



BEFORE **THE** STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
ALAN M. NEWMAN)

Appearances:

For Appellant: Alan **M.**Newman, 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 Alan M. Newman against proposed assessments of additional personal income tax and penalties in the total amounts of \$176.70 for 1975, **\$1,920.35** for 1976, **\$1,920.35** for 1977, and \$414.91 for 1978.

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The issue for our consideration is whether appellant has established any error in respondent's proposed assessments.

Appellant did not file a completed return for any of the years at issue. Respondent therefore determined appellant's income for those years and issued the subject proposed assessments including various penalties.

Appellant's primary objection to the assessments is based on his belief that Federal Reserve notes have no assignable value for Purposes of reporting income because they are not redeemable in gold or silver. In his view Federal Reserve notes may have some value, but a "conversion **factor**" is required to determine the value of these notes in terms of the "constitutional dollars" that are required to **be** reported. This is not the first appeal in which appellant has asserted this argument. In a previous appeal involving the year 1974, he made the same claim and it was rejected. (See Appeal of Alan M. Newman, Cal. St. Bd. of Equal., June **28**, 1979.) On the basis of that prior appeal, the "conversion factor" argument must be rejected in the instant matter as well.

A second part of this appeal concerns whether respondent's determinations of appellant's income for the years 1976 and 1977 are excessive. We note that, in general, a taxing agency has great latitude in making determinations of liability, particularly **where, as** here, the taxpayer files no returns and refuses to cooperate in the ascertainment of his income. Otherwise, skillful concealment would be an invincible barrier to the determination of tax liability. (See Joseph F. Giddio, 54 T.C. **1530** (1970).)

In the instant matter, the record contains information and admissions fixing appellant's employment as having been in the same field throughout the period under appeal. Moreover, there is information which establishes the exact amount of earnings he had for **1975** and 1978. However, such is not the case for 1976 and 1977, and appellant has refused to assist in any way. In view of these circumstances, it is our opinion that appropriate estimates of appellant's income for the years 1976 and 1977 should be in line with his earnings for the other two years. Accordingly, the proposed assessments for 1976 and 1977 should each be reduced to reflect a tax liability and penalties based upon a taxable income which is the average of the 1975 and 1978 income amounts.

In all other respects, the proposed assessments and penalties should be upheld.

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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 Alan M. Newman against proposed assessments of additional personal income tax and penalty in the total amounts of \$176.70, **\$1,920.35**, **\$1,920.35** and \$414.91 for the years 1975, 1976, 1977 and 1978, respectively, be and the same are hereby modified with respect to the years 1976 and 1977 in accordance with the revised estimates of taxable income for those years. In all other respects, respondent's actions are sustained.

Done at Sacramento, California, this 27th day
of October, 1981, by the State Board of Equalization,
-with Board **Members** Mr. Dronenburg, Mr. Bennett and
Mr. Nevins present.

Ernest J. Dronenburg, Jr. , Chairman

William M. Bennett , Member

Richard Nevins, Member

- Member

Member