

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
RICHARD E. KREY }

For Appellant: Richard E. Krey, in pro. per.

For Respondent: Bruce W. Walker
Chief Counsel

Kwan K. Wang
Counsel

O P I N I O N

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 Richard E. Krey against a proposed assessment of additional personal income tax and penalties in the total amount of \$475.56 for the year 1973. \

Appeal of Richard E. Krey

Appellant filed a purported 1973 California personal income tax return wherein he **reported** "zero" income for that year. Attached to the return was an essay written by appellant challenging the constitutionality of the federal and **state** systems of taxation, and asserting that Federal Reserve notes **do** not constitute taxable income because they cannot be redeemed for an "equivalent" amount of gold or silver.

With its notification to appellant that he had not filed a proper return for 1973, respondent demanded that appellant file a properly completed return for that year. Appellant failed to comply with the demand-. Thereafter, respondent learned from independent sources that appellant had received a salary of **\$12,284.00 in 1973**. On the basis of that information, respondent computed appellant's 1973 tax liability and issued its proposed assessment. Respondent also assessed a 25 percent penalty for appellant's failure to file a proper return, and a 25 percent penalty for his failure to do so upon notice and demand, pursuant to sections 186.81 and 186.83 of the Revenue and Taxation Code.

The questions and arguments raised by this appeal are substantially similar to those **presented in the Appeal of Iris E. Clark**, decided by this board on **March 8, 1976**, and the Appeal of Donald H. Lichtle, decided **October 6, 1976**. On the basis of those decisions, and for the reasons stated therein, we must sustain respondent's action with respect to the proposed assessment.

We must also sustain respondent's action in assessing penalties for appellant's failure to file a return and for his failure to do so upon notice and demand. In this connection, we note that the purported return initially filed by appellant was completely devoid of any information concerning **his** actual gross income and allowable deductions for 1973. Such a document does not satisfy the filing requirements of the Revenue and Taxation Code and respondent's regulations. (See Rev. & Tax. Code, §§ 18401, 18431; Cal. Admin. Code, tit. 18, regs. 18401-18404(f), 18431-18433(d). See **also** United States v. Porth, 426 F.2d 519 (10th Cir.), cert. denied, 400 U.S. 824 [27 L. Ed. 2d 53] (1970); Appeal of James L. Heisterkamp, Cal. St. Bd. of Equal., Oct. 6, 1976.) Moreover, appellant's failure to file a proper 1973 return was not, in our opinion, due to reasonable cause. (Cf. George W. Kearse, T.C. Memo., Dec. 6, 1976.)

Appeal of Richard E. Krey

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 Richard E. Krey against a proposed assessment of additional personal income tax and penalties in the total amount of \$475.56 for the year 1973, be and the same is hereby sustained.

February, 1977 Done at Sacramento, California, this 3rd day of
by the State Board of Equalization.

William A. Bunker, Chairman
Leo Krey, Member
Paul Krey, Member
Eric Krey, Member
_____, Member

ATTEST: W. W. Dunlop, Executive Secretary