



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the **Matter** of the Appeal of)
)
 PAUL J. GEARY)

For Appellant: Paul J. Geary,
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 Paul J. Geary against a proposed assessment of personal income tax and penalties in the total amount of **\$3,087.00** for the year 1979.

Appeal of Paul J. Geary

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 and failure to file upon notice and demand. 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.

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 Paul J. Geary

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 Paul J. Geary against a proposed assessment of personal income tax and penalties in the total amount of **\$3,087.00** 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.

<u>William M. Bennett</u>	_____ I	Chairman
<u>Conway II . Collis</u>	_____	, Member
<u>Ernest J. Dronenburg, Jr.</u>	_____	Member
<u>Richard Nevins</u>	_____	, Member
_____	_____	, Member