

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: ) OTA Case No. 21078188  
 )  
**F. BONILLA AND** )  
**V. BONILLA** )  
 )  
 )

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**OPINION**

Representing the Parties:

For Appellants: F. Bonilla and V. Bonilla

For Respondent: Anna K. Lok, Specialist

A. KLETTER, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, F. Bonilla and V. Bonilla (appellants) appeal an action by respondent Franchise Tax Board (FTB) proposing additional tax of \$848, plus applicable interest, for the 2016 tax year.

Appellants waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

**ISSUE**

Whether appellants have shown error in FTB's proposed assessment of additional tax, which is based upon a final federal determination.

**FACTUAL FINDINGS**

1. Appellants timely filed their joint 2016 California Resident Income Tax Return (Form 540). Appellants reduced their California adjusted gross income by California itemized deductions, which was based on their federal itemized deductions and consisted in part of \$27,817 in home mortgage interest. FTB accepted the return as filed.
2. On February 16, 2019, FTB received information from the IRS indicating that the IRS had audited and disallowed \$10,669 of the home mortgage interest deduction, increasing

- taxable income by the same amount. On March 4, 2019, a final federal determination was made that adjusted appellants' 2016 federal tax account.
3. On July 20, 2020, FTB issued a Notice of Proposed Assessment (NPA) proposing to follow the IRS adjustment and disallow the \$10,669 home mortgage interest deduction. The NPA proposed additional tax due of \$848, plus interest.
  4. On August 13, 2020, appellants filed a timely protest, claiming that the adjustment was due to a typographical error made by their tax preparer for the 2016 tax year. FTB responded that the final federal determination was the basis for FTB's adjustment and requested additional information within 30 days if appellants continued to disagree with FTB's adjustment.
  5. Appellant did not reply, and FTB affirmed the NPA with a Notice of Action. This timely appeal followed.

#### DISCUSSION

A taxpayer must concede the accuracy of federal changes to a taxpayer's income or state where the changes are erroneous. (R&TC, § 18622(a).) It is well settled that a deficiency assessment based on a federal adjustment to income is presumed to be correct and a taxpayer bears the burden of providing that FTB's determination is erroneous. (*Todd v. McColgan* (1949) 89 Cal.App.2d 509; *Appeal of Valenti*, 2021-OTA-093P.) Additionally, deductions are a matter of legislative grace, and a taxpayer bears the burden of proving entitlement to a deduction. (*Appeal of Dandridge*, 2019-OTA-458P.) In the absence of credible, competent, and relevant evidence showing that FTB's determination is incorrect, it must be upheld. (*Appeal of Valenti, supra.*)

Appellants assert that the home mortgage interest deduction reported on their original federal and California tax returns appears to have been incorrect because of a typographical error. However, appellants do not explain what the typographical error was, and the record does not reveal the error, if any. Accordingly, appellants have not provided evidence to contest the final federal determination, nor have they demonstrated error in FTB's proposed assessment.

HOLDING

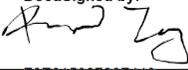
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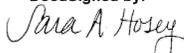
DISPOSITION

FTB’s action is sustained.

DocuSigned by:  
  
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Asaf Kletter  
Administrative Law Judge

We concur:

DocuSigned by:  
  
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Richard Tay  
Administrative Law Judge

DocuSigned by:  
  
6D3FE4A0CA514E7...  
Sara A. Hosey  
Administrative Law Judge

Date Issued: 4/18/2022