



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
SHEDRICK I. BARNES)

For Appellant: Shedrick I. Barnes, in pro. per.

For Respondent: Bruce W. Walker
Chief Counsel

Karl F. Munz
Counsel

OPINION

This appeal is made pursuant to section 19059 of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claim of Shedrick I. Barnes for refund of personal income tax and interest in the total amount of \$77.46 for the year 1970.

The issue is whether respondent's denial of a claimed deduction, based on a federal audit, was proper.

Appellant Shedrick I. Barnes served in the Army Reserve during 1970. On his federal income tax return for that year, he

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apparently reported as income \$494.13 in salary received from the Reserve. He also claimed a \$600.00 deduction for expenses incurred in connection with his military duty. The Internal Revenue Service audited his return and disallowed, among other items, \$340.00 of this claimed deduction.

Appellant did not report his Army Reserve salary on his 1970 California personal income tax return. He did, however, claim the \$600.00 deduction for military reserve expenses. Respondent disallowed \$340.00 of this claimed deduction on the basis of the federal audit, thereby increasing appellant's tax liability by \$71.04. Appellant protested, but subsequently paid the additional tax plus interest of \$6.42, a total of \$77.46, and requested a refund of that amount. Respondent then denied appellant's protest, and assessed a small amount of additional interest which has since been withdrawn. Pursuant to section 19061.1 of the Revenue and Taxation Code, this appeal is being treated as an appeal from the denial of a claim for refund.

Appellant contends that he is entitled to the entire \$600.00 claimed as a deduction for military expenses. Respondent allowed the deduction to the extent of \$260.00, however, and appellant has presented no evidence to establish his right to a greater amount. Since deductions are a matter of legislative grace, and the taxpayer bears the burden of showing that he is entitled to the deductions claimed, there is no basis upon which we can grant appellant a larger deduction than that already allowed. (Appeal of J. Albert and Augusta F. Hutchinson, Cal. St. Bd. of Equal., Aug. 5, 1968;)

Because of certain dissimilarities in the federal and California tax laws, the gross income reported and itemized deductions claimed on appellant's federal return differed slightly from those on his California return. Appellant argues that it was therefore improper for respondent to base its determination on the federal audit. We find no merit in this argument. Respondent's practice of relying on federal audits is well established, and has been consistently upheld by this board. (See, e.g., Appeal of Albion W. and Virginia B. Spear, Cal. St. Bd. of Equal., April 20, 1964; Appeal of Joseph B. and Cora Morris, Cal. St. Bd. of Equal., Dec. 13, 1971) Furthermore, a determination made on that basis is presumed correct; and the burden is on the taxpayer to show wherein it is erroneous. (Appeal of Harry and Tessie Somers,

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Cal, St. Bd. of Equal., March 25, 1968.) The adjustment to appellant's return concerned the amount of a claimed deduction, and appellant has not shown how the asserted differences between the federal and California returns could render that adjustment erroneous.

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 19060 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claim of Shedrick I. Barnes for refund of personal income tax and interest in the total amount of \$77.46 for the year 1970, be and the same is hereby sustained.

Done at Sacramento, California, this 7th day of January, 1975 by the State Board of Equalization.

John W. Lynch, Chairman
_____, Member

Shedrick I. Barnes & Member

George K. Kelley, Member
_____, Member

ATTEST: W. W. Donlop, Secretary