



\*83-SBE-219\*

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
OLIVER WILLIAMS )

For Appellant: Oliver Williams,  
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 Oliver Williams against a proposed assessment of personal income tax and penalties in the total amount of \$362.70 for the year 1980.

Appeal of Oliver Williams

Appellant failed to file a California income tax return for 1980. After receiving information, indicating that appellant was required to file a return for that year, respondent demanded that he file. **Appellant** continued to refuse to file, and respondent issued a proposed assessment based upon information supplied by appellant's employer and a financial institution. Respondent **imposed** penalties for failure to file a return, failure to file after notice and demand, and negligence. (Rev. & Tax. Code, **SS** 18681, 18683 & 18684.) After considering appellant's protest, respondent **affirmed** the proposed assessment, and this timely appeal followed.

Appellant has submitted evidence showing that his employer withheld state income tax in the amount of \$276.90. Respondent has agreed to credit appellant with this amount and to revise the penalty imposed under Revenue and Taxation Code section 18681.

Appellant's argument is that he is not obligated to pay any state income tax because his employment contract with his employer did not contain a statement that he would pay taxes. This is the identical argument raised by appellant in his prior 'appeal. (Appeal of Oliver Williams, Cal. St. Bd. of Equal., Nov. 16, 1981.) In that appeal, we concluded that appellant's argument was without merit. Appellant has presented us **with** no reason to alter that conclusion. Therefore, respondent's action, as modified by its agreement to allow credit for withholding, must be sustained.

Appeal of Oliver Williams

**ORDER**

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 Oliver Williams against a proposed assessment of personal income tax and penalties in the total amount of \$362.70 for the year 1980, is hereby modified to reflect the allowance of a credit in the amount of \$276.90. In all other respects, the action of the Franchise Tax Board is hereby sustained.

Done at Sacramento, California, this 15th day of September, 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