

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
RUDOLPH, JR. AND MARY M. COMO)

For Appellants: Rudolph Como, Jr., in pro. per.
For Respondent: Bruce W. Walker
Chief Counsel
Kathleen M. Morris
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 Rudolph, Jr. and Mary M. Como against a proposed assessment of additional personal **income** tax in the amount of \$190.28 for the year 1975.

The sole issue presented by this appeal is whether respondent erred in assessing additional personal income tax on the basis of corresponding federal action.

Appellants **filed** joint' federal and California personal income tax returns for the year 1975. In 1977, respondent received an Internal Revenue Service audit report which indicated that rather than a net loss of \$1,424, as reported by appellants on their 1975 return, appellants actually realized a netprofit of \$9,087 from their business during 1975. **Respondent** issued its notice of proposed assessment on the basis of the corresponding federal adjustment.

Section 18451 of the **Revenue and** Taxation Code provides that where adjustments are made to a taxpayer's federal income tax return, the taxpayer must report such changes to respondent and either concede the accuracy of the federal determination or state wherein it is erroneous. Thus, action of respondent based on a federal adjustment is presumed correct and the burden rests with the taxpayer to prove it erroneous. (Appeal of Charles O. and Gail P. Spencer, Cal. St. Bd. of Equal., Feb. 3, 1977; Appeal of Thomas and Vera Wills, Cal. St. Bd. of Equal., Dec. 15, 1976.)

Appellants have failed to submit any evidence whatsoever in support of this appeal. Accordingly, respondent's action in this matter must be sustained.

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 Rudolph, Jr. and Mary M. Como against a proposed assessment of additional personal income tax in the amount of \$190.28 for the year 1975, be and the same is hereby sustained.

Done at Sacramento, California, this 10th day of April, 1979, by the State Board of Equalization.

William B. Burrell Chairman
John A. Dean Member
Robert J. Durand Member
Bob R. Reilly Member
J M e m b e r