

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:
COLLECTIBLE BONDS, LLC

) OTA Case Number 220510463
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OPINION

Representing the Parties:

For Appellant: E. Hernandez, President
For Respondent: Camille Dixon, Tax Counsel
For Office of Tax Appeals: Tom Hudson, Tax Counsel III

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, Collectible Bonds, LLC (appellant) appeals from the action of respondent Franchise Tax Board (FTB) proposing to assess additional tax of \$1,556, plus applicable interest, for the 2014 taxable year. Appellant waived the right to an oral hearing; therefore, the Office of Tax Appeals (OTA) decides this matter based on the written record.

ISSUE

Has appellant shown error in the proposed assessment of additional tax for 2014, which was based on IRS audit adjustments?

FACTUAL FINDINGS

1. Appellant is a single-member limited liability company that filed a timely California S Corporation Franchise or Income Tax Return for 2014 (Form 100S).
2. FTB received notice that the IRS audited appellant’s 2014 federal income tax return and made federal adjustments. The IRS disallowed \$14,178 in “other deductions” and \$89,500 in “purchases.” The adjustments resulted in an increase to appellant’s net taxable income of \$103,678.

3. Appellant’s federal account transcript, dated July 21, 2022, shows that the IRS closed its audit exam on May 27, 2019, and no further changes were made to appellant’s federal tax account after that date.
4. FTB made corresponding adjustments to appellant’s California tax and issued a Notice of Proposed Assessment (NPA) proposing to assess additional state tax of \$1,556, plus applicable interest.
5. Appellant protested the NPA, and FTB issued a Notice of Action affirming the NPA.
6. This timely appeal followed.

DISCUSSION

R&TC section 18622(a) requires taxpayers to report federal changes to their tax returns and either concede the accuracy of the federal changes or state where the changes are erroneous. It is well settled that a deficiency assessment based on a federal audit report is presumed to be correct, and the taxpayer bears the burden of proving that FTB’s proposed assessment is erroneous. (*Appeal of Gorin*, 2020-OTA-018P.) 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 audit. (*Appeal of Gorin, supra.*) In the absence of credible, competent, and relevant evidence showing that FTB’s determinations are incorrect, such determinations must be upheld. (*Appeal of Bindley*, 2019-OTA-179P.) A taxpayer’s failure to produce evidence that is within the taxpayer’s control gives rise to a presumption that such evidence is unfavorable to the taxpayer’s case. (*Ibid.*)

Appellant, in its administrative protest with FTB, asserted that the IRS adjustments were due to an accounting error, and appellant requested additional time to dispute the IRS adjustments. On appeal, appellant claims that its former CPA made an error, and President had surgery in 2018 and in 2019, “and then COVID hit.”

Appellant’s federal account transcript, dated July 21, 2022, shows that the IRS closed its audit exam on May 27, 2019, and no further changes were made to appellant’s federal tax account after that date. None of appellant’s assertions demonstrate error in the federal audit adjustments or in FTB’s adjustments based thereon. Appellant has not explained the nature of the disagreement with the IRS (if any), what error appellant’s former CPA may have made, or why appellant might be entitled to the deductions that the IRS disallowed. Appellant’s

arguments on appeal that relate to President’s medical issues and COVID-19, long after the taxable year at issue, likewise do nothing to show that the IRS adjustments are incorrect or that FTB erred in following those adjustments. Appellant has, therefore, not established that FTB’s proposed assessment is erroneous. OTA finds that appellant has failed to meet its burden of proof.

HOLDING

Appellant has not shown error in the proposed assessment of additional tax for 2014, which was based on IRS audit adjustments.

DISPOSITION

FTB’s proposed assessment is sustained.

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Teresa A. Stanley
Administrative Law Judge

We concur:

DocuSigned by:

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Natasha Ralston
Administrative Law Judge

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Josh Aldrich
Administrative Law Judge

Date Issued: 5/18/2023