

Appeal of David Koubeck

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 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, failure to pay estimated income tax, 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., 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.

