

Appeal of Arthur G. and Rogelia V. McCaw

The issue is whether additional tax was properly assessed against appellants for the year 1978.

The Internal Revenue Service audited appellants' 1978 federal income tax return and increased their taxable income by \$2,490. Respondent received a copy of the final audit report and determined that the adjustments were applicable to appellants' California tax return. It issued a notice of proposed assessment reflecting this determination. Respondent's denial of appellants' subsequent protest led to this appeal.

A determination by respondent which is based upon a federal audit is presumed correct. (Appeal of Herman D. and Russell Mae Jones, Cal. St. Bd. of Equal., April 10, 1974.) **The taxpayer** must either concede that the federal audit report is correct or bear the burden of proving that it is incorrect. (Rev. & Tax. Code, § 18451.) Appellants have produced no evidence to show that the federal audit is erroneous; they merely claim that they should not be required to pay the proposed assessment. This board has frequently held that a taxpayer's unsupported assertion is not sufficient to prove that a federal audit is incorrect. (Appeal of Robert C. Sherwood, Deceased, and Irene Sherwood, Cal. St. Bd. of Equal., Nov. 30, 1965.) **Since appellants** have not met their burden of proof, respondent's action must be sustained.

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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 Arthur G. and Rogelia V. McCaw against a proposed assessment of additional personal income tax in the amount of \$160.95 for the year 1978, be and the same is hereby sustained.

Done at Sacramento, California, this 3rd day of March, 1982, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Reilly, Mr. Dronenburg, Mr. Nevins and Mr. Cory.

William M. Bennett, Chairman
George R. Reilly, Member
Ernest J. Dronenburg, Jr., Member
Richard Nevins, Member
Kenneth Cory, Member