

Appeal of Dale W. and Carol J. O'Neal

The question presented is whether appellants have shown any error in respondent's proposed assessment, which is based on a federal audit report.

Appellants filed a timely joint personal income tax return for 1976 claiming a number of business expense deductions. Subsequently, respondent received a copy of a federal audit report for the same year indicating that several of these deductions had been disallowed for federal income tax purposes, and that additional unreported income had been attributed to appellants. As a result of this information, respondent issued a proposed assessment incorporating the federal adjustments for state income tax purposes.- Appellants' protest against this action was denied, giving rise to this appeal.

A deficiency assessment based on a federal audit is presumptively correct, and the taxpayer bears the burden of proving that respondent's determination is erroneous. (Appeal of Donald-G. and Franceen Webb, Cal. St. Bd. of Equal., Aug. 19, 1975; Appeal of Nicholas H. Obritsch, Cal. St. Bd. of Equal., Feb. 17, 1959.) In the present case, appellants have failed to offer a scintilla of evidence tending to show that respondent's assessment is incorrect in any respect. Accordingly, we are compelled to conclude that they have failed to carry their burden of proof. Respondent's action in this matter will, **therefore**, be sustained.

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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 Dale W. and Carol J. **O'Neal** against a proposed assessment of additional personal income tax in the amount of **\$6,129.05** for the year 1976, be and the same is hereby sustained.

Done at Sacramento, California, this 17th day of January , 1984, by the State Board of Equalization, with Board Members **Mr. Nevins**, **Mr. Dronenburg** and **Mr. Bennett** present.

Richard Nevins _____, Chairman

Ernest J. Dronenburg, Jr. _____, Member

William M. Bennett _____ Member

_____, Member

_____, Member