

Appeal of John A. and Marilyn Grimes

Respondent requested, information from appellants regarding **certain** claimed deductions and capital gains on their 1974 and 1975 California personal income tax returns. Appellants did not comply with this request. Respondent also received information that appellants were required to file a return for 1977 and demanded that such a return be filed. Appellants again failed to comply. Proposed assessments were then issued for 1974 and 1975 reflecting disallowance of the claimed deductions **and** capital gains treatment. A proposed assessment was issued for 1977 based on information from **the** Employment Development Department which disclosed that appellant-husband had received wages from three employers totaling more than \$28,000. Various penalties were also assessed for each year.

Appellants have made no effort to substantiate their claimed deductions or capital gains treatment. Instead, for all years at issue, they contend that they had no income and argue they are not constitutionally and statutorily subject to taxation.

It is well settled that appellants **bear** the burden of proving respondent's determinations to be incorrect. (Todd v. McColgan, 89 Cal.App.2d 509 [201 P.2d 4141 (1949)].) **Appellants** have not presented a shred of evidence which might carry their burden of proof. Their constitutional and statutory arguments are substantially the same as those which we considered recently in the Appeals of Fred R. Dauberger, et al., decided March 31, 1982. Those arguments **were rejected** in the Dauberger appeal, and we find nothing in **this** prolix and tautological record which persuades us to decide differently in this 'case.

Respondent's actions, therefore, are sustained.

