

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
L. SOLOMON

) OTA Case No. 22029749
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OPINION

Representing the Parties:

For Appellant: L. Solomon

For Respondent: Christopher M. Cook, Tax Counsel

For Office of Tax Appeals: Steven Kim, Tax Counsel III

K. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, L. Solomon (appellant) appeals an action by respondent Franchise Tax Board (FTB) proposing additional tax of \$1,082 and applicable interest for the 2016 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.

ISSUE

Whether appellant has established error in FTB’s proposed assessment for the 2016 tax year, which was based on federal adjustments.

FACTUAL FINDINGS

1. Appellant timely filed a California Resident Income Tax Return for the 2016 tax year.
2. On June 5, 2019, FTB received information from the IRS showing that the IRS had increased appellant’s federal adjusted gross income (AGI) by \$24,285.

3. On September 29, 2020, FTB issued appellant a Notice of Proposed Assessment (NPA) increasing appellant's taxable income by \$24,285 and proposing additional tax of \$1,082, plus applicable interest.
4. On February 8, 2022, FTB issued appellant a Notice of Action affirming the NPA.
5. This timely appeal followed.

DISCUSSION

R&TC section 18622(a) requires a taxpayer to concede the accuracy of any changes or corrections to a federal tax return, or establish that the federal changes are erroneous. A deficiency assessment based on a federal adjustment is presumed to be correct and a taxpayer bears the burden of proving that FTB's determination is erroneous. (*Appeal of Valenti*, 2021-OTA-093P.) In the absence of credible, competent, and relevant evidence showing that FTB's determination is incorrect, it must be upheld. (*Ibid.*)

Here, FTB received information that the IRS adjusted appellant's federal AGI for the 2016 tax year. Specifically, the IRS increased appellant's federal AGI by \$24,285. An IRS account transcript obtained on June 9, 2021, shows that the additional federal tax based on the federal adjustment was assessed on May 27, 2019, and that appellant paid the additional federal tax. Therefore, we find no evidence that the 2016 federal adjustment, on which FTB based its determination, was incorrect.

Appellant states that he made a mistake on his 2016 taxes and appears to be conceding FTB's determination based on the federal adjustment. However, appellant argues that he paid the additional tax assessed for the 2016 tax year. Appellant submitted information about his payment history to FTB, but the document only shows payments made for the 2015 and 2018 tax years. We find no evidence in the record showing that appellant paid the additional tax of \$1,082 for the 2016 tax year.

Based on the foregoing, we find that appellant has not met his burden of proof to show that FTB's determination was erroneous, and that no adjustment is warranted for the 2016 tax year.

HOLDING

Appellant has not shown error in FTB’s proposed assessment for 2016.

DISPOSITION

FTB’s action is sustained.

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Keith T. Long
Administrative Law Judge

Date Issued: 10/5/2022