

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: )  
**J. VEIKOS** ) OTA Case No. 230312796  
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**OPINION**

Representing the Parties:

For Appellant: J. Veikos  
For Respondent: Dawn Casey, Associate Operation Specialist

R. TAY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, J. Veikos (appellant) appeals an action by respondent Franchise Tax Board (FTB) proposing additional tax of \$8,795 and applicable interest for the 2018 tax 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**<sup>1</sup>

Whether appellant has shown error in FTB’s proposed assessment of tax for the 2018 tax year.

**FACTUAL FINDINGS**

1. Appellant filed a timely 2018 California income tax return. On his return, appellant reported a California subtraction on Schedule CA in the amount of \$138,582, which is the amount of wages reported on his Form W-2. Appellant provided no explanation with his return as to why this amount should be excluded from his California taxable income.

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<sup>1</sup> Appellant makes no separate argument for interest abatement; thus, OTA limits its discussion accordingly.

2. FTB examined appellant's 2018 income tax return and determined appellant should have included the \$138,582 in his taxable income. FTB issued a Notice of Proposed Assessment (NPA) on May 31, 2022.
3. Appellant protested the NPA, and FTB affirmed the proposed assessment in a Notice of Action dated February 7, 2023.
4. Appellant filed a timely appeal.

### DISCUSSION

FTB's determination is presumed to be correct, and a taxpayer has the burden of proving error. (*Appeal of Wright Capital Holdings, LLC*, 2019-OTA-219P.) A taxpayer cannot carry that burden without providing "credible, competent, and relevant evidence as to the issues in dispute." (*Ibid.*) Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence, which means the taxpayer must establish by documentation or other evidence the circumstances they assert are more likely than not to be correct. (Cal. Code Regs., tit. 18, § 30219(c).)

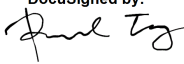
On appeal, appellant argues FTB erred in computing his taxable income and asserts the correct taxable amount is *higher* than the amount FTB used as the basis for its proposed assessment. Additionally, appellant asserts FTB's proposed assessment is "a total scam" used to "scare people into paying money they don't owe." OTA finds no error in FTB's computation and no basis for these allegations in the record. Rather, appellant's 2018 Form W-2 supports the inclusion of \$138,582 in appellant's California taxable income, and appellant has not provided sufficient evidence or information showing he is entitled to the California subtraction as reported on his 2018 California income tax return. OTA also finds no reason in the record to allow this subtraction for California tax purposes. Despite the lack of evidence, appellant asserts he owes no additional tax; however, unsupported assertions are not sufficient to satisfy his burden of proof. (*Appeal of Wright Capital Holdings, LLC, supra.*)

HOLDING


Appellant has not shown error in FTB’s proposed assessment of tax for the 2018 tax year.


DISPOSITION

FTB’s action is sustained.

DocuSigned by:  
  
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Richard Tay  
Administrative Law Judge

We concur:

DocuSigned by:  
  
48743BB800914B4...  
Josh Aldrich  
Administrative Law Judge

DocuSigned by:  
  
272943E7B372445...  
Andrea L.H. Long  
Administrative Law Judge

Date Issued: 1/5/2024