



79-SBE-143

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
WILLIAM J. AND JOSEPHINE I.)
SLATTERY)

For Appellant: William J. Slattery, in pro. per.
For Respondent: Jacqueline W. Martins
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 William J. and Josephine I. Slattery against a proposed assessment of additional personal income tax in the amount of \$477.92 for the year 1974.

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The Internal Revenue Service audited appellants' 1974 federal income tax return, and disallowed a portion of the deductions, appellants claimed for charitable contributions, medical expenses, and casualty losses. After receiving a copy of the federal audit report, respondent made similar adjustments to appellants' reported income for state income tax purposes, and proposed the deficiency assessment now in question.

Revenue and **Taxation** Code section 18451 provides that a taxpayer shall either concede the accuracy of a federal determination or state wherein it is erroneous. It is well settled that a deficiency assessment based on a federal audit report is presumptively correct;, and that the taxpayer bears the burden of proving that respondent's determination is incorrect. (Appeal of Donald G. and Franceen Webb, Cal. St. Bd. of **Equal.**, Aug. 19, 1975; Appeal of Nicholas H. Obritsch, Cal. St. Bd. of Equal., Feb. 17, 1959.) The only evidence appellants have offered **is** a copy of **another** federal audit report for a later year. Obviously, that report has no bearing on **appellants'** tax liability for 1974, and it must, therefore, be disregarded. Since appellants **haven't** shown that the various adjustments to their 1974 return were erroneous in any respect, we must conclude that they have failed to carry their burden of proof. Respondent's action in this **matter** will, accordingly, 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 William J.

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and Josephine I. Slattery against a proposed assessment of additional personal income tax in the amount of \$477.92 for the year 1974, be and the same is hereby sustained.

Done at Sacramento, California, this 16th day of August, 1979, by the State Board of Equalization.

John W. ..., Chairman
... .., Member
... .., Member
... .., Member
... .., Member