

Appeal of James Q. Eddy, Jr.

The issue for determination is whether appellant has established any error in respondent's proposed assessments of personal income tax and penalties for 1978 and 1979.

Appellant failed to file a proper California personal income tax return for 1978 or 1979. When respondent demanded that proper returns be filed, appellant failed to comply. Thereafter, respondent issued the notices of proposed assessment in issue. The assessments were based on information appearing in appellant's 1977 personal income tax return factored for inflation. The proposed assessments also included penalties for failure to file a return, failure to file a return upon notice and demand, negligence, and failure to pay estimated tax. Appellant protested but failed to file proper returns. In due course, the proposed assessments were affirmed, and this appeal followed.

It is well-settled that respondent's determinations of additional tax, including the penalties involved in this appeal, are presumptively correct, and the burden is upon the taxpayer to prove them erroneous. (Todd v. McColgan, 89 Cal.App.2d 509 [201 P.2d 414] (1949); Appeal of Arthur J. Porth, Cal. St. Bd. of Equal., Jan. 9, 1979.) In support of his position, appellant has relied on the same arguments which we rejected in the Appeals of Fred R. Dauberger, et al., decided March 31, 1982. We see no reason to depart from that determination in this appeal. Accordingly, respondent's action in this matter will 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 protests of James Q. Eddy, Jr., against proposed assessments of personal income tax and penalties in the total amounts of **\$3,569.37** and **\$4,327.89** for 1978 and 1979, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 29th day of June , 1982, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Dronenburg and Mr. Nevins present.

William M. Bennett , Chairman
Ernest J. Dronenburg, Jr. , Member
Richard Nevins , Member
_____, Member
_____, Member