

3. Based on this information, FTB made corresponding adjustments to appellants' California taxable income and issued a Notice of Proposed Assessment (NPA) proposing an additional tax of \$6,248, plus applicable interest.
4. Appellants protested the NPA but did not respond to FTB's requests that appellants provide information showing that the IRS's assessment was cancelled or reduced.
5. Consequently, FTB issued a Notice of Action (NOA) affirming the NPA.
6. Appellants timely appealed the NOA to the Office of Tax Appeals, and with their appeal, submitted an unsigned copy of an amended California tax return that included a Form 1040 Schedule C and reported a refund due of \$351 (amended return). FTB did not accept appellants' amended return on the grounds that it is unsigned, is missing required schedules, and fails to substantiate newly claimed deductions.

DISCUSSION

R&TC section 18622(a) requires a taxpayer to concede the accuracy of federal changes to a taxpayer's income or state where the changes are erroneous. It is well settled that a deficiency assessment based on a federal adjustment is presumptively correct and that the 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.*) The applicable burden of proof is by a preponderance of the evidence. (Cal. Code Regs., tit. 18, § 30219(c).) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof with respect to an assessment based on a federal action. (*Appeal of Gorin*, 2020-OTA-018P.)

Here, FTB received information from the IRS that the IRS increased appellants' 2017 federal taxable income, allowed a self-employment deduction, and reduced appellants' itemized deductions. FTB made conforming adjustments to appellants' 2017 California taxable income, which resulted in a \$6,248 proposed tax liability, plus applicable interest.¹ Because FTB's proposed assessment was based on federal adjustments, it is presumed correct, and appellants have the burden to show that FTB's proposed assessment is erroneous.

¹ Pursuant to R&TC section 17071, California conforms to section 61 of the Internal Revenue Code (IRC) relating to gross income, except as otherwise provided. In addition, R&TC section 17201 incorporates sections of the IRC relating to itemized deductions for individuals (i.e., Part VI of Subchapter B of Chapter 1 of Subtitle A of the IRC), except as otherwise provided.

According to FTB's records, appellants protested the NPA because appellants sold their business and the purchasers of that business did not correctly file their taxes. However, in this appeal, appellants only indicated that they submitted the amended return to FTB, but FTB did not respond. Appellants did not state any other basis for their appeal.

To the extent that appellants are arguing that the IRS's adjustments were based on incorrect tax filings by the purchasers of appellants' former business, appellants have not provided any evidence to support this assertion or how this information is relevant to the issue on appeal here. The only document that appellants offered on appeal was the unsigned amended return, which fails to prove that the IRS cancelled or reduced its assessment, or that FTB's proposed assessment is incorrect. Nor is appellants' allegation that FTB failed to respond to the amended return relevant to the correctness of the IRS's assessment or FTB's proposed assessment.

As unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof, the IRS's adjustment is presumed to be correct, and FTB's proposed assessment based on that adjustment must be upheld. (See *Appeal of Valenti, supra.*)

HOLDING

Appellants have not established error in FTB’s proposed assessment based on a final federal determination.

DISPOSITION

FTB’s action is sustained.

DocuSigned by:
Lauren Katagihara
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Lauren Katagihara
Administrative Law Judge

We concur:

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Eddy Y.H. Lam
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Eddy Y.H. Lam
Administrative Law Judge

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Ovsep Akopchikyan
Administrative Law Judge

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