



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
GEORGE C. BRODERICK)

Appearances:

For Appellant: **George C. Broderick,**
in pro. per.

For Respondent: **Mark McEvilly**
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 George C. Broderick against a proposed assessment of additional personal income tax in the amount of \$384.00 for the year 1976.

Appeal of George C. Broderick

The sole issue presented by this appeal is whether appellant has established error in respondent's proposed assessment of additional personal income tax for the year in issue.

Appellant is the owner-operator of an **automobile** and fender repair shop in **Azusa**, California. Upon audit of his 1976 federal income tax return, the Internal Revenue Service disallowed certain claimed adjustments to gross income totaling \$8,392. Upon receipt of a copy of the federal audit report, respondent determined that the federal adjustments were applicable to appellant's California tax return; the subject notice of proposed assessment was subsequently issued. Appellant protested respondent's action, claiming that the federal audit report was in error. When appellant failed to provide **any** substantiation for this assertion, respondent affirmed the proposed **assessment**, thereby resulting in this appeal.

A deficiency assessment based upon a federal audit report is presumptively correct (see Rev. & Tax. Code, **§ 18451**), and the taxpayer bears the burden of proving that **respondent's** determination is erroneous. (Appeal of Donald G. and Franceen Webb, Cal. St. Bd. of Equal., Aug. 19, 1975; Appeal of Nicholas H. Obritsch, Cal. St. Bd. of Equal., Feb. 17, 1959.) Appellant has **produced** no evidence to show that the federal audit is erroneous; he merely claims that he should not be required to pay the subject proposed assessment. This board has frequently held that such an unsupported assertion is not sufficient to prove that a federal audit is incorrect. (Appeal of Arthur G. and Rogelia V. McCaw, Cal. St. Bd. of Equal., March 3, 1982; Appeal of Robert C. Sherwood, Deceased, and Irene-Sherwood, Cal. St. Bd. of Equal., Nov. 30, 1965.) **Since appellant** has not met his burden of **proof**, respondent's action in this matter will be sustained.

Appeal of George C. Broderick

O R D E R

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 George C. Broderick against a proposed assessment of additional personal income tax in the amount of \$384.00 for the year 1976, be and the same is hereby sustained.

Done at Sacramento, California, this **21st** day of September, 1982, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Collis, Mr. Dronenburg, and Mr. Nevina present.

William W. Bennett, Chairman
Philip G. Collis, Member
Ernest Dronenburg, Member
George C. Nevina, Member
_____, Member