



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
COIT B. HOLT)

Appearances:

For Appellant: Coit B. Holt, in pro. per.
For Respondent: **Michael E. Brownell**
John A. Stilwell, Jr.
Counsel

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 Coit B. Holt against a proposed assessment of additional personal income tax and penalties in the total amount of \$2,060.41 for the year 1977.

Appeal of Coit B. Holt

The issue for determination is whether appellant has established any error in respondent's proposed assessments of personal income tax and penalties for 1977.

Appellant failed to file a proper California personal income tax return for 1977. When respondent demanded that a proper return be **filed**, appellant **failed** to comply. Thereafter, respondent issued the notice of proposed assessment in issue. The assessment was **based** upon information obtained from the California **Employment** Development Department. The proposed assessment included penalties for failure to file a return (Rev. & Tax. Code, **§ 18681**), failure to file a return upon notice and demand (Rev. & Tax. Code, **§ 18683**), and negligence (Rev. & Tax. Code, **§ 18684**). Appellant protested, **but** refused to file a proper return. In due course the proposed assessment was 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.

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 Coit B. Holt against a proposed assessment of additional personal income tax and penalties in the total amount of \$2,060.41 for the year 1977, 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

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