

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
WILLIE D. BURRS)

For Appellant: Willie D. Burks, in pro. per.

For Respondent: Bruce W. Walker
Chief Counsel

Brian W. **Toman**
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 Willie **D.** Burks against a proposed assessment of additional personal income tax in the amount of \$158.08 for the year 1972.

Appeal of Willie D. Burks

The sole issue for decision is whether respondent's **determination which** was based on corresponding federal **action** was erroneous.

On his 1972 tax return, appellant claimed certain itemized deductions for interest expense, work clothes and charitable contributions. Thereafter, appellant's return was audited by the Internal Revenue Service which disallowed the entire amount of the claimed deductions for interest expense and work clothes and disallowed a portion of the claimed charitable contributions. Appellant did not challenge the federal determination and it became final. Based on the federal determination, respondent issued its notice of proposed assessment. Appellant's protest was denied and this appeal followed.

Section 18451 of the Revenue and Taxation Code provides, in part, that a taxpayer shall either concede the accuracy of a federal determination or state wherein it is erroneous. It is well settled that a determination by the Franchise Tax Board based upon a federal audit is presumed to be correct and the burden is on the taxpayer to overcome that presumption. (Todd v. McColgan, 89 Cal. App. 2d 509, [201 P.2d 414] (1949); Appeal of Willard D. and Esther J. Schoellerman, Cal. St. Bd. of Equal., Sept. 17, 1973; Appeal of Joseph B. and Cora Morris, Cal. St. Bd. of Equal., Dec. 13, 1971.) Here, appellant has offered no evidence to indicate that the federal action was erroneous. Therefore, we must conclude that appellant has failed to carry his burden of proof and respondent's determination of additional tax for the year 1972 must be upheld.

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 Willie D. Burks against a proposed assessment of additional personal income tax in the amount of **\$158.08** for the year 1972, be and the same is hereby sustained.

V. H. Broughton, Chairman
E. J. C. C. C., Member
P. L. D. S., Member
Iris Sankey, Member
_____, Member

W. W. Conley, Executive Secretary