

# BEFORE THE STATE BOARD OF EQUALIZATION OF THE STATE OF CALIFORNIA

In the Matter of the Appeals of )
BRANDON L. RATZLAFF )

For Appellant: Brandon L. Ratzlaff,

in pro. per.

For Respondent: James T. Philbin

Supervising Counsel

## <u>OPINI</u>ON

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 **Brandon** L. Ratzlaff against proposed assessments of additional personal income tax and penalties in the total amounts of \$1,495.50 and \$1,884.20 for the years 1976 and 1978, respectively.

### Appeal of Brandon L. Ratzlaff

Appellant failed to file California personal income tax returns for 1976 and 1978, and did not comply with respondent's written requests to file. Consequently, using information obtained from appellant's employer, respondent estimated appellant's income for both years and issued the proposed assessments in issue. Both assessments included penalties for delinquent filing and failure to file after notice and demand, and the 1978 assessment included additional penalties for negligence and failure to pay estimated tax.

It is well settled that respondent's determinations of additional tax, including the penalties involved in this case, are presumptively correct, and that the taxpayer bears the burden of proving them erroneous. (See, e.g., Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980; Appeal of Harold G. Jindrich, Cal. St. Bd. of Equal., April 6, 1977.) No error has been shown. Appellant's only arguments are directed to the constitutionality of respondent's actions, and we are prohibited from declaring that the statutory provisions involved here are unconstitutional or unenforceable. (Cal. Const., art. III, § 3.5.) Respondent's actions in these matters will therefore be sustained.

#### Appeal of Brandon L. Ratzlaff

### 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 protests of **Brandon** L. Ratzlaff against proposed assessments of additional personal income tax and penalties in the total amounts of **\$1,495.50** and **\$1,884.20** for the years 1976 and 1978, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 1st day of February, 1982, by the State Board of Equalization; with Board Members Mr. Bennett, Mr. Reilly, Mr. Dronenburg, and Mr. Nevins present.

William M. Bennett	, Chairman
George R. Reilly	_, Member
Ernest J. Dronenbura, Jr.	, Member
Richard Nevins	, Member
	, Member