



Appeal of Larry W. Arnold

The question presented by this appeal is whether appellant has established that respondent's proposed assessment is in error.

After respondent received information from the Employment Development Department that appellant had received income in 1980, respondent advised appellant that it had no record of his having filed a California personal income tax return for that year and demanded that he file a return. After appellant failed to respond to that demand, respondent issued a notice of proposed assessment of tax based upon that information. The assessment included also a 25 percent penalty for failure to file a return (Rev. & Tax. Code, **§ 18681**), a 25 percent penalty for failure to file a return after notice and demand (Rev. & Tax. Code, **§ 18683**), and a 5 percent penalty for negligence (Rev. & Tax. Code, **§ 18684**).

Appellant protested the proposed assessment. At the protest hearing held by respondent on July 12, 1982, appellant contended that he had not received enough income in lawful United States dollars since March 18, 1968, to be required to file a return. After consideration, respondent affirmed its proposed assessment and this appeal followed. In his appeal letter, appellant simply stated that he did not agree with the Franchise Tax Board, that its assessment was in error, and that he was not a taxpayer and owed no tax.

It is well settled that respondent's determinations of tax and penalties are presumptively correct, and the taxpayer bears the burden of proving them erroneous. (Appeal of Ronald W. Matheson, Cal. St. Bd. of Equal., **Feb. 6, 1980**; Appeal of Myron E. and Alice Z. Gire, Cal. St. Bd. of Equal., **Sept. 10, 1969**.) Appellant's unsupported statements that the assessment was in error and that he owes no tax do not shift the burden of proof to respondent. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980.) - -

-To the extent that appellant's appeal to us may have been based on the same arguments he reportedly advanced at respondent's protest hearing but were not specifically expressed in his appeal letter, we note that we have several times considered and rejected arguments that dollars are not taxable income. (Appeal of Francis J. Pearson, Cal. St. Bd. of Equal., May 19, **1981**; Appeal of David M. Albrecht, Cal. St. Bd. of

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Equal., Feb. 1, 1982; Appeals of Fred R. Dauberger,
et al., Cal. St. Bd. of Equal., March 31, 1982.)

Accordingly, we reject appellant's position that he is not subject to California's personal income tax, and we sustain respondent's action.

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