

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
GARLAND REED)

For Appellant: Garland Reed,
in pro. per.

For Respondent: Charlotte A. Meiscl
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 Garland Reed against a proposed assessment of additional personal income tax in the amount of **\$430.83** for the year 1978.

Appeal of Garland Reed

The question presented by this appeal is whether appellant has shown that respondent's disallowance of certain deductions was incorrect.

Appellant filed a personal income tax return for 1978 on which he claimed itemized deductions for interest expense, theft losses, and taxes. Thereafter, respondent received a copy of a federal audit report showing that the Internal Revenue Service had disallowed all of the interest expense and theft loss deductions and part of the deduction for taxes. Respondent **followed** the federal audit report and issued a notice of proposed assessment reflecting the disallowance of those same deductions on appellant's 1978 state tax return. After appellant protested the proposed assessment, respondent affirmed its determination.

Revenue and Taxation Code section 18451 requires that a taxpayer either concede the accuracy of a federal determination **or** show why it is **wrong**. **Respondent's** determination which is based on a federal audit report is presumptively correct, and the taxpayer must present **affirmative** evidence to overcome that presumption. (Appeal of Robert S. and Mary O. Fadem, Cal. St. Bd. of Equal., March 1, 1983.)

Appellant contends that he does not know why a deficiency assessment has been issued. However, **the** notice of proposed assessment which appellant received and protested made it clear that the adjustments were the same as those made by the Internal Revenue Service. Respondent also wrote to appellant requesting that he provide substantiation of the claimed deductions. We must assume that appellant was sufficiently informed of the basis of the assessment to protest and appeal **intelligently**. (See Appeal of King and Dorothy Crosno, et al., Cal. St. Bd. of Equal., Jan. 9, 1979.) Appellant has not presented any evidence showing error in respondent's determination. That determination, therefore,, must be sustained.

Appeal of Garland Reed

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 Garland Reed against a proposed assessment of additional personal income tax in the amount of **\$430.83** for the year **1978, 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