

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:

K. SCOTT AND
N. SCOTT

) OTA Case No. 21067898
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OPINION

Representing the Parties:

For Appellants: K. Scott

For Respondent: Brian Werking, Tax Counsel III

R. TAY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045 , K. Scott and N. Scott (appellants) appeal an action by Franchise Tax Board (respondent) proposing additional tax of \$1,736, and applicable interest, for the 2016 tax year.

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

ISSUE

Whether appellants have shown error in respondent’s proposed assessment, which is based on a federal determination, for the 2016 tax year.

FACTUAL FINDINGS

1. Appellants timely filed their 2016 California income tax return on April 15, 2017.
2. Respondent received information that the IRS adjusted appellants’ federal income tax return and increased his wages.
3. Respondent made corresponding adjustments and issued a Notice of Proposed Assessment on June 4, 2020.
4. Appellants protested respondent’s proposed assessment and provided a corrected W-2 for N. Scott. Respondent also received information that showed that the IRS reduced its

assessment consistent with the corrected W-2. Respondent revised its proposed assessment accordingly.

5. Respondent issued a Notice of Action affirming the remaining amount of its proposed assessment. This timely appeal follows.

DISCUSSION

R&TC section 18622(a) provides that a taxpayer shall either concede the accuracy of a federal determination or state wherein it is erroneous. It is well settled that a deficiency assessment based on a federal audit report is presumptively correct and that a taxpayer bears the burden of proving that the determination is erroneous. (*Appeal of Gorin*, 2018-OTA-018P.)

Appellants have not provided evidence or argument to show that respondent's determination, which is based on federal adjustments, is incorrect, and in our review of the record, we find none. On appeal, appellants provide the corrected W-2 that they already provided to respondent. Respondent already reduced its initial proposed assessment according to the information in the corrected W-2, and thus, the wage information on the evidence appellants provided is not at issue in this appeal.

Respondent's proposed assessment that is at issue in this appeal predominantly includes an increase in wages for unreported income paid by Goldman Sachs and Co. in 2016. Appellants make no specific argument and provide no additional evidence to show respondent erred in including this income in appellants' wages. Appellants have also not provided evidence to show error in any other aspect of respondent's proposed assessment, and we also find no such error.¹

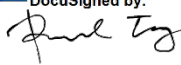
¹ Appellants assert respondent charged a very high rate of interest. There is no evidence in the record that respondent erred in its calculation of interest or that it charged a higher rate than it would charge other similarly situated taxpayers. Moreover, OTA does not have jurisdiction over the rate that interest is charged. (Cal. Code Regs., tit. 18, § 30103.) As such, appellants have not shown error in respondent's interest assessment.

HOLDING


Appellants have not shown error in respondent’s proposed assessment, which is based on a federal determination, for the 2016 tax year.


DISPOSITION

Respondent’s action is sustained in full.

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Richard Tay
Administrative Law Judge

We concur:

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John O. Johnson
Administrative Law Judge

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Tommy Leung
Administrative Law Judge

Date Issued: 10/13/2022