



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
ALLAN W. SHAPIRO)

For Appellant: Allan W. Shapiro, in pro. per.

For Respondent: Crawford H. Thomas
Chief Counsel

John A. Stilwell, Jr.
Counsel

OPINION

This appeal is made pursuant to section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Allan W. Shapiro against a proposed assessment of additional personal income tax in the amount of \$241.71, plus interest, for the year 1970.

Appellant has conceded liability with respect to the proposed assessment, plus interest, through September 19, 1972, but denies liability for any interest accrued after that date, Whether appellant must pay interest on the deficiency assessment

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for any period subsequent to September 19, 1972, constitutes the sole issue for our determination.

In appellant's California and federal income tax returns for 1970, he claimed a casualty loss deduction in the amount of \$3,852.00. The Internal Revenue Service (IRS) audited appellant's 1970 federal return and disallowed \$3,000.00 of the claimed casualty loss deduction, which resulted in an increase in appellant's federal tax liability for 1970. On September 21, 1972, appellant was notified by the IRS that additional tax was owing; however, he failed to inform respondent of the IRS adjustment as required by section 18451 of the Revenue and Taxation Code. Subsequently, the IRS, pursuant to section 6103(b)(2) of the Internal Revenue Code of 1954, informed respondent of its determination. Whereupon, respondent on March 1, 1973, mailed appellant a notice of proposed deficiency assessment for California income tax and interest for 1970.

Section 18688 of the Revenue and Taxation Code pertains to interest on deficiency assessments and provides:

Interest upon the amount assessed as a deficiency shall be assessed, collected and paid in the same manner as the tax at the rate of 6 percent per year from the date prescribed for the payment of the tax until the date the tax is paid. If any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

In the instant case, appellant has admitted liability for respondent's deficiency assessment, but has failed to pay the tax. Under similar circumstances, this board has held the payment of interest on unpaid deficiency assessments to be mandatory. (See Appeal of Ruth Wertheim Smith, Cal. St. Bd. of Equal.) Aug. 3, 1965.)

Despite the clear language of section 18688 and the Smith case's interpretation of it, appellant contends that he should not be required to pay interest for any period subsequent to September '19, 1972, the date on which the IRS made its adjustment. In support of his position, he advances three arguments: (1) he, as a layman, should not be penalized for being unaware of the provi-

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sions of section 18151 of the Revenue and Taxation Code; (2) he should not have to pay for undue delay by respondent in processing this case; and (3) he should not be penalized for what he terms "inadequate liaison between the federal and state agencies."

We find no merit in any of these arguments. Pursuant to section 18586.2 of the Revenue and Taxation Code, respondent issued a timely notice of proposed deficiency assessment to appellant after being notified by the IRS of its adjustment to appellant's 1970 federal income tax liability. Appellant has not paid the deficiency assessed, and interest therefore continues to run until the date of payment, under the clear and mandatory provisions of section 18688 of the Revenue and Taxation Code.

Based upon the foregoing, we have no alternative but to concur with respondent's determination regarding both the deficiency assessment and interest on that assessment,

ORDER

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

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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 Allan W. Shapiro against a proposed assessment of additional personal income tax in the amount of \$241.71, plus interest, for the year 1970, be and the same is hereby sustained;

Done at Sacramento, California, this 1st day of August, 1974, by the State Board of Equalization,

George R. ... Chairman
Paul ... Member
William ... Member
_____. Member
_____. Member

ATTEST: W. W. ... Secretary