

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In ~~the~~ Matter of the Appeal of)
CORINE C. HAYNES)

Appearances:

For Appellant: Corine C. Haynes,
in pro. per.

For Respondent: Kathleen M. Morris
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 Corine C. Haynes against a proposed assessment of personal income tax in the amount of \$195.00 for the year 1977. Subsequent to the filing of this appeal, appellant submitted new evidence to the Franchise Tax Board which established that her taxable income was less than that reflected in this assessment. Accordingly, respondent has agreed that the correct amount of tax in issue is \$158.31.

Appeal of Corine C. Haynes

The Internal Revenue Service audited appellant's 1977 federal tax return and made certain adjustments which increased her taxable income by \$6,135. Respondent received a copy of the **final** audit report and determined that the adjustments were applicable to appellant's California tax return. It issued a notice of proposed assessment reflecting this determination. At the protest hearing that followed, respondent allowed \$1,258 in itemized deductions not previously claimed by appellant, **thereby** decreasing the amount by which appellant's taxable income was increased to \$4,837. However, respondent reaffirmed the remaining **adjustments**, and its partial denial of appellant's protest led to this appeal.

A determination by respondent which is based upon a federal audit is presumed correct. (Appeal of Herman D. and Russell Mae Jones, Cal. St. Bd. of Equal., April 10, 1979.) The taxpayer must either concede that the federal audit report is correct or bear the burden of proving that it is incorrect. (Rev. & Tax. Code, § 18451.) Appellant has produced no evidence to show that the federal audit is erroneous with respect to the contested items. She merely claims that the Internal Revenue Service is in error. This board **has** frequently held that a taxpayer's unsupported assertion is not sufficient to prove that a federal audit is incorrect. (Appeal of Arthur G. and Rogelia V. McCaw, Cal. St. Bd. of Equal., March 3, 1982; Appeal of Robert C. Sherwood, Deceased, and Irene Sherwood, Cal. St. Bd. of Equal., Nov. 30, 1965.) **Since** appellant has not met her burden of proof, respondent's action must be sustained.

Appeal of Corine C. Haynes

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 Corine C. Haynes against a proposed assessment of personal income tax in the amount of \$195.00 for the year 1977, be and the same is hereby modified to reflect a corrected tax liability of \$158.31. In all other respects, the action of the **Franchise** Tax Board is 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.

William M. Bennett, Chairman

Conway H. Collis, Member

Ernest J. Dronenburg, Jr., Member

Richard Nevins, Member

_____, Member