

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
E. OSTRO) OTA Case No. 220610558
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OPINION

Representing the Parties:

For Appellant: E. Ostro

For Respondent: Bradley J. Coutinho, Attorney

For the Office of Tax Appeals: Rachel Lucchini,
Graduate Student Assistant

K. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, E. Ostro (appellant) appeals actions by the Franchise Tax Board (respondent) proposing additional tax of \$1,522, \$1,019, and \$4,019, and applicable interest, for the 2015, 2016, and 2017 tax years, respectively.

Appellant waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

ISSUE

Whether appellant has shown error in respondent’s adjustments, which are based on federal adjustments, for the 2015, 2016, and 2017 tax years.

FACTUAL FINDINGS

1. Appellant filed a timely California income tax return for the 2015 tax year reporting a tax of \$1,909. After applying withholding credits, appellant claimed a refund of \$398. Respondent processed appellant’s return as filed and issued the refund.
2. Subsequently, respondent received information that the IRS reviewed appellant’s federal return for 2015. The IRS made adjustments to appellant’s federal Form 1040

- Schedule C, Profit or Loss From Business (Sole Proprietorship) (Schedule C), which increased appellant's federal adjusted gross income (AGI) by \$16,833.
3. Respondent made corresponding adjustments to appellant's California return. On December 30, 2020, respondent issued a Notice of Proposed Assessment (NPA) for the 2015 tax year proposing an additional tax of \$1,522, plus applicable interest.
 4. Appellant filed a timely 2016 California return reporting zero tax liability.
 5. Subsequently respondent received information that the IRS reviewed appellant's federal return for 2016. The IRS made adjustments to appellant's Schedule C, which increased appellant's federal AGI by \$27,332.
 6. Respondent made corresponding adjustments to appellant's California return. On December 30, 2020, respondent issued an NPA for the 2016 tax year proposing an additional tax of \$1,019, plus applicable interest.
 7. Appellant filed a timely 2017 California return. After applying withholding credits, appellant reported a tax liability of \$215. Appellant remitted payment with the return.
 8. Subsequently respondent received information that the IRS reviewed appellant's federal return for 2017. The IRS made adjustments to appellant's Schedule C, and appellant's federal Form 1040 Schedule A, Itemized Deductions, which increased appellant's federal AGI by \$42,865.
 9. Respondent made corresponding adjustments to appellant's California return. On December 30, 2020, respondent issued an NPA for the 2017 tax year proposing an additional tax of \$4,019, plus applicable interest.
 10. Appellant timely protested the NPAs. Respondent acknowledged appellant's protests and requested additional information in support of appellant's position. Appellant did not respond. Appellant issued Notices of Action affirming the NPAs.
 11. This timely appeal followed.

DISCUSSION

If the IRS changes or corrects an item reported by a taxpayer on their federal income tax return, the taxpayer shall report the change or correction to respondent within six months of the final federal determination, either conceding the accuracy of that determination, or stating where the determination is erroneous. (R&TC, § 18622(a).) It is well that settled a deficiency assessment based on federal adjustments is presumed correct, and a taxpayer has 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.*)

On appeal, appellant does not provide any specific arguments. Instead, appellant asserts only that the federal adjustments for 2015, 2016 and 2017, are "unfounded." Appellant previously argued that they filed returns claiming business use of home deductions accurately. As an explanation, appellant asserted that a significant portion of appellant's home was converted into a home office and fitness studio for work use. With respect to the fitness studio, appellant asserts that they were required to film content for their job. OTA notes that the federal adjustments, and respondent's adjustments, allow deductions for expenses related to the business use of appellant's home in each year. Appellant has not provided any evidence that they are entitled to a greater deduction.

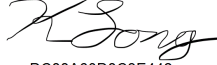
Respondent's proposed assessments are based on federal adjustments and are presumed correct. (*Appeal of Valenti, supra.*) OTA finds no evidence that the IRS reduced the federal adjustment. As such, appellant bears the burden of showing that the federal determination is incorrect. However, appellant has not provided any evidence in support of their arguments. Appellant has not met their burden of proof.

HOLDING

Appellant has not shown error in respondent’s adjustments, which are based on federal adjustments, for the 2015, 2016, and 2017 tax years.


DISPOSITION

Respondent’s action is sustained.


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Keith T. Long
Administrative Law Judge

We concur:

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Administrative Law Judge

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Natasha Ralston
Administrative Law Judge

Date Issued: 1/11/2024