



BEFORE THE STATE BOARD OF EQUALIZATION
 OF ~~THE~~ STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
 JIMMY W. PRESTON)

For Appellant: Jimmy W. Preston,
 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 Jimmy W. Preston against a proposed assessment of additional **personal** income tax and penalties in the total amount of **\$3,505.27** for the year 1979.

Appeal of Jimmy W. Preston

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 1979. Respondent **so** advised **appellant**, and demanded that he file **the required** return; appellant did not respond. Thereafter, respondent issued a notice of proposed assessment based upon information received from the California Employment Development Department and certain financial institutions. 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; appellant has merely asserted that he "**does not** owe any, tax . "

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.

Appeal of Jimmy W. Preston

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 **Jimmy** W. Preston against a proposed assessment of additional personal income tax and penalties in the total amount of **\$3,505.27** for the year 1979, be and the same is hereby sustained.

Done at Sacramento, California this day 3rd of January, 1983, by the State Board of **Equalization**, with Board Members Mr. Bennett, Mr. Dronenburg and Mr. Nevins present.

William M. Bennett . Chairman

Ernest J. Dronenburg, Jr. Member

Richard Nevins , Member

 Member

 Member