

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
B. WALLACE) OTA Case No. 221011727
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OPINION

Representing the Parties:

For Appellant: B. Wallace

For Respondent: Caitlin S. Russo, Tax Technician

For Office of Tax Appeals: Kaleigh Adams, Graduate Student Assistant

A. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, B. Wallace (appellant) appeals an action by respondent Franchise Tax Board (FTB) proposing additional tax of \$1,766.42 and applicable interest for the 2018 tax year. 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 of additional tax, which is based on a final federal determination.

FACTUAL FINDINGS

1. Appellant reported total tax of \$1,506 on her timely filed joint 2018 California income tax return.¹ Appellant applied income tax withholdings of \$4,400 and reported an overpayment of \$2,894, which FTB refunded.
2. FTB received information from the IRS, indicating that the IRS had increased appellant’s taxable income to include appellant’s spouse’s W-2 wage income of \$121,703, taxable

¹ Appellant filed a joint return for the 2018 tax year with her spouse; however, only appellant filed this appeal, and therefore she is the sole appellant in this matter.

dividends of \$25, and interest income of \$20. Based on this adjustment, the IRS determined appellant was no longer eligible to claim the student loan interest deduction of \$1,551 and disallowed it.

3. Based on the IRS adjustment, FTB issued a Notice of Proposed Assessment (NPA), which increased appellant's California taxable income by \$123,299.00 but allowed an additional withholding credit of \$8,858.58, based on appellant's spouse's previously omitted wage income. This resulted in a proposed additional tax of \$1,766.42, plus applicable interest.
4. Appellant protested the NPA. In the protest letter, appellant acknowledged that she reported incorrect information on the 2018 federal and state tax returns. Appellant also stated that she believes the amount owed to both the IRS and FTB has been rectified because of the payment made to the IRS.
5. FTB sent appellant a letter dated August 11, 2022, explaining that FTB's assessment cannot be adjusted unless the IRS has canceled or reduced its assessment. Also, appellant was informed that the IRS and FTB are two separate taxing authorities.
6. In response to FTB's letter, appellant submitted a copy of the 2018 federal account transcript reflecting no changes to the federal assessment, which indicates that the assessment is final.
7. Subsequently, FTB issued a Notice of Action (NOA), affirming the NPA. This timely appeal followed.

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 presumed to be correct when the taxing agency introduces a minimal factual foundation to support the assessment. (*Appeal of Gorin*, 2020-OTA-018P.)

FTB properly assessed additional tax based on the IRS's adjustments to appellant's 2018 taxable income, which includes her spouse's W-2 wage income, dividend income, and interest

income. Additionally, FTB disallowed the student loan interest deduction² but allowed an additional withholding credit based on IRS information. As such, FTB's deficiency adjustments are presumed correct.

Appellant states that no one has explained why she owes the proposed amount. Additionally, she states "the amount proposed in this letter is not the same as my online account at FTB.CA.GOV." Appellant includes the NOA with her Request for Appeal.

In appellant's exchanges with FTB, appellant admitted that she omitted her spouse's income from their joint 2018 federal income tax return. Because the California tax return is generally based on the federal tax return, an omission of income on the federal income is also an omission on the California return where California conforms to federal law, which is what occurred in this case. (See R&TC, §§ 17071, 17072; IRC §§ 61(a)(1) & (a)(7), 221(b).) As such, after the IRS and FTB included the omitted income on both the federal and California income tax returns, respectively, appellant owed additional taxes to both the IRS and FTB for the 2018 tax year.

Regarding appellant's FTB account, the Office of Tax Appeals (OTA) does not know what differing amount to which appellant is referring. OTA does not have access to a taxpayer's account on FTB's website, and appellant did not provide OTA with a print-out. FTB and OTA are distinct entities, and OTA only has information that the parties have provided during the taxpayer's appeals process.

Absent any argument or evidence that FTB's deficiency assessment is incorrect, there is no error in FTB's proposed assessment of tax.

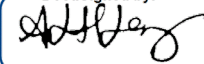
² R&TC section 17201 incorporates Internal Revenue Code (IRC) section 221, which provides taxpayers with a deduction for student loan interest paid up to \$2,500. The amount of the deduction is limited by the taxpayer's modified adjusted gross income in the taxable year. (IRC, § 221(b).)

HOLDING

Appellant has not established error in FTB’s proposed assessment of additional tax, which is based on a final federal determination.

DISPOSITION

FTB’s action is sustained.

DocuSigned by:

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Andrea L.H. Long
Administrative Law Judge

We concur:

DocuSigned by:

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Josh Lambert
Administrative Law Judge

DocuSigned by:

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Veronica I. Long
Administrative Law Judge

Date Issued: 10/9/2023