

Appeal of Ruth Studley

Appellant did not file **California** personal income tax returns for either **1978 or 1979** and respondent received no response to its demand that she file. Proposed assessments were issued for both years which included penalties for failure to file, failure to file after notice and **demand**, failure to pay **estimated tax**, and negligence. **Appellant's** gross income was computed by increasing her 1977 reported rental income and **gross** receipts from her real estate business by 10 percent per year for growth and inflation, The standard deduction **was** then applied to determine her taxable income for **1978** and **1979**.

Appellant contends the proposed assessment taxes her on her gross receipts, that she had insufficient adjusted gross income to be required to file a return, and that her commissions **from** real estate sales were not **income**. She also argues that **respondent's** determination violates several of her constitutional **rights**.

Appellant, **who** bears the burden of showing that respondent's determination was **erroneous**, has presented no evidence at all to support her factual contentions. The same statutory arguments which she raises were discussed and rejected in the recent Appeals of **Fred R. Dauberger, et al.**, decided by this board on **March 31, 1982**. We are precluded from deciding the constitutional questions raised both by this board's own policy and by **section 3.5** of article III of the California Constitution. (Appeals of **Fred R. Dauberger, et al.**, supra.)

Respondent's actions, therefore, **are** sustained.

