



- the 2018 tax year by various third parties: (1) a \$25,651 taxable distribution reported on IRS Form 1099-R by Fidelity Investments; (2) a \$25,000 taxable distribution reported on IRS Form 1099-R by Vanguard Fiduciary Trust Company; and (3) \$64 of interest reported on IRS Form 1099-INT by Technology Credit Union.
3. Respondent therefore issued a Notice of Proposed Assessment (NPA) to appellants for the 2018 tax year for additional California income tax based on the federal adjustment.<sup>1</sup>
  4. Appellants protested the NPA and included with their protest letter a copy of their 2018 federal account transcript dated October 13, 2022, which shows that although the IRS did not cancel or reduce its deficiency assessment, the additional tax owed had nevertheless been satisfied via source withholding and an advance payment of tax.
  5. After reviewing this information, respondent issued a Notice of Action affirming its NPA.
  6. Appellants filed this timely appeal.

#### DISCUSSION

It is well settled that a deficiency assessment based on a federal adjustment is presumed correct and taxpayers bear the burden of proving otherwise by a preponderance of evidence. (*Appeal of Valenti*, 20201-OTA-093P.) In other words, taxpayers must establish by documentation or other evidence that the circumstances asserted are more likely than not to be correct. (*Appeal of Rougeau*, 2021-OTA-335P.) In the absence of credible, competent, and relevant evidence showing that respondent's proposed assessment is incorrect, it must be upheld. (*Appeal of Valenti*, *supra*.)

On appeal, appellants contend they are entitled to relief because they "filed [their] taxes consistently." Appellants also provide a letter from the IRS informing them that they had a total of \$10,130 in unclaimed federal income tax withholdings (in addition to unreported income) for the 2018 tax year.

The record shows that appellants received \$50,715 of income for the 2018 tax year which they failed to report. There is no evidence in the record indicating that there was an error in the amounts reported as paid to appellants, that the income they received was not subject to tax, or

---

<sup>1</sup> The federal adjustment included a withholding credit of \$513.

that the IRS canceled or reduced the deficiency determination upon which respondent’s NPA is based.

That appellants had sufficient payments and withholdings to satisfy the resulting federal tax deficiency does not demonstrate that the California income tax deficiency had also been paid. In addition, the IRS notice provided by appellants does not contain any information indicating the amount, if any, of *California* income tax withheld from the unreported income, nor have appellants provided any other evidence showing that they are entitled to more than the additional \$513 California withholding credit previously provided by respondent.

Appellants also argue that respondent should have “notified [them] right away” of any additional tax owed. OTA finds no error in the timeliness of respondent’s NPA, and thus, appellants’ argument is unavailing.

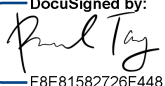
Based on the foregoing, OTA finds no error in respondent’s proposed assessment.

HOLDING


Appellants have not shown error in respondent’s proposed assessment.

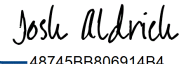
DISPOSITION

Respondent’s action is sustained.

DocuSigned by:  
  
F8E81582726F448...  
Richard Tay  
Administrative Law Judge

We concur:

DocuSigned by:  
  
CB1F7DA37831416...  
Josh Lambert  
Administrative Law Judge

DocuSigned by:  
  
48745BB806914B4...  
Josh Aldrich  
Administrative Law Judge

Date Issued: 2/27/2024