

Appeal of Dustin A. Huber

Respondent received information which indicated that appellant was required to file a personal income tax return for 1978. Since respondent had no record of a return having been filed, it requested that appellant file. When appellant failed to respond to this request, respondent issued a proposed assessment based upon information supplied by the California Employment Development Department. Respondent also imposed 25 percent penalties for failure to file a return and failure to file a return after notice and demand, and a 5 percent negligence penalty. **Subsequent** to appellant's protest, respondent reaffirmed the proposed assessment and this timely appeal followed.

Respondent's determination of tax and penalties are presumed correct, and the taxpayer bears the burden of proving them to be erroneous. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980.) **Rather than producing** evidence to, prove that respondent's determination is incorrect, appellant argues that Federal Reserve notes are not legal tender in that they are not redeemable in gold or silver. This argument is clearly without merit. (Appeals of Fred R. Dauberger, et. al., Cal. St. Bd. of Equal., March 31, 1982.) Since **appellant** has produced no evidence to prove that respondent's proposed assessment is erroneous, 'respondent's action must be sustained.

