

BEFORE THE STATE **BOARD** OF EQUALIZATION

In the **Matter** of the Appeal of)
)
 THOMAS G. GRIESS)

Appearances:

For Appellant: **Bertram Smith**

For Respondent: Kendall E. Kinyon'
Carl G. Knopke
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 Thomas G. Griess against **a** proposed assessment of personal income tax and penalties in the total amount of **\$2,865.95** for the year 1979.

Appeal of Thomas G. Griess

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 and certain financial institutions. The proposed assessment also included penalties for failure to file a return, failure to file upon notice and demand, 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 2. 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.

Appeal of Thomas G. Griess

ORDER

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 Thomas G. Griess against a proposed assessment of personal income tax and penalties in the total amount of **\$2,865.95** 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

Ernest J. Dronenburg, Jr. Member

Richard Nevins	Member
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Member