

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
O. ROJAS

) OTA Case No. 21108914
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OPINION

Representing the Parties:

For Appellant:

O. Rojas

For Respondent:

Nancy E. Parker, Tax Counsel IV

For Office of Tax Appeals:

Michelle Huh, Tax Counsel

K. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, O. Rojas (appellant) appeals an action by respondent Franchise Tax Board (FTB) proposing additional tax of \$840, and applicable interest, for the 2017 tax year.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single administrative law judge. (Cal. Code Regs., tit. 18, § 30209.1.) Appellant waived the right to an oral hearing; therefore, the matter is being decided based on the written record.¹

ISSUE

Whether appellant has established error in FTB’s proposed assessment of additional tax.

FACTUAL FINDINGS

1. Appellant filed a 2017 California personal income tax return. FTB reviewed appellant’s 2017 income tax return and issued a Notice of Proposed Assessment (NPA), disallowing appellant’s Schedule CA (540) subtraction of \$11,064 and proposing additional tax of \$840 and applicable interest.

¹ A Small Case Program Conference was held on July 8, 2022. Appellant did not appear for the conference.

2. Because appellant did not provide any substantiation for the Schedule CA (540) subtraction, FTB issued a Notice of Action, affirming the NPA.
3. This timely appeal followed.

DISCUSSION

Once a taxpayer files a return, FTB examines the return and determines the correct amount of tax. (See R&TC, § 19032.) If FTB determines that the tax disclosed on the return is less than the tax disclosed by its examination, FTB will mail a notice to the taxpayer of the deficiency proposed to be assessed. (R&TC, § 19033.) FTB's determination is presumed to be correct, and the taxpayer has the burden of proving it to be wrong. (*Appeal of Myers* (2001-SBE-001) 2001 WL 37126924.) If the taxpayer fails to provide uncontradicted, credible, competent, and relevant evidence to rebut the proposed assessment, then the taxpayer has failed to meet his or her burden. (*Ibid.*)

Here, appellant does not dispute that there was an error on his income tax return for the 2017 tax year. Further, in his opening brief, appellant states that as a result of that error, he received an incorrect refund amount. Appellant requests that a bill be sent to him to pay the balance that is owed. Based on appellant's concessions, the Office of Tax Appeals finds that appellant has not established error in FTB's proposed assessment of additional tax.

HOLDING

Appellant has not established error in FTB’s proposed assessment of additional tax.

DISPOSITION

FTB’s action is sustained.

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Keith T. Long

Administrative Law Judge

Date Issued: 8/24/2022