



BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the **Matter** of the Appeal of )  
  )  
KEITH **BABER**                              )

For Appellant: Keith Baber,  
  in pro. per.

For Respondent: James T. **Philbin**  
  Supervising 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 Keith Baber against a proposed assessment of personal income tax and penalties in the total amount of **\$3,940.10** for the year 1979.

Appeal of Keith Baber

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.

Appellant submitted a form 540 for the **appeal** year on which he disclosed no information with **respect** to his income, deductions, or credits. Respondent notified appellant that this form did not constitute a valid return, and demanded that he file the required return; appellant did not comply. 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 Z. Gire, Cal. St. Bd. of Equal., -ept. 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 Keith Baber

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 Keith Baber against a proposed assessment of personal income tax and penalties in the total amount of **\$3,940.10** for the year 1979, be and the same is hereby sustained.

Done at Sacramento, California, this **21st** day of June , **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 II. Collis , Member  
Ernest J. Dronenburg, Jr. , Member  
Richard Nevins , Member  
\_\_\_\_\_, Member