appellant merely reiterated his self-incrimination objections, the assessments were affirmed.

Respondent's determinations, both as to the proposed assessments and the penalties here imposed, are presumptively correct, and appellant bears the burden of proving them erroneous. (Appeal of Richard L. Starnes, Cal. St. Bd. of Equal., Jan. **6, 1981**.) No such proof has been submitted here. Contentions substantially similar to appellant's have been presented in numerous prior appeals, and we have consistently held them to be meritless. (See, e.g., Appeal of Richard L. Starnes, supra; Appeal of Richard R. and D. Sibla, Cal. St. Bd. of Equal., Oct. **28, 1980**; Appeal of James R. Matheson, Cal. St. Bd. of Equal., May **21, 1980**.) We find no reason to decide differently in **the present** appeal.

Appellant vociferously argues that he had more deductions in 1977 and 1978 than the standard deduction used to compute his taxable income. The burden is on the taxpayer to clearly show his right to any claimed deductions. (Appeal of William C. Vogel, Cal. St. Bd. of Equal., Jan. **6, 1981**.) Beyond his allegations, appellant has presented no evidence of such deductions.

Respondent's assessments and **penalties are** sustained.

Appeal of Earl Miller

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 Earl Miller against proposed assessments of additional personal income tax and penalties in the total amounts of **\$25,177.96** and **\$35,480.81** 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. I Chairman

George R. Reilly, Member

Richard Nevins Member

Member

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