

**OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA**

In the Matter of the Appeal of:  
**C. BAKER**

) OTA Case No. 18083682  
)  
)  
)  
)  
)

**OPINION**

Representing the Parties:

For Appellant: C. Baker<sup>1</sup>

For Respondent: Meghan McEvilly, Tax Counsel III

R. TAY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, C. Baker (appellant) appeals an action by Franchise Tax Board (respondent) proposing additional tax of \$689, and applicable interest, for the 2013 tax year.

Appellant waived the right to an oral hearing; therefore, we decide this matter based on the written record.

**ISSUE**

Whether appellant has shown error in respondent’s proposed assessment of additional tax for the 2013 tax year.

**FACTUAL FINDINGS**

1. Appellant and appellant’s ex-spouse timely filed a joint 2013 California income tax return with the status married filing jointly.<sup>2</sup>
2. Respondent audited appellant’s joint 2013 tax return and disallowed a deduction, which appellant identified as “Termination Excess Deduction” on Schedule CA.

---

<sup>1</sup> Appellant filed her opening brief. Elika Ziaei of the Tax Appeals Assistance Program (TAAP) filed appellant’s reply brief. Thereafter, TAAP withdrew its representation of appellant in this appeal.

<sup>2</sup> Appellant’s ex-spouse did not sign the appeal letter, and is not a party to this appeal. Appellant allegedly divorced ex-spouse in November 2014.

3. Respondent’s adjustment resulted in a proposed assessment of additional tax in the amount of \$689. Appellant protested the proposed assessment, and respondent denied appellant’s protest.
4. Appellant filed a timely appeal.
5. On appeal, appellant argues that she qualifies for innocent spouse protection for the first time. We deferred this appeal proceeding to allow respondent to evaluate appellant’s innocent spouse protection claim.
6. Respondent denied appellant’s innocent spouse claim, and gave appellant the opportunity to appeal. Appellant did not file a specific appeal of respondent’s denial of the innocent spouse claim.<sup>3</sup>

### DISCUSSION

The sole issue in this appeal is whether appellant has shown respondent erred in denying the California adjustment, labeled “Termination Excess Deduction,” on the Schedule CA attached to appellant’s 2013 California income tax return. Income tax deductions are a matter of legislative grace, and a taxpayer who claims a deduction has the burden of proving by competent evidence that he or she is entitled to that deduction. (*Appeal of Vardell*, 2020-OTA-190P.) In order to carry that burden, a taxpayer must point to an applicable statute and show by credible evidence that the transactions in question come within its terms. (*Appeal of Dandridge*, 2019-OTA-458P.)

Appellant argues that she should not be liable for her honest, but mistaken, belief that she was entitled to the deduction reported on the Schedule CA attached to the 2013 California income tax return. Appellant also cites a good faith reliance on a tax professional. However, there is no provision under the law that would allow appellant to avoid the imposition of tax on these grounds.

Appellant also argues that the reported deduction is attributable to her ex-spouse’s income, and thus, she should not be responsible for any error on their jointly-filed California income tax return. However, when a married couple files a joint return, each spouse is jointly and severally liable for the entire tax due for that tax year. (IRC, § 6013(d)(3); R&TC, § 19006(b).) It is uncontroverted that appellant filed a joint 2013 income tax return with her

---

<sup>3</sup> Appellant did not appeal respondent’s denial of the innocent spouse claim; consequently, we do not have jurisdiction over respondent’s action on the innocent spouse claim and do not address it further.

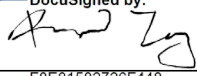
husband at the time. We find no reason in the record to relieve appellant of her joint and several liability. Furthermore, our task is to determine the correct amount of appellant's California tax liability. (*Appeal of Robinson*, 2018-OTA-059P.) Although a genuine financial dispute between private individuals may exist, we have no authority to adjudicate such a dispute. (See Cal. Code Regs., tit. 18, § 30103.)<sup>4</sup>

### HOLDING


Appellant has not shown error in respondent's proposed assessment of additional tax for the 2013 tax year.


### DISPOSITION

Respondent's action is sustained in full.

DocuSigned by:  
  
F8E81582726F448...  
Richard Tay  
Administrative Law Judge

We concur:

DocuSigned by:  
  
7B28A07A7E0A43D...  
Daniel K. Cho  
Administrative Law Judge

DocuSigned by:  
  
8A4294817A67463...  
Andrew Wong  
Administrative Law Judge

Date Issued: 3/4/2022

---

<sup>4</sup> Appellant also stated that she filed for bankruptcy as a result of her financial dispute with her ex-spouse and provided a Discharge of Debtor issued by the U.S. Bankruptcy Court. However, we have no jurisdiction to determine whether appellant's tax liability was discharged in bankruptcy. (*Appeal of Savage*, 2020-OTA-328P; Cal. Code Regs., tit. 18, § 30104(h).)