



### FACTUAL FINDINGS

1. On March 24, 2019, appellant timely filed a 2018 resident income tax return with a head of household filing status.
2. Respondent subsequently received information from the IRS that it had adjusted appellant's 2018 account by increasing her federal taxable income by \$30,668 due to unreported pension income of \$30,648 and unreported interest income of \$20.
3. Based on the IRS adjustments, respondent issued a Notice of Proposed Assessment (NPA) dated February 21, 2023,<sup>2</sup> which increased appellant's taxable income by \$30,668. After allowing additional withholding credit of \$307 related to the pension income, respondent proposed additional tax of \$2,321 plus interest.
4. In response to the NPA, appellant submitted to respondent a copy of Form 1099-R issued to appellant, which indicated appellant received a gross taxable distribution of \$30,648.56 and California withholdings of \$306.49. Respondent treated the response as a protest to the NPA.
5. Respondent sent a position letter to appellant to inform her that the IRS and respondent are two separate taxing authorities; the IRS increased appellant's federal adjusted gross income; based on the IRS adjustment, respondent's NPA is correct; and respondent allowed an additional withholding credit of \$307. Respondent requested that if appellant had information that the IRS had reduced or withdrawn its tax assessment, appellant should provide such information within 30 days.
6. Respondent did not receive any additional information that the IRS changed its assessment, and respondent subsequently issued a Notice of Action, affirming the NPA.
7. This timely appeal followed.

### DISCUSSION

When the IRS makes a final federal determination of tax, the taxpayer must concede the accuracy of the federal changes or state where the changes are erroneous. (R&TC, § 18622(a).) It is well settled that a deficiency assessment based on a federal adjustment is presumed to be correct, and the taxpayer bears the burden of proving that respondent's determination is

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<sup>2</sup> An earlier NPA was sent to appellant on October 3, 2019, which changed appellant's filing status from head of household to single.

erroneous. (*Todd v. McColgan* (1949) 89 Cal.App.2d 509, 514; *Appeal of Valenti*, 2021-OTA-093P.) In the absence of credible, competent, and relevant evidence showing that respondent's proposed assessment is incorrect, it must be sustained. (*Appeal of Bracamonte*, 2021-OTA-156P.)

R&TC section 17071 incorporates Internal Revenue Code (IRC) section 61, which defines "gross income" as "all income from whatever source derived," including income from pensions and annuities, as well as interest. (See IRC, § 61(a)(4), (8), (10).) Unless an exception applies, a distribution from a qualified retirement plan or an individual retirement account is included in income for the year of distribution. (IRC, §§ 402(a), 408(d).)<sup>3</sup> California residents are taxed on all their income regardless of source. (R&TC, § 17041(a).) As a California resident, appellant must include the income at issue in her California taxable income.

Appellant does not dispute that she failed to report pension income of \$30,648 and interest income of \$20 on her 2018 federal and California returns. Instead, appellant argues that she has paid all her taxes for 2018 and she should not have to pay any more taxes. 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. (See R&TC, §§ 17071, 17072; IRC §§ 61, 62.) As such, after the IRS and respondent included the omitted income on both the federal and California income tax returns, respectively, appellant owes additional taxes to both the IRS and to respondent for the 2018 tax year.

Appellant does not provide any supporting documents other than the 2018 Form 1099-R that she produced at protest. The 2018 Form 1099-R establishes that the NPA properly increased appellant's taxable income for the unreported pension income of \$30,648 and properly allowed additional California income tax withholding of \$307. Absent any argument or evidence that respondent's deficiency assessment is incorrect, respondent's determination is upheld.

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<sup>3</sup> California conforms to IRC sections 402 and 408 in relevant part pursuant to R&TC section 17501(a).

HOLDING

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

DISPOSITION

Respondent's action is sustained.

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Andrea L.H. Long  
Administrative Law Judge

Date Issued: April 11, 2024