



Appeal. of Richard Frandsen

The sole issue presented by this appeal is whether appellant has established error in respondent's proposed assessment of 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. 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 thee **erroneous**. (Appeal of K. L. Durham, Cal. St. 3d. 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.

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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 Richard Frandsen against a proposed assessment of personal income tax and penalties in the total amount of **\$2,131.75** for the year 1979, be and the same is hereby sustained.

Done at Sacramento, California this 1st day of February , 1983, by the State Board of Equalization, **with** Board Members Mr. Bennett, Mr. Collis, Mr. Dronenburg and Mr. **Nevins present.**

William M. Bennett \_\_\_\_\_, Chairman

Conway H. Collis \_\_\_\_\_, Member

Ernest J. Dronenburg, Jr. \_\_\_\_\_, Member

Richard Nevins \_\_\_\_\_, Member

\_\_\_\_\_, Member