

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:) OTA Case No. 21078181
C. MANULLANG AND)
M. MANULLANG)
_____)

OPINION

Representing the Parties:

For Appellants: C. Manullang and M. Manullang¹

For Respondent: Eric R. Brown, Tax Counsel III

For Office of Tax Appeals: Amber Poon, Graduate Legal Assistant

K. GAST, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, C. Manullang and M. Manullang (appellants) appeal an action by respondent Franchise Tax Board (FTB) proposing additional tax of \$2,569, plus applicable interest, for the 2016 tax year.

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

ISSUE

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

FACTUAL FINDINGS

1. Appellants filed a joint 2016 California resident income tax return.
2. Subsequently, FTB received information from the IRS indicating it examined appellants’ joint 2016 federal income tax return, disallowed certain miscellaneous itemized deductions they claimed on that return, and assessed additional tax.

¹ Appellant-wife, M. Manullang, appears to also use the name M. Pauner.

3. Based on the federal determination, FTB increased appellants' California taxable income by the disallowed miscellaneous itemized deductions and issued a Notice of Proposed Assessment (NPA) for the 2016 tax year proposing additional tax of \$2,569, plus interest.
4. Following protest proceedings, FTB affirmed its NPA by issuing a Notice of Action. This timely appeal followed.

DISCUSSION

R&TC section 18622(a) requires a taxpayer to concede the accuracy of a federal determination or state where change is erroneous. It is well settled that FTB's proposed assessment based on a final federal determination is presumptively correct and the taxpayer bears the burden of proving the determination is erroneous. (*Appeal of Gorin*, 2020-OTA-018P.) Unsupported assertions are insufficient to satisfy a taxpayer's burden of proof with respect to an assessment based on a federal action. (*Ibid.*) In the absence of credible, competent, and relevant evidence showing that FTB's determination is incorrect, it must be upheld. (*Appeal of Chen and Chi*, 2020-OTA-021P.)

In addition, income tax deductions are a matter of legislative grace, and a taxpayer who claims a deduction has the burden of proving by competent evidence entitlement to that deduction. (*Appeal of Vardell*, 2020-OTA-190P.) 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 Jindal*, 2019-OTA-372P.)

Here, FTB proposed an assessment of additional tax based on a final federal determination that disallowed certain miscellaneous itemized deductions appellants claimed on their 2016 federal income tax return. As California generally conforms to federal miscellaneous itemized deductions (see R&TC, §§ 17201(a), 17076(a)), FTB's proposed assessment is presumptively correct. (*Appeal of Gorin, supra.*)

Appellants have not presented any argument or evidence to show error in the federal adjustment or in FTB's proposed assessment based upon that adjustment. Indeed, based on appellants' IRS Account Transcript for the 2016 tax year dated August 3, 2021, there is no evidence the IRS cancelled or reduced its assessment. Appellants' only contention on appeal appears to be they paid the IRS assessment for 2016 and, as support, they provide a copy of their check payment to the IRS. However, even though appellants may have fulfilled their federal tax

obligation, FTB is a separate taxing agency and therefore they are still responsible for their additional California income tax liability for the 2016 tax year.

HOLDING

Appellants have not shown error in FTB’s proposed assessment of additional tax.

DISPOSITION

FTB’s action is sustained.

DocuSigned by:
Kenneth Gast
3AF5C32BB93B456...
Kenneth Gast
Administrative Law Judge

We concur:

DocuSigned by:
Eddy Y.H. Lam
1EAB8BDA3324477...
Eddy Y.H. Lam
Administrative Law Judge

DocuSigned by:
Sheriene Anne Ridenour
67F043D83EF547C...
Sheriene Anne Ridenour
Administrative Law Judge

Date Issued: 5/17/2022