

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
CYRENA P. **HELLMAN**)

Appearances:

For Appellant: A. J. Porth

For Respondent: Jon Jensen and
John R. Akin
Tax Counsels

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 Cyrena P. **Hellman** against a proposed assessment of additional personal income tax and penalty in the total amount of \$791.60 for the year 1977.

Appeal of Cyrena P. Hellman

Respondent received information indicating that appellant was required to file a California income tax return for 1977. Respondent so advised appellant and demanded that she file any required return. Appellant did not respond. Respondent then issued a notice of proposed assessment based upon information from the California Employment Development Department indicating **that** in 1977 appellant earned a salary of **\$13,370.00** from Union Oil Company of **California**. Various penalties were also imposed. After due consideration of appellant's protest, the proposed assessment was affirmed. Appellant then appealed.

It is well settled that respondent's determinations of tax and penalties are presumptively correct, and that the taxpayer bears the burden of proving them erroneous. (Appeal of Ronald W. Matheson, Cal. St. Bd. of Equal., Feb. 6, 1980; Appeal of David A. and Barbara L. Beadling, Cal. St. Bd. of Equal., Feb. 3, 1977.)

Appellant's main contention is that she is a "free person" not constitutionally and statutorily subject to taxation. We have previously considered and rejected similar contentions to like proposed assessments. (See, for example, Appeal of John Noehl Schmitz, Cal. St. Bd. of Equal., Feb. 8, 1979; Appeal of Marvin L. and Betty J. Robey, Cal. St. Bd. of Equal., Jan. 9, 1979; Appeal of Donald H. Lichtle, Cal. St. Bd. of Equal., Oct. 6, 1976.) For the reasons stated in those prior appeals, we refuse to accept appellant's argument that she is not subject to taxation.

Appellant's other contention is that she was not accorded an oral hearing on her protest to the Franchise Tax Board. Respondent indicates that appellant's request for an oral hearing was not acknowledged initially; however, when appellant was subsequently offered the opportunity to have an oral hearing, she declined to appear. Under these circumstances, there is no merit to appellant's claim that respondent denied her an oral hearing.

On the basis of the foregoing, it is our conclusion that appellant has not carried her burden of establishing that respondent's proposed assessments were erroneous. Accordingly, the proposed assessments of tax and penalties must be sustained.

