



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
PAUL RACZKOWSKI }

For Appellant: Paul Raczkowski,
in pro. per.

For Respondent: James T. Philbin
Supervising Counsel

OPINION

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 Paul Raczkowski against a proposed assessment of additional personal income tax and penalties in the total amount of \$463.50 for the year 1978.

Appeal of Paul Raczkowski

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 he 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 and failure to file upon notice and demand. 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.

In support of his position, appellant has apparently advanced the assertion that wages do not constitute income. This "argument" was rejected as being without merit in the Appeals of Fred R. Dauberger, et al., decided by this board on March 31, 1982. We see no reason to depart from that decision in this appeal.

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.

