

FACTUAL FINDINGS2011 Tax Year

1. Appellants did not timely file a California Resident Income Tax Return (return) for the 2011 tax year, so respondent issued individual Notices of Proposed Assessments (NPAs) to appellants.
2. On September 3, 2013, appellants jointly filed their 2011 return.
3. Respondent processed appellants' 2011 return.
4. On June 5, 2019, respondent received information from the IRS showing that the IRS had disallowed certain business expenses and itemized deductions claimed by appellants for the 2011 tax year. Specifically, the IRS disallowed the following business expenses: cost of goods sold of \$3,890; car and truck expenses of \$6,901; and "other expenses" of \$11,467. The IRS also disallowed miscellaneous itemized deductions totaling \$36,272, as well as deductions for cash contributions of \$6,100 and non-cash contributions of \$500.
5. Based on the IRS disallowances, respondent made corresponding adjustments to appellants' 2011 tax account, which resulted in a proposed additional tax of \$5,416.

2012 Tax Year

6. On April 1, 2013, appellants jointly filed a 2012 return.
7. Respondent processed appellants' 2012 return.
8. On June 5, 2019, respondent received information from the IRS showing that the IRS had disallowed certain business expenses and itemized deductions claimed by appellants for the 2012 tax year. Specifically, the IRS disallowed the following business expenses: car and truck expenses of \$8,569; and "other expenses" of \$12,580. The IRS also disallowed miscellaneous itemized deductions totaling \$38,430, as well as deductions for cash contributions of \$10,200 and non-cash contributions of \$500.
9. Based on the IRS disallowances, respondent made corresponding adjustments to appellants' 2012 tax account, which resulted in a proposed additional tax of \$5,778. Respondent proposed the additional tax in an NPA issued to appellants on September 29, 2020.

Appeal to OTA

10. On or about November 19, 2020, appellants protested the NPAs for the 2011 and 2012 tax years.
11. On August 25, 2021, respondent issued to appellants Notices of Action, which affirmed the NPAs.
12. Appellants timely appealed to OTA.

DISCUSSION

R&TC section 18622(a) provides that a taxpayer must either concede the accuracy of a final federal determination or state wherein it is erroneous. It is well settled that a deficiency assessment based on federal adjustments to income is presumptively correct and that the taxpayer bears the burden of proving that the determination is erroneous. (*Appeal of Gorin*, 2020-OTA-018P.) In the absence of credible evidence showing that respondent's determination is incorrect, it must be upheld. (*Appeal of Valenti*, 2021-OTA-093P.) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof with respect to a deficiency assessment based on a federal action. (*Appeal of Gorin, supra.*)

Respondent assessed additional taxes based on the IRS's disallowance of certain business expenses and itemized deductions claimed by appellants for the 2011 and 2012 tax years. As such, respondent's deficiency assessments are presumed correct.

On appeal, appellants assert that they are currently challenging the IRS's disallowance of their claimed itemized deductions for the 2011 and 2012 tax years. Appellants also assert that the IRS has not given them a viable reason for the additional assessments of tax, and the process of challenging the IRS has taken longer than expected due to the COVID-19 pandemic. Finally, appellants assert that they are actively trying to obtain a resolution with the IRS.

Here, appellants have not supplied any evidence showing that the IRS has revised or reversed—or is otherwise reviewing—its adjustments for the 2011 or 2012 tax years. Neither have appellants offered any substantive argument explaining why respondent's assessments are erroneous. Accordingly, OTA finds that appellants have not carried their burden of proving error in respondent's determinations and concludes that no adjustments are warranted for the 2011 and 2012 tax years.

HOLDING

Appellants have not established error in respondent's proposed assessments for the 2011 and 2012 tax years.

DISPOSITION

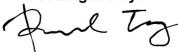
Respondent's actions are sustained.

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Andrew Wong
Administrative Law Judge

We concur:

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Richard Tay
Administrative Law Judge

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Keith T. Long
Administrative Law Judge

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