



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
DIANE COOKSTON }
}

For Appellant: Diane Cookston,
in pro. per.

For Respondent: James T. Philbin
Supervising 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 Diane Cookston against a proposed assessment of additional personal income tax and penalties in the total amount of \$1,786.70 for the year 1978.

Appeal of Diane Cookston

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

Respondent received information indicating that appellant was required to file a California income tax return for 1978. Respondent so advised appellant, and demanded that she file any required return; appellant did not respond. Thereafter, respondent issued a notice of proposed assessment based upon information received from the California Employment Development Department. The proposed assessment also included penalties for failure to file a return, failure to file upon notice and demand, failure to pay estimated income tax, and **negligence**. After due consideration of appellant's protest, respondent affirmed the proposed assessment, **thereby resulting in this appeal.**

It is well settled that respondent's determinations of tax **are** presumptively correct, and appellant bears the burden of proving them erroneous. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980; Appeal of Harold G. Jindrich, Cal. St. Bd. of Equal., April 6, 1977.) This rule also applies to the penalties assessed in this case. (Appeal of K. L. Durham, supra; Appeal of Myron E. and Alice Z. Gire, **Cal. St. Bd. of Equal.**, Sept. 10, 1969.) No such proof has been presented here.

On the basis of the evidence before us, we can only conclude that respondent correctly computed appellant's tax liability, and that the imposition of penalties was fully justified. Respondent's action **in this matter will, therefore, be sustained.**

