



BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
RONALD E. BELFORD )

For Appellant: Ronald E. Belford,  
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 Ronald E. Belford against proposed assessments of personal income tax and penalties in the total amounts of **\$4,491.80** and **\$5,472.32** for the years 1979 and 1980, respectively.

Appeal of Ronald E. Belford

Appellant filed California **personal** income tax returns for 1979 and 1980 on which he filled in most of the blanks with the word "object" or "none" and disclosed no information regarding his income, deductions, **or credits**. On the 1979 return, he reported estimated tax payments of \$486. Respondent demanded that appellant file valid returns and, when he failed to do so, issued a proposed assessment for each of the years. Respondent estimated appellant's income for both 1979 and 1980 by adding a growth and inflation factor to his reported income for 1978. Credit was given for appellant's 1979 estimated tax payments. Respondent imposed various penalties. After considering appellant's protest, respondent affirmed the proposed assessment, which gave rise to this appeal.

Appellant contends that the proposed assessments **are unconstitutional** in light of his assertion of his Fifth Amendment privilege against self-incrimination. This board has a well established policy of abstention from deciding constitutional issues in appeals involving deficiency assessments **and**, therefore, cannot decide the issue raised by appellant. (Appeals of Fred R. Dauberger, et al., Cal. St. Bd. of Equal., March 31, **1982**) However, we note that it has been held that the Fifth Amendment privilege does not support a blanket refusal to supply any income and expense information on a tax return form. (United States v. Daly, 481 **F.2d** 28 (8th Cir.), cert. den., 414 U.S. 1064 [**38 L.Ed.2d 469**] (1973).)

Appellant also contends that the proposed assessments are incorrect since his income was lower, and his deductible expenses greater, than determined by respondent. However, he has presented no evidence to support these contentions. It is well settled that respondent's determinations of additional tax, including the penalties involved in this appeal, are presumptively correct, and that the burden of proving them erroneous is upon the taxpayer. (Todd v. McColgan, 89 **Cal.App.2d** 509 [**201 P.2d 414**] (1949); Appeal of Arthur J. Porth, Cal. St. Bd. of Equal., Jan. 9, 1979.) Where the taxpayer fails to file a proper return and refuses to cooperate in the ascertainment of his income, respondent has great latitude in determining the amount of tax liability, and may use reasonable estimates to establish the taxpayer's income. (See, e.g., Joseph F. Giddio, 54 T.C. 1530 (1970); Norman Thomas, ¶ 80,359 P-H Memo. T.C. (1980); Floyd Douglas, ¶ 80,066 P-H Memo. T.C. (1980); see also Rev. & Tax. Code, § 18648.) When the taxpayer fails to

Appeal of Ronald E. Belford

supply any information, he is in no position to be hyper-critical of respondent's labors. (Floyd Douglas, supra.) Since appellant has failed to establish that respondent's determinations were excessive or without foundation, we must conclude that he has failed to carry his burden of proof.

Appeal of Ronald E. Belford

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 Ronald **E.** Belford against proposed assessments of personal income tax and penalties in the **total** amounts of **\$4,491.80** and **\$5,472.32** for the years 1979 and 1980, respectively, be and the same is hereby sustained,

Done at Sacramento, California, this 28th day of July, 1983, by the State Board of Equalization, with Board **Members** Mr. Bennett, Mr. Collis, Mr. Dronenburg, Mr. Nevins and Mr. Harvey present.

William M. Bennett, Chairman  
Conway H. Collis, Member  
Ernest J. Dronenburg, Jr., Member  
Richard Nevins, Member  
Walter Harvey\*, Member

\*For Kenneth Cory, per Government Code section 7.9