



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
ALAN R. AND)
VERA M. KENISON)

For Appellants: Alan R. Kenison, in pro. per.

For Respondent: James W. Hamilton
Acting Chief Counsel

Kathleen M. Morris
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 protests of Alan R. and Vera M. Kenison against proposed assessments of additional personal income tax in the amounts of \$115.06, \$68.32 and \$10.30 for the years 1961, 1962, and 1963, respectively.

Appeal of Alan R. and Vera M. Kenison

The sole question presented by this appeal is whether respondent's proposed assessments of additional personal income tax, based upon a federal audit report, were proper.

Appellants Alan R. and Vera M. Kenison filed joint federal income tax returns for 1961, 1962, and 1963. The Internal Revenue Service audited those returns and disallowed certain claimed deductions for an abandonment loss, loss on the sale of equipment, capital losses, and medical expenses. Based upon the federal action, respondent determined that appellants had similarly understated their California taxable income for 1961, 1962, and 1963 and, accordingly, assessed the deficiencies now in issue.

Appellants contend that respondent should not have based its assessments upon the Internal Revenue Service determination because that determination was erroneous. In support of their contention, appellants have submitted copies of the petition which Mr. Kenison filed with the Tax Court of the United States, a letter from their attorney, and certain pictures of electronic equipment. Respondent argues that the petition is self-serving. In addition, it points out that appellants' attorney concedes in his letter of July 21, 1964, to Mr. Kenison that appellants have failed to prove the cost basis and ownership of the abandoned property and that more proof is needed to overcome the federal determination..

A determination by respondent based upon federal action is presumed to be correct, and the burden is upon the taxpayer to establish that it is erroneous. (Todd v. McColgan, 89 Cal.App. 2d 509 [201 P. 2d 414]; Appeal of Harry and Tessie Somers, Cal. St. Bd. of Equal., March 25 1968.) Based upon the record before us, it is our opinion that appellants have failed to meet their burden of proof. The information which has been submitted by appellants relates primarily to the alleged abandonment loss involving electronic equipment. Because the information is fragmentary and largely self-serving, we are unable to conclude that it substantiates the deduction of the abandonment loss claimed for the year 1961. Little or no evidence has been offered with respect to the other claimed deductions. Under the circumstances, respondent's action must be sustained.

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 protests of Alan R. and Vera M. Kenison against proposed assessments of additional personal income tax in the amounts of \$115.06, \$68.32 and \$10.30 for the years 1961, 1962, and 1963, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 8th day of March, 1976, by the State Board of Equalization.

William W. Burnett, Chairman
Paul H. Ford, Member
George L. Spence, Member
_____, Member
_____, Member

ATTEST, W. W. Clendone Secretary