



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeals of)
ALEXANDER S. **AGANZA**, ct al.)

For Appellants: Your Heritage
Protection Association

For Respondent: Kendall **Kinyon**, Counsel
Carl Knopke, Counsel

O P I N I O N

These appeals are made pursuant to section **18593** of the Revenue and Taxation Code from the actions of the Franchise Tax Board on the protests of Alexander S. **Aganza**, et al., against proposed assessments of additional personal income tax and penalties in the total amounts and for the years as follows:

Appeals of -Alexander. S Aganza, et al.

<u>Appellants</u>	<u>Year(s)</u>	<u>'Proposed Tax</u>	<u>Assessments Penalties</u>
Alexander S. Aganza	1978	\$ 261.29	\$ ----
	1979	1,057.00	581.35
John Agens	w-79	1,057.00	528.50
Christine Anders	1979	549.00	274.50
Larry W. Arnold	1979	793.00	396.50
Brian P. Ashcraft	1979	698.00	349.00
Kelli Austin	1979	707.00	388.85
John Roy Barbor	197-9	599.00	299.00
Irvin L. Barnhill	197.9	1,717.00	1,053.79
Robert D. Barksdale	1979	227.00	113.50
John A. Beard	1-978	2,355.85	1,445.87
	1979	2,784.00	1,708.65
Raymond Becker	1979	\$3,136.00	1,724.80
Robert D. Benson	1,979	1,079.00	539.50
Roger Bland	1979	1,002.00	501.00
Dwight Blekeberg	1979	1,299.00	649.50
Terry R. Blocker	1979	2,344.00	1,172.00
Richard D. Borup	197.9	1,926.00	1,182.06
David Bosworth	1979	1,519.00	759.50
James H. Brady	1979	2,201.00	1,100.50
Thomas D. Br-eese	1977	238.60	73.00
	1979	341.00	170.50
John C. Br-evoort	1979	70.00	38.50
Ebner E. Bridges	197.9	1,244.00	622.00
Arlie L. -Brown, Jr.	1979	863.00	475.00
Allen L. Brunkhurst	1979	1,596.00	877.80

Appeals of Alexander S. Aganza, et al.

<u>Appellants</u>	Year(s)	Proposed - Tax -	Assessments <u>Penalties</u>
Martin Buckland	1977	\$ 511.17	\$ 127.79
	1978	513.19	128.29
	1979	995.00	248.75
Kevin Burke	1979	635 .00	317 .50
Jerry D. Burling	1979	2,399.00	1,424.38
Barbara K. Butler	1979	322 .00	177 .10
Kenneth Grant Butler	1979	2,883.00	1,441.50
Charles A. Caldwell	1979	1,519.00	759 .50
Werdo O. Caldwell	1979	2,124.00	1,062.00
Mildred L. Carr	1979	1,365.00	682 .50
Allen D. Carrizosa	1979	1,662.00	914 .10
Thomas C. Chandler, Sr.	1979	753 .00	415 .00
Clarence R. Cox	1979	1,035.00	517 .50
Ile Mae Coyle	1979	1,387.00	762 .85
Robert E. Craig	1979	793 .00	437 .00
Glenn Crenshaw	1979	2,179.00	1,198.45
Frank Currie	1979	823 .00	452 .65
Stephen Dackow	1979	2,212.00	1,216.60
Arthur R. Danser	1979	1,310.00	720 .50
John Dante	1979	2,124.00	1,303.58
Harry R. Davisson	1979	493 .00	246 .50
James S. Day	1979	1,156.00	635 .80
William B. Day, II	1979	936 .00	514 .80
Wilber E. and Shirley M. Dinsmoor	1978	25.06	---
Wilber E. (only)	1979	.2,322.00	1,277.10

Appeals of Alexander S. Aganza, et al.

<u>Appellants</u>	<u>Year(s)</u>	<u>Proposed Tax</u>	<u>Assessments Penalties</u>
Thomas M. Dragoun	1979	\$3,268.00	\$1,634.00
Thomas V. Dutton	1979	2,113.00	1,056.50
Gloria Earls	1979	418.00	243.52
Randall W. Ebersole	1979	3,433.00	2,016.67
Franklin Elliot	1979	1,156.00	653.29
Donald Elton	1979	3,706.52	2,076.04
John E. Erwin	1979	1,739.00	869.50
Warren M. Farney	1979	707.00	388.85
Jones Felts	1979	2,278.00	1,139.00
Cyril W. Fischback	1979	461.00	253.55
Roy A. Fontaine	1979	803.00	401.50
Keith N. Foster	1979	823.00	488.19
Jerald G. Franklin	1979	914.00	457.00
Bill Gabaldon.	1977	45.5.00	22.75
	1979	671.00	285.80
Stephen C. Garofold	1979	1,200.00	710.05
Chester F. Gasswint	1979	573.00	351.67
Barbara M. George	1979	653.00	400.77
Bruce Goddard	1978	514.57	433.24
James H. Goins	1979	2,289.00	1,281.66
Richard Gonzalez	1978	5613.00	284.00
Richard L. Goodrich	1979	903.00	451.50
Marilyn J. Grettum	1979	743.00	390.10
Thomas A. Grettum	1979	1,772.00	1,007.87
Tom Grettum, Jr.	1979	2,520.00	1,506.15

Appeals of Alexander S. Aganza, et al.

<u>Appellants</u>	<u>Year(s)</u>	<u>Proposed Tax</u>	<u>Assessments Penalties</u>
Joseph W. Gross	1977	\$ 200.00	\$ 122.75
	1978	1,390.44	760.68
	1979	1,871.00	1,148.31
Donald A. Gutheil	1979.	525.00	262.50
Francis A. Gutierrez	1979	328.00	201.31
Bruce R. Guynn	1979	565.00	342.22
Elaine L. Hahn	1979	461.00	230.50
Lawrence Hallowell	1979	1,365.00	682.50
Don E. Hammond	1979	626.00	313.00
Roxie B. Hamner	1979	573.00	286.50
Gary Hanlin	1979	1,387.00	693.50
Raymond C. Hanna, Jr.	1979	936.00	565.15
Robert G. Hanson	1979	843.00	421.50
William A. Hendrix	1979	244.00	192.84
Dorothy Hill	1979	383.00	193.94
George P. Hill	1979	1,541.00	875.55
Leslie Hooper	1979	565.00	310.75
Louis H. Hubachek	1979	980.00	601.47
Fredric L. Jackson	1978	1,778.28	846.38
Ronald D. Johnson	1978	1,117.06	569.04
	1979	1,497.00	918.00
Richard H. Kessener	i979	1,475.00	859.61
William Kessener	1977	1,347.80	67.39
	1979	1,453.00	726.50
Bruce W. Kramer	1979	1,794.00	1,076.88
Robert W. Laker	1979	1,805.00	1,013.62

Appeals of Alexander S. Aganza, et al.

<u>Appellants</u>	<u>Year(s)</u>	<u>Proposed. Tax</u>	<u>Assessments Penalties</u>
Wendell R. Lawrence	1979	\$2,465.00	\$1,232.50
Joe.1 W. and Anita F. Lichtenwalner	1975	Ei9.12	----
	1976	377.22	----
	1977	186.94	46.73
Anita (only)	1978	1,069.40	580.17
Joel (only)	1979	565.00	310.75
Gerald R. Long	1979	1,123.00	617.65
Amy L. Lovelace	1979	217.00	115.70
Belva A. Manley	1979	893.00	446.50
Theresa N. Marks	1979	509.00	300.51
Barnard O. Marousch	1979	1,849.00	924.50
Elmer E. Matt	1979	1,189.00	594.50
Larry A. McCollum	1979	581.00	290.50
John P. McGinnis	1979	1,046.00	523.00
John E. McKnight	1977	210.00	115.91
	1978	1,598.00	799.00
Marjorie Moore	1978	1,219.64	572.56
	1979	1,387.00	851.26
Donald R. Morgan	1979	1,266.00	794.29
Howard Morgan	1979	1,332.00	739.49
Conrad J. Morris	1979	1,794.00	986.70
Rudolph R. Murillo	1979	1,145.00	572.50
Curtis B. Murley, Jr.	1978	1,800.00	900.00
	1979	2,146.00	1,317.09
Paul T. Nazar	1979	98-0.00	490.00
William Ney	1979	1,739.00	869.50
Charles H. Nichols	1979	1,442.00	721.00

Appeals of Alexander S. Aqanza, et al.

<u>Appellants</u>	Year(s)	Proposed Tax	Assessments <u>Penalties</u>
William D. Ornelaz	1979	\$1,046.00	\$ 523.00
M. Gene Ostrander	1979	1,706.00	991.92
Dorothy Overton	1979	485.00	295.35
Daniel Pardus	1979	2,509.00	1,388.87
William Patterson	1979	991.00	545.05
Bruce W. Pierce	1979	914.00	457.00
Leonora Pineda	1979	485.00	242.50
Othella Pothier	1979	1,134.00	661.51
Dean A. Puett	1979	1,453.00	726.50
Manuel Quevedo	1979	1,684.00	926.20
Martha Quevedo	1978	283.20	155.76
	1979	446.00	133.80
Robert H. Raiqher	1978	704.00	352.00
Edward C. Ramirez	1979	698.00	383.90
Gale J. Randles	1979	1,904.00	952.00
David Randolph	1979	853.00	426.50
Arthur C. Ray	1979	1,277.00	715.10
Ronald E. Redo	1979	2,443.00	1,467.39
Karen R. Reynoso	1979	541.00	270.50
Jesse A. Riggs	1979	1,255.00	627.50
Lynn R. Roberts	1979	2,663.00	1,331.50
Paul M. Romero	1979	33.00	121.09
	1979	1,783.00	980.65
Jose G. Rosa	1979	217.00	108.50
Edward S. Rutledge	1979	1,816.00	908.00

Appeals of Alexander, S. Aganza, et al.

<u>Appellants</u>	<u>Year(s)</u>	<u>Proposed Tax</u>	<u>Assessments Penalties</u>
James F. Sass	1970	\$ 3311.00	\$ 165.50
John Schaeffer	1979.	1,706.00	853.00
Donald Scheradella	1979	1,739.00	1,067.29
Steven P. Schleder	1979	1,706.00	1,047.04
Joseph J. Shaw'	1979	707.00	353.50
Verne A. Simmon	1979	936.00	461.00
Mark T. Simpson	1979	1,772.00	1,087.55
Fred J. Staible	1979	1,002.00	501.00
Gerald S. Stoddard	1979	1,629.00	999.78
John G. Tijerina	1979	1,398.00	699.00
Daniel Torres, Jr.	1978	1,242.00	621.00
	1979	1,497.00	9111.77
Greg W. Trasky	1978	1,100.86	509.23
	1979	1,145.00	702.73
Albert L. Turman	1979	1,772.0.0	886.00
Richard D. Vanhook	1979	2,201.00	1,100.50
Larry S. Vaughn	1979	1,717.00	858.50
Yvonne Villeseas	1979	3,026.00	1,513.00
Larry A. Virgin	1979	2,191.0.00	1,344.09
John L. Walker	1979	2,421.00	1,210.50
Richard C. Wallace	1979	753.00	474.15
Charles P. Warden	1979	2,223.00	1,1111.15
Caroline W. Wetzel	1979	355.00	213.18
Arnold F. Wiese	1.979	1,376.00	688.00
James Williamson	1979	1,464.00	880.35

Appeals of Alexander S. Aganza, et al.

<u>Appellants</u>	<u>Year(s)</u>	<u>Proposed Tax</u>	<u>Assessments Penalties</u>
Robert E. Woodyard, Jr.	1979	\$ 608.00	\$ 373.15
Danny L. Ybarra	1979	823.00	'472.49
Peter T. Z a j a c	1979	1,387.00	851.26

The subject appellants did not file California personal income tax returns, and take the position that they are not taxpayers and do not owe any tax. When they refused to file returns, respondent issued notices of proposed assessment based upon information received from the California Employment Development Department. The proposed assessments also included various penalties, including those **for failure** to file a return and for failure to file after notice and demand.

It is well settled that respondent's determinations of additional tax; including the penalties involved in these appeals, are presumptively correct, and the burden is upon the taxpayers to prove them erroneous. (Todd v. McColgan, 89 Cal.App.2d 509 [201 P.2d 414] (1949); Appeal of Donald W. Cook, Cal. St. Bd. of Equal., May 21, 1980; Appeal of Arthur J. Porth, Cal. St. Bd. of Equal., Jan. 9, 1979; Appeal of Myron E. and Alice Z Gire, Cal. St. Bd. of Equal., Sept. 10, 1969.) Here the appellants clearly have not carried their burden. The **skeleton** appeal filed in each instance contained identifying information, an expression of general disagreement with the proposed **assessments**, and an allegation that the appellant did not owe any personal income tax. No additional facts or authority for their position was presented. In addition, their representative did not appear at the oral hearing which was scheduled at its request. It appears that all of the issues raised herein have been reviewed in detail in our opinion on March 31, 1982, in the Appeals of Fred R. Dauberger, et al., and we conclude that the Dauberger decision is determinative of these appeals. In that decision, we found no merit in the contentions made by the taxpayers.

In the Dauberger opinion we noted that the federal **authorities have called** for more decisive treatment of tax protester cases and we observed that some of those cases had resulted in the imposition of a penalty for delay pursuant to section 6673 of the Internal Revenue Code. (See, e.g., Rogler D. Wilkinson, 71 T.C. 633 (1979); Gordon B. Leitch, Jr., ¶ 81,504 P-H Memo. T.C. (1981); James S. Babcock, ¶ 81,090 P-H Memo. T.C. (1981); Eugene J. May,

Appeals of Alexander S. Aganza, et al.

¶ 81,119 P-H Memo. T.C. (1981); Ephraim J. Swann, ¶ 81,236 P-H Memo. T.C. (1981); Princess E.-L. Lingham, ¶ 81,042 P-H Memo. T.C. (1981).) We then pointed out that section 19414 of the California Revenue and Taxation Code was patterned after section 6673 and specifically provides:

Whenever it appears to the State Board of Equalization or any court of record of this state that proceedings before it under this part have been instituted by the taxpayer merely for delay, a penalty in an amount not in excess of five hundred dollars (\$500) shall be imposed. Any penalty so imposed shall be paid upon notice and demand from the Franchise Tax Board and shall be collected as a tax.

We then went on to warn that we would not condone repeated appeals where the arguments have been considered and rejected previously, and we advised all individuals who proceed with frivolous cases that serious consideration would be given to the imposition of the penalty under section 19414. Therefore, it is with great concern that we note that several appellants in the present matter, i.e., Arlie L. Brown, Jr., Thomas C. Chandler, Sr., Stephen Dackow, Keith N. Foster, Bruce R. Guynn, William A. Hendrix, Fredric L. Jackson, Gerald R. Long, Dorothy Overton, Paul M. Romero, Caroline W. Wetzel, James Williamson, and Danny L. Y'barra, have made and had identical arguments rejected in previous decisions by this board as being totally frivolous and without merit. To pursue, an appeal under such circumstances can only be construed as an attempt to obstruct and delay the appellate review process. This cannot be tolerated because it disrupts the orderly review of serious appeals by this board and forces the state to incur unnecessary expenses. Consequently, we find that the aforementioned thirteen appellants have instituted and pursued their proceedings merely for the purpose of delay and a penalty in the amount of five hundred dollars (\$500) shall be imposed against each of them.

