



BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
EDWARD L. SMITH )

Appearances:

For Appellant: Edward L. Smith, in pro, per.

For Respondent: James T. **Philbin**  
Supervising 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 Edward L. Smith against a proposed assessment of additional personal income tax in the amount of \$193.00 for the year 1972.

Appeal of Edward L. Smith

In 1974 the Internal Revenue Service made several adjustments to appellant's 1972 federal personal income tax return. Thereafter, respondent received a copy of the revenue agent's report enumerating the **adjustments** made to appellant's federal return. The changes consisted of: (1) the disallowance of all itemized-deductions claimed; (2) the disallowance of head of household status; and (3) the disallowance of all personal exemption deductions other than his own. The revenue agent's report was signed by appellant on December 12, 1973, evidencing appellant's apparent agreement with the federal adjustments.

On April 17, 1974, respondent issued a notice of proposed assessment based upon the federal action. Appellant protested respondent's action, contending that he had protested the federal adjustments and had **eventually** been allowed head of household status and two of the additional personal exemption deductions he had claimed. He did not provide any substantiation of this allegation, however, and respondent denied his protest. In his appeal to this board, appellant alleged that his appeal of the federal adjustments had resulted in the Internal Revenue Service allowing all the deductions which he claimed on his 1972 federal return. Despite several requests by respondent during the course of this **appeal**, appellant failed to submit any evidence to substantiate his allegations. At the hearing in this matter appellant again renewed his allegations but failed to offer any evidence to support them. Appellant was **given** additional time to support his contentions but, once again, failed to submit anything to support his position.

The sole issue is whether respondent's deficiency assessment, based **on** a federal determination, was erroneous.

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 report is presumed to be correct' and the burden is on the taxpayer to overcome that presumption. (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,**

Appeal of Edward L. Smith

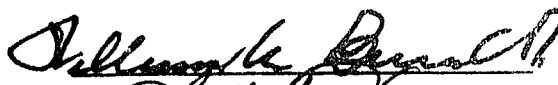
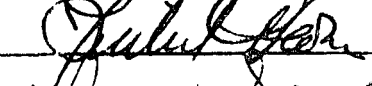
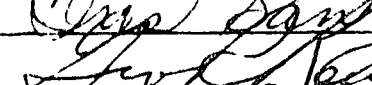
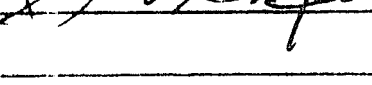

appellant has offered no explanation of the fact that he signed the revenue agent's report evidencing his agreement to the federal adjustments. Furthermore, he has failed to submit any evidence to substantiate his allegations that the federal adjustments were revised despite many opportunities to do so. Under these circumstances, we must conclude that appellant has failed to carry his burden of proof. Therefore, respondent's determination of additional tax for 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 Edward L. Smith, against a proposed assessment of additional personal income tax in the amount of \$193.00 for the year 1972, be and the same is hereby sustained.

Done at Sacramento, California, this 28th day of June , 1977, by the State Board of Equalization,

 Chairman  
 , Member  
 , Member  
 , Member  
 , Member