



83-SBE-146

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
RAY J. SEBASTIAN)

For Appellant: Ray J. Sebastian,
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 Ray J. Sebastian against a proposed assessment of personal income tax and penalties in the total amount of \$3,912.00 for the year 1979.

Appeal of Ray J. Sebastian

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 1979, 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 a 25 percent penalty for failure to file a return (Rev. & Tax. Code, § 18681), and a 25 percent penalty for failure to file a return after notice and demand (Rev. & Tax. Code, § 18683).

Appellant protested the proposed assessment. At the protest hearing held by respondent on October 20, 1982, appellant presented various arguments regarding dollars, such as "Federal Reserve notes are counterfeit dollars," and "gold and silver are the only **real** money." After consideration, respondent affirmed its proposed assessment and this appeal followed.

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.)

Apparently, appellant's fundamental argument in this appeal is that the only income which can be lawfully taxed are receipts of Eisenhower dollars, Susan B. Anthony dollars, and Kennedy half-dollars, and that receipts of bank checks, **money** orders and Federal Reserve notes cannot constitute income which can be subjected to a lawful income tax. We have several times considered and rejected arguments that Federal Reserve notes and other income expressed in **dollars** is 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 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 actions.

Appeal of Ray J. Sebastian

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 Ray J. Sebastian against a proposed assessment of personal income tax and penalties in the total amount of **\$3,912.00** 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.

William M. Bennett	,	Chairman
Conway H. Collis	,	Member
Ernest J. Dronenburg, Jr.	,	Member
Richard Nevins	,	Member
	,	Members