OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **M. VADAY AND** **M. VADAY**	OTA Case No. 21098606

OPINION

Representing the Parties:

For Appellants: M. Vaday and M. Vaday

For Respondent: Lily Lequang, Graduate Student Assistant

J. JOHNSON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045,[1] appellants M. Vaday and M. Vaday appeal an action by respondent Franchise Tax Board proposing additional tax of $1,116, and applicable interest, for the 2017 tax year.

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

ISSUE

Whether appellants have shown error in respondent's proposed assessment.

[1] Appellants provide a printout of a payment confirmation dated the day before the filing of their appeal, and state that they have paid the amount at issue while appealing. Respondent does not address the payment, and it is unclear whether this amount was treated as a deposit under R&TC section 19041.5 or if the matter was converted to an appeal from a denial of a claim for refund pursuant to R&TC section 19335. The amount at issue will be referenced herein as a proposed assessment, but the holding and disposition of this appeal shall equally apply to a denial of a claim for refund if R&TC section 19335 does apply.

FACTUAL FINDINGS

1. Appellants filed a California return for the 2017 tax year that included California adjustments subtracting $12,000 of wages.
2. Based on information it received from the IRS, respondent subsequently issued a Notice of Proposed Assessment (NPA) proposing a $12,000 increase to appellants' reported taxable income and additional tax of $1,116, plus interest.
3. Appellant-husband protested the NPA, listing the wages that appellants earned during the tax year and indicating that he did not understand the extra $12,000 in wages he believed were added by the proposed assessment.
4. Respondent replied by letter, asserting the NPA was issued because appellants, as California residents, are not entitled to deduct wages of $12,000 from their adjusted gross income.
5. Appellant-husband replied by letter and asserted that he disagreed with the NPA because he qualified for residential energy credits based on upgrades made in 2017 to windows, doors, and air conditioning equipment. He also indicated that he used TurboTax and followed its instructions when filing the return. Attached to the letter was a completed 2017 federal Form 5695 for Residential Energy Credits.
6. Respondent issued a Notice of Action affirming the NPA, and this timely appeal followed.

DISCUSSION

California residents are generally taxed on their taxable income from all sources. (R&TC, § 17041.) Taxpayers bear the burden of establishing entitlement to any deductions claimed by producing credible evidence, other than mere assertions, that the deductions claimed fall within the scope of a statute authorizing the deduction. (*Appeal of Robinson*, 2018-OTA-059P.)

Here, appellants claimed a deduction on their California return by subtracting wages of $12,000 from their taxable income. On appeal, appellants reiterate their statement at protest that they "do not understand where the $12,000 came from," but note that capital losses listed on Schedule D equaled $12,000. However, the $12,000 reported on Schedule D is reflected as a

$3,000 capital loss which was taken into consideration when calculating appellants' federal adjusted gross income, and has no relation to the $12,000 deduction at issue.[2]

Appellants asserted at protest that in preparing their 2017 return, they used TurboTax and followed its instructions, but if doing so resulted in misreporting the tax due, it does not constitute an error in the proposed assessment correcting that misreporting. To the extent that appellants contend they do not know why wages of $12,000 was subtracted from their taxable income, there is nothing in the record that helps clarify or support why such subtraction should be made. Accordingly, appellants have not supported the subtraction of wages of $12,000 on their California return.

HOLDING

Appellants have not shown error in respondent's proposed assessment.

DISPOSITION

Respondent's action is sustained.

DocuSigned by:
John O Johnson
873D9797B9E64E1...
John O. Johnson
Administrative Law Judge

Date Issued: 9/16/2022

[2] On appeal, appellants do not repeat their alternative argument from their protest that the adjustment of $12,000 relates to residential energy credits. It is unclear how residential energy credits reported on the federal form would result in an additional reduction in California taxable income or California tax due, and therefore there does not appear to be error shown in the proposed assessment based on any residential energy credits claimed.