

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
K. WILLIAMS,) OTA NOs. 22029644
) 220510484
) APPELLANT.) 221011637
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TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Thursday, September 19, 2024

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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Transcript of Electronic Proceedings,
taken in the State of California, commencing
at 9:40 a.m. and concluding at 10:17 a.m. on
Thursday, September 19, 2024, reported by
Ernaly M. Alonzo, Hearing Reporter, in and
for the State of California.

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APPEARANCES:

Panel Lead: ALJ TOMMY LEUNG

Panel Members: ALJ AMANDA VASSIGH
ALJ ANDREW WONG

For the Appellant: K. WILLIAMS

For the Respondent: STATE OF CALIFORNIA
FRANCHISE TAX BOARD
ERIC BROWN
ADAM SUSZ

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-2 were received into evidence at page 5.)

(Appellant's Exhibits 3-8 were received into evidence at page 7.)

(Department's Exhibits A-UU for Tax Year 2017, 2018, and 2019 were received into evidence at page 5.)

(Department's Exhibits A-P for Tax Year 2020 were received into evidence at page 5.)

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California; Thursday, September 19, 2024

9:40 a.m.

JUDGE LEUNG: Good morning. Welcome to the Office of Tax Appeals. This is the Appeal of Williams for 2017, 2018, 2019, and 2020. Docket numbers are as follows: 22029644, 220510484, and 221011637.

Prior to today's hearing, today is September 19th, 2020 [sic], approximately 9:40 a.m., exhibits -- the parties agreed to admit into evidence Exhibits for the Franchise Tax Board for the 2020 tax year, Exhibits A through P, as in Peter, and for 2017, 2018, 2019 Exhibits A through UU for those tax 2017, '18, '19 tax years. And for Ms. Williams, Exhibits 1 and 2 are admitted into evidence also.

(Department's Exhibits A-P for Tax Year 2020 were received in evidence by the Administrative Law Judge.)

(Department's Exhibits A-UU for Tax Years 2017, 2018, and 2019 were received in evidence by the Administrative Law Judge.)

(Appellant's Exhibits 1-2 were received in evidence by the Administrative Law Judge.)

JUDGE LEUNG: Franchise Tax Board has objections to Appellant's Exhibits 3 through 8.

1 Mr. Brown, please state your objections.

2 MR. BROWN: The objections that we -- or the
3 exhibits we object to in the testimony is that they're not
4 relevant. And FTB submitted a written objection stating
5 the grounds for that objection. And, essentially, it's
6 that all of the tax years -- or every tax year stands on
7 its own. What occurs with one taxpayer or tax -- from one
8 tax year to another is -- it is separate from each other,
9 as is the tax liability of any other -- of another
10 taxpayer stands on its. That's the basis of our
11 objection.

12 JUDGE LEUNG: Thank you, Mr. Brown. I'm going to
13 continue my -- what I ruled in the prehearing conference.
14 I'm going to allow these exhibits to be entered into
15 evidence. You know, we can just, you know, read. The
16 panel can determine whether it's relevant or not. We do
17 know that these exhibits are a major part of Ms. Williams'
18 appeal. To reject them at this point is basically to
19 leave Ms. Williams without much of an appeal. So we think
20 we should let those exhibits in.

21 Of course, you, Franchise Tax Board, are free to
22 argue relevancy, again, argue on substance for those
23 exhibits also. But as far as this panel is concerned,
24 these exhibits are coming in as evidence, and they will be
25 made part of the record. So Exhibits 3 through 8 are

1 being admitted into evidence.

2 (Appellant's Exhibits 3-8 were received
3 in evidence by the Administrative Law Judge.)

4 JUDGE LEUNG: Also discussed at the prehearing
5 conference, the parties have agreed to hold this hearing
6 electronically.

7 And the parties also agree that there's a witness
8 to this meeting, Mr. Denning. Mr. Denning's tax returns
9 are in the record. We also have for today's hearing time
10 for Ms. Williams to present. It's a total of 20 minutes,
11 and time for Franchise Tax Board is 10 minutes.

12 Before we start, Ms. Williams, you and
13 Mr. Denning, good morning.

14 MS. WILLIAMS: Good morning Your Honor.

15 JUDGE LEUNG: Mr. Denning, are you there?

16 MR. DENNING: Yes. Good morning.

17 JUDGE LEUNG: Good morning, sir. Would you both
18 please raise your right hands.

19

20

K. WILLIAMS,

21 produced as a witness, and having been first duly sworn by
22 the Administrative Law Judge, was examined, and testified
23 as follows:

24

25

D. DENNING,

1 produced as a witness, and having been first duly sworn by
2 the Administrative Law Judge, was examined, and testified
3 as follows:

4
5 JUDGE LEUNG: Thank you.

6 Mr. Denning, I'm sure you realize that your tax
7 records are in the record, and this is a public hearing.
8 Do you waive confidentiality to those tax records?

9 MR. DENNING: Yes, I do.

10 JUDGE LEUNG: And you are willing to answer
11 questions from either the Franchise Tax Board or this
12 panel regarding your tax returns regarding 2017
13 through 2020?

14 MR. DENNING: Yes.

15 JUDGE LEUNG: Okay. Thank you.

16 Franchise Tax Board, will you please introduce
17 yourselves.

18 MR. BROWN: I'm Eric Brown, attorney with the
19 Franchise Tax Board.

20 JUDGE LEUNG: Good morning.

21 MR. SUSZ: Adam Susz, attorney supervisor with
22 the Franchise Tax Board.

23 JUDGE LEUNG: Good morning, Mr. Sues.

24 Okay. I think after that long-winded
25 introduction, Ms. Williams we are ready for your

1 presentation, and you have 20 minutes.

2 MS. WILLIAMS: Okay. Thank you, Your Honor.

3 JUDGE LEUNG: You're welcome.

4

5 PRESENTATION

6 MS. WILLIAMS: I would like to start by saying
7 this my response to the issues presented by the Franchise
8 Tax Board. The Respondent's tax and penalty assessments
9 are based on the fact that they do not claim -- that they
10 claim that no valid returns were filed for the years in
11 question. Respondent uses this justification as the basis
12 to propose tax assessment and frivolous penalties. The
13 returns I filed meet all of the requirements of a valid
14 return as determined by the IRS. I have further
15 verification of this.

16 The IRS has accepted and processed all of the
17 federal returns I had filed for the years 2017
18 through 2020. As per the response brief, I filed in
19 response to the respondent's brief, I prepared my
20 California returns following the instructions on the form
21 to enter my total wages from the federal form W-2 box 16.
22 My returns for 2017, 2018, and 2019 tax returns meet all
23 of the requirements of the law. The IRS has accepted my
24 federal returns for 2017, '18, '19 and '20 and processed
25 them correctly and accordingly. My prepared tax filings

1 and sworn testimony are the basis for the assessment of
2 taxes.

3 Respondents incorrectly states that W-2
4 third-party information returns are a basis for assessment
5 of taxes. The erroneous third party W-2 information that
6 the Respondent references is bad payor data as described
7 in the Internal Revenue Manual Part 4.2.1.242, quote,
8 "Nontaxable income reported as taxable," unquote. The
9 courts are considered that information returns allegation
10 are never sufficient in and of themselves as an
11 evidentiary basis for determine -- excuse me -- for
12 determining the existence or correctness of deficiency or
13 liabilities. The IRS -- the Internal Revenue Code
14 marks -- makes it clear that a form -- forms W-2 and 1099
15 is not the final word on what a, quote, "taxpayer's,"
16 unquote taxable income is as provided in 26 USC 6201-D.

17 And that states, "In any court proceeding, if a
18 taxpayer asserts a reasonable dispute with respect to any
19 item reported on an information return by a third party,
20 the IRS shall bear -- have the burden of producing
21 reasonable and probative information concerning such
22 deficiency in addition to such information return,"
23 unquote. The IRS states that per OCC memorandum,
24 Exhibit 1, as, "Even a return containing zero for all
25 entries, except amounts withheld, the amount of the

1 overpayment and the amount to be refunded is not invalid
2 by reason of that pattern or contents of entries, that a
3 return only qualifies as invalid when unaccompanied with
4 tax protester-type arguments," unquote.

5 By definition a quote, "Tax protester argument,"
6 unquote is a declaration of disagreement with the tax.
7 Such a declaration expresses or implies something to the
8 effects of, quote, "I believe this tax applies to my
9 earnings or the activity that produced them, per the law
10 as written, but I don't think it should," unquote.

11 My return states that exact opposite, expressing
12 or implying, quote, "I don't believe this tax applies to
13 my earnings or the activity that produced them." Per the
14 IRS's own office of Chief Counsel summary, quote, "Such a
15 return, even when containing zero for all entries except
16 amount withheld, the amount of the overpayment and the
17 amount to be refunded cannot be legitimately declared
18 invalid." Such a return only qualifies as invalid when,
19 quote, "Accompanied with tax protester type arguments,"
20 unquote.

21 If a tax officer or anyone else declares
22 something to the effect of, quote, "Taxpayer argues that
23 his wages are not income," when that was really said, was
24 that my -- what was really said -- excuse me -- was that
25 my earnings are not, quote, "wages," unquote, and that is

1 the other side's burden to prove the contrary, if it can.
2 This is a flat-out admission that not all earnings are,
3 quote, "wages," and by the extension, that any earnings
4 could allege, quote, "wage status," has been formally
5 disputed must be proven to be in that special subclass.

6 So regarding the FTB's assessment of frivolous
7 tax returns and submissions, the FTB has not established a
8 legal basis nor proof as to why my returns are frivolous
9 as required by law. The same applies for frivolous
10 submission as per 26 USC 6702, frivolous tax submission.
11 The burden of proof, the Appellant is not required to
12 establish the burden of proof. The Tax Code is specific
13 as per the burden of proof is on the Respondent, and the
14 Respondent has no proof.

15 The burden of proof, California Revenue &
16 Taxation Code 19180 states that, "In any proceeding
17 involving the issue of whether or not any person is liable
18 for a penalty under section 19177, 19178, 19179, the
19 burden of proof with respect to that issue shall be on the
20 Franchise Tax Board." 26 USC 6201, Assessment Authority,
21 require reasonable verification of information returns,
22 and any court proceeding is a tax assess -- asserts a
23 reasonable dispute with respect to any item of income
24 reported on an information filed return with the Secretary
25 under subpart (b) or (c) of part 3 of subchapter(a) of

1 chapter 61 by a third party, and the taxpayer has fully
2 cooperated with the secretary, including providing within
3 a reasonable time period access to and inspection of all
4 witnesses information and documents within the control of
5 the taxpayer as reasonably requested by the Secretary.
6 The Secretary shall have the burden of producing
7 reasonable and probative information concerning such
8 deficiency in addition to such information returned.

9 So the burden shifts where the taxpayer produces
10 credible evidence. In any court, a taxpayer introduces
11 credible evidence with respect to a factual issue relevant
12 to ascertaining the liability of the taxpayer for any tax
13 imposed by subtitle (a) or (B.) The secretary shall have
14 the burden of proof with respect to such issue, and no
15 proof has ever been provided.

16 I rebutted all of the erroneous, quote, "taxpayer
17 issued," unquote W-2 and 1099 forms and attached corrected
18 forms to my state filed returns. As per law, W-2s are
19 explicit [sic] -- explicitly -- excuse me -- confined to
20 report of only statutory defined, quote, "wages and
21 payments." And reports on the forms of payment, which
22 really don't qualify as such, quote, "wages," are
23 therefore, erroneous. A declaration of payment of, quote,
24 "wages," on a W-2 is never sufficient in of itself to
25 establish that, quote, "wages" have actually been paid no

1 matter what else is on the form is true, in fact, or is
2 presumed true.

3 Similarly, nothing one says implies or allows to
4 be presumed about oneself establishes or even supports an
5 allegation that, quote, "wages has been paid or received
6 other than outright acknowledgment." And, quote,
7 "information return," unquote is never more than a
8 collection of allegations requiring additional facts and
9 evidence to support them, unless acknowledged either
10 affirmatively or by default. Nothing on them can be taken
11 as true, quote, "as a matter of law," unquote, no matter
12 who produces them or about who they are produced. And
13 nothing on them becomes true, quote, "as a matter of law,"
14 unquote, no matter how they're rebutted.

15 Every single thing on them or about which they
16 report is capable of being completely wrong or done in
17 error, such as the withholding, no matter what else is
18 actually true or presumed true. No 6020(b) return has
19 ever filed by the FTB and signed under penalty or perjury
20 as require to prove taxable receipts and assesses the tax.
21 The statute code at 26 UCSC 6020(b) imposes a mandate on
22 the federal government to create a return of its own and
23 on its own behalf, which in actually -- it actually has
24 legal grounds for believing someone has had taxable
25 receipts contrary to what appears on his or her filed

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return.

JUDGE LEUNG: Ms. Williams.

MS. WILLIAMS: Yes.

JUDGE LEUNG: Just to let you know, you've used up 10 of your 20 minutes and --

MS. WILLIAMS: Okay. I'm almost finished, sir.

JUDGE LEUNG: Just letting you that. So just remind everybody that the issues in this case are whether FTB's proposed assessments are in error and there are three penalties --

MS. WILLIAMS: Yes.

JUDGE LEUNG: -- the late filing penalty, the demand penalty, and the frivolous return and submission penalty. So you've gone through the frivolous penalties, so you still got the other two penalties to go through, and you're basically going through the proposed assessment. Just to let you know where you are. So go ahead. I didn't mean to interrupt.

MS. WILLIAMS: Okay. It's okay.

JUDGE LEUNG: Okay.

MS. WILLIAMS: Okay. When it actually had -- oh, I'm so sorry.

26 CFR 301 6020(b), Execution of Returns, in general, if any person required by the Internal Revenue Code or by the regulations to make a return fails to make

1 such return as to the time prescribed, therefore, or makes
2 willfully or otherwise a false, fraudulent, or frivolous
3 return, the Commissioner or other authorized Internal
4 Revenue Officer employee shall make such return from his
5 or her -- from his own knowledge and from such information
6 as he can obtain through testimony or otherwise.

7 Person went through these rules, then the law
8 plainly states that the government is obligated to make a
9 Form 6020(d) return on its own behalf by the hand of its
10 agent and if it believes it has a legal basis or authority
11 for alleging that a person has had an amount of, quote,
12 "income sufficient," unquote, sufficient to require a
13 return, and which is contrary to what appears on the
14 return that person may have already filed.

15 Additional credible evidence, the witness will
16 testify that he and his wife submitted zero California
17 state tax returns in the exact same format that I have
18 provided. The returns were processed without question and
19 refunds were issued to them. This is further proof that
20 the FTB has accepted and processed zero returns.

21 I'd like to have my witness testify at this
22 point.

23 JUDGE LEUNG: Yes, please.

24 MS. WILLIAMS: Okay. David would you please
25 speak for the record regarding your California state tax

1 returns copies for 2017 through 2020 that were introduced
2 into evidence.

3

4

WITNESS TESTIMONY

5 MR. DENNING: Yes. Certainly. My wife and I
6 filed zero tax returns, based on the rebuttal of incorrect
7 W-2 and 1099s furnished to the tax agencies by payors on
8 California 3525 forms. We submitted with our returns,
9 which included language that we received no wages as
10 defined by law, or in the case of 1099Rs that the
11 distribution is my source of capital, and that the capital
12 does not qualify as wages, and any payment made by any
13 institution was for money that is capital, not income. So
14 that covered the issue as far as rebutting W-2s and 1099s
15 in our tax forms.

16 The State of California accepted these returns as
17 valid returns and subsequently processed them and issued
18 refunds for overpayments. So if there is anything else,
19 you know, I just stated the factual evidence, I believe.

20 MS. WILLIAMS: Okay. Thank you, Mr. Denning.

21 This concludes the witness testimony and my
22 testimony.

23 JUDGE LEUNG: Okay. For the record, you have six
24 minutes left. I'll reserve that for your closing.

25 Before you begin your presentation, Mr. Brown, do

1 you have any questions for either Ms. Williams or
2 Mr. Denning?

3 MR. BROWN: I have no questions, Your Honor.

4 JUDGE LEUNG: Okay. To my co-panelists,
5 Judge Vassigh, any questions for either Mr. Denning or
6 Ms. Williams?

7 JUDGE VASSIGH: I do not have any questions at
8 this time.

9 JUDGE LEUNG: Thank you.
10 Judge Wong?

11 JUDGE WONG: No questions. Thank you.

12 JUDGE LEUNG: Thank you.

13 Mr. Brown, please begin your presentation. You
14 have 10 minutes.

15 MR. BROWN: Thank you.

16

17 PRESENTATION

18 MR. BROWN: My name is Eric Brown, attorney with
19 the Franchise Tax Board. Also representing the Franchise
20 Tax Board is Adam Susz.

21 This appeal involves deficiency assessments for
22 tax years 2017, 2018, 2019, and 2020. Appellant has
23 failed to show error in any of the proposed assessment to
24 the additional tax. Appellant has also failed to
25 establish reasonable cause to abate the delinquent penalty

1 and demand penalty for any tax year in issue. Before
2 proceeding with my presentation, I wish to address two
3 threshold matters in this appeal.

4 First, Respondent notes from the prehearing
5 conference Minutes and Orders that Issue No. 4 is whether
6 the 2017 through 2020 frivolous return and frivolous
7 submission penalties should be waived. As a threshold
8 matter, Respondent objects to inclusion of this issue in
9 the present appeal on grounds that the OTA lacks subject
10 matter jurisdiction to consider frivolous return penalties
11 and frivolous submission penalties imposed under Revenue &
12 Taxation Code Section 19179. The prepayment review
13 process for frivolous return penalties and frivolous
14 submission penalties is by way of petitioning the Chief
15 Counsel of the Franchise Tax Board for relief, pursuant to
16 section 19179 subdivision (e). Otherwise, since
17 section 19180(b) specifically exempt frivolous return and
18 frivolous submission penalties from taxpayer protest and
19 appeals processes.

20 JUDGE LEUNG: Mr. Brown. Mr. Brown.

21 MR. BROWN: Yes.

22 JUDGE LEUNG: We just lost you for about the last
23 sentence. I guess your audio skipped a beat. So could
24 you start from one sentence earlier.

25 MR. BROWN: Sorry. Can you hear me now?

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JUDGE LEUNG: Yeah.

MR. BROWN: Okay. I'll just repeat because I don't know where to stop.

JUDGE LEUNG: Okay.

MR. BROWN: Prepayment review process for frivolous return penalties and frivolous submission penalties is by way of petitioning the Chief Counsel of the Franchise Tax Board for relief, pursuant to section 19179 subdivision (e). Otherwise, since section 19180(b) specifically exempts frivolous return and frivolous submission penalties from taxpayer protest and appeals processes, the only way the OTA would have jurisdiction would be if Appellant were to pay the penalties, claim a refund, have the claim for refund denied, and then appeal the denial.

However, none of those threshold steps have been taken in the present appeal to confer jurisdiction over Respondent's imposition of the frivolous return penalty or the frivolous submission penalty for any tax year in question. In footnote Q from its 2018 precedential opinion of appeal of Eleanor Balch the OTA clarified its lack of authority to consider frivolous return penalties imposed under Section 19179 in no uncertain terms stating, quote, "OTA has no authority to review frivolous return penalties imposed under section 19179."

1 Finally, the burden of proof under sections 1980
2 sub (a), to which Appellant referred, pertains only to
3 proceedings involving the penalties under sections 19177,
4 19178 and 179 and not to any other proceeding, such as
5 Appellant's burden to prove error in Respondent's proposed
6 assessments of tax. Again, OTA has no authority to
7 consider penalties imposed under section 19179 in the
8 present appeal -- in the present appeal.

9 Second, as another threshold matter, Respondent
10 objects to the witness testimony of Appellant's witness
11 and to the documents purporting to support the witness'
12 testimony. Even if true, the testimony and documentary
13 evidence has no relevance to Appellant's appeal or any tax
14 year. It is a well-settled tax law principle that each
15 tax year stands on its own. Tax liabilities of one tax
16 year are separate from the tax liabilities of another
17 year, and the tax liabilities of one taxpayer are separate
18 from the tax liabilities of another taxpayer.

19 Respondent submitted its written objection
20 explaining its reason underlying the objection, and
21 Respondent respectfully requests for the OTA to sustain
22 its objection. With those threshold matters having been
23 raised, I will now proceed with Respondent's presentation.

24 Appellant filed tax returns for each year in
25 which she reported zero wages, zero taxable income, and

1 zero tax while accurately reporting California income tax
2 withheld and claiming a refund for each year in the amount
3 of tax withheld. Attached to each return were FTB forms
4 3525, which is a substitute for IRS Forms W-2 and 1099,
5 when those forms are lost, or not issued, or unavailable.
6 In each Form 3525, Appellant reported that her employer,
7 whom she refers to as payor, issued or erred by issuing
8 W-2s because money she received from her employers were
9 supposedly not wages within the meaning of the Internal
10 Revenue Code.

11 Appellant's position regarding non-taxability of
12 wage income has long been deemed as frivolous and has been
13 consistently and emphatically rejected by the IRS,
14 Respondent, the courts, the Office of Tax Appeals, and its
15 predecessor the Board of Equalization. Our briefs support
16 this. For each year, Respondent sent a Notice of Proposed
17 Assessment proposing additional tax and also proposing
18 applicable penalties. In response to the NPAs, Appellant
19 protested and, once again, asserted her frivolous
20 positions. Respondent rejected Appellant's arguments,
21 denied her protests, and affirmed its proposed
22 assessments.

23 On appeal, Appellant continued to assert her
24 frivolous position that her wage income is not taxable.
25 In the OTA's 2018 previously mentioned precedential

1 opinion in Appeal of Eleanor Balch, Appellant made the
2 same frivolous argument about wage income as Appellant is
3 making in the present appeal. The OTA in Balch rejected
4 Appellant's argument and reaffirmed that wage income is
5 indeed taxable. The OTA also reaffirmed that the argument
6 that wage income is somehow not taxable is frivolous and
7 without merit.

8 Appellant has failed to establish reasonable
9 cause to abate the delinquent penalty or the demand
10 penalty. In the OTA's 2021 precedential opinion of Appeal
11 of S. Reed, the OTA reaffirmed that zero returns, such as
12 the ones Appellant filed for each year in the present
13 appeal are not valid returns under the law and do not
14 constitute the filing of a return at all for tax law
15 purposes. Accordingly, since Appellant has not filed a
16 valid return for any tax year at issue, the law deems that
17 she has not filed a tax return at all for these years.
18 And so Respondent's proposed assessment for each year
19 includes a delinquent penalty.

20 Appellant has likewise failed to make any
21 argument about the delinquent penalty or about the demand
22 penalty at all, let alone about reasonable cause to abate
23 the penalties. Because Appellant has failed to make any
24 argument, she has failed to meet her burden to prove the
25 existence of reasonable cause to abate the penalties. In

1 view of the above, Respondent respectfully requests for
2 the OTA to sustain the FTB's action.

3 I would be happy to respond to any questions.

4 JUDGE LEUNG: Thank you, Mr. Brown.

5 Judge Vassigh, any questions for the Franchise
6 Tax Board?

7 JUDGE VASSIGH: I do not have any questions.
8 Thank you.

9 JUDGE LEUNG: Thank you.

10 Judge Wong, any questions for the Franchise Tax
11 Board?

12 JUDGE WONG: No questions. Thank you.

13 JUDGE LEUNG: Thank you.

14 Ms. Williams, you have six minutes remaining for
15 any rebuttals that you might have.

16

17 CLOSING STATEMENT

18 MS. WILLIAMS: Okay. So I'd like to conclude
19 with the summary -- excuse me -- the returns that I filed
20 are filled out correctly and unaltered and signed under
21 penalties of perjury. As a result, my filed returns meet
22 the requirements of a valid return. The Respondent has
23 produced no evidence to the contrary, other than to say I
24 had taxable income based on erroneous information returned
25 provided by payors as justification as such. On the

1 contrary, the Appellant has produced credible evidence
2 that the returns filed are valid and, therefore, there is
3 no basis in law exists for the assessment of additional
4 taxes and penalties.

5 The justification that the FTB uses to fight
6 quote, "invalid returns," unquote, and assessment of taxes
7 and penalties is bogus and baseless in law. Furthermore,
8 no basis in law exist for the FTB's contention that I owe
9 taxes or penalties based on my earnings not defined as,
10 quote, "wages," unquote and the subject to the income tax.

11 In addition, there is precedent for the approval
12 and processing of zero income tax returns in the State of
13 California as testified by the witness. I, therefore,
14 demand that all taxes and penalties for the associated tax
15 return years be immediately rescinded, and that my returns
16 for the 2017 through 2020 tax years be processed
17 accordingly.

18 Thank you.

19 JUDGE LEUNG: Thank you, Ms. Williams.

20 Judge, Vassigh, any questions for either party?

21 JUDGE VASSIGH: I do not have any questions.

22 Thank you.

23 JUDGE LEUNG: Thank you.

24 Judge Wong?

25 JUDGE WONG: No questions. Thank you.

1 JUDGE LEUNG: Okay. I do have some questions.

2 Ms. Williams, do you and Mr. Denning work for the
3 same employer?

4 MS. WILLIAMS: I'm sorry, Judge. Can you repeat
5 that, please?

6 JUDGE LEUNG: Yes. Do you and Mr. Denning work
7 for the same employer?

8 MS. WILLIAMS: No, we do not.

9 JUDGE LEUNG: Okay. Mr. Denning, I noticed in
10 the FTB's, when they granted your refund, it states on
11 their notice that it was being granted based on a math
12 error. So was your refund claim based on a math error, or
13 based on the amounts you received were not wages or
14 capital?

15 Mr. Denning, are you there?

16 MR. DENNING: Okay. Here we go. I believe it
17 was just a computational error.

18 JUDGE LEUNG: So it was a computation error? So
19 like --

20 MR. DENNING: Yeah. It had nothing to do with
21 the fact that it was a zero return that was approved by
22 the FTB. It just had to do with, I think, one or two of
23 the three years that were identified on the tax return. I
24 don't remember specifically.

25 JUDGE LEUNG: Okay. Maybe, Mr. Brown, can you

1 help out here? It looks like from Exhibits 3 through 7
2 for each of Mr. Denning's tax years that the refund claims
3 are granted based on math error. Is that correct?

4 MR. BROWN: If that's what the document says,
5 Judge, and that's what the document says. I'm not
6 prepared to discuss the substance of that, of why it was
7 treated the way it was treated.

8 JUDGE LEUNG: Well, that's why we asked
9 Mr. Denning to offer a waiver of confidentiality so you
10 can openly discuss it. So based on that document, the
11 refund claim was not granted because he didn't have any
12 income. It's because there's math errors.

13 MR. DENNING: No. It was due to the fact that it
14 was determined that I had no income. But the calculation
15 of that, I think, was done in error and was rectified.

16 JUDGE LEUNG: Okay.

17 MR. DENNING: Can you tell me -- can you tell me
18 for what year you're referring to? What tax year?

19 JUDGE LEUNG: I think from Ms. Williams'
20 Exhibits 3 through 7, we've got notices to you,
21 Mr. Denning, granting the refund. I think they all say
22 math error.

23 MR. DENNING: Okay. Well, I'm looking at
24 Exhibit 5 here for the 2017 tax year.

25 JUDGE LEUNG: Yeah.

1 MR. DENNING: And it says, "We change your 2017
2 tax return, which resulted in a refund of \$5,200.39. You
3 should receive your refund within 10 days of this notice."
4 So I don't see anything about a math -- oh. "You made a
5 math error when you calculated your California adjusted
6 gross income or explanation of changes."

7 I'm not sure what that math error is. I'd have
8 to go back to the tax returns to see what that was. So
9 what I have under Exhibit 5, there was a 2017 tax year
10 account balance summary. And on that, it lists what the
11 FTB's calculation is under our calculation. This is
12 taxable income zero. Exemptions for \$228, interest
13 allowed \$537.39. I had a total withholding of \$7,966.
14 There was a refund previously issued of \$3,303 and a
15 revised refund of \$5,200.39. So I think that's what
16 they're referring to as far as the math there.

17 JUDGE LEUNG: Okay.

18 MR. DENNING: It was just the calculation of what
19 the final refund amount was.

20 JUDGE LEUNG: Okay.

21 MR. DENNING: And in all instances, it was
22 admitted that we had zero taxable income.

23 JUDGE LEUNG: Okay. Thank you, Mr. Denning.

24 Mr. Brown, Ms. Williams testified that the IRS
25 accepted her federal return. Do you have her federal

1 transcript?

2 MR. BROWN: I do, Your Honor.

3 JUDGE LEUNG: Is that accurate what she testified
4 to?

5 MR. BROWN: What she -- well, tax year 2017,
6 let's see. For tax year 2017, she failed to file a
7 federal tax return, notwithstanding, having received
8 \$76,000 wage income from Sutter Bay Hospitals, \$540 wage
9 income from another employer, and a taxable distribution
10 of \$5,500 from a retirement plan.

11 In 2018, the account transcript shows she filed a
12 federal return in which she reported no taxable income and
13 no tax. She failed to report over \$80,000 of wages from
14 her employer Sutter Bay Hospitals and a taxable
15 distribution from her retirement plan of over \$3,800. My
16 source for that is the account transcript and the wage and
17 income transcript for that year.

18 For 2019, the account transcript shows she filed
19 a federal return in which she reported no taxable income
20 and no tax. She failed to report \$66,000 in wages from
21 employer Sutter Bay Hospitals and a taxable distribution
22 from her retirement plan of \$3,800. My source for that is
23 the account transcript and the wage and income transcript
24 for that year.

25 Finally, for 2020, she filed a federal return in

1 which she reported only unemployment compensation, but
2 failed to report \$89,000 in wage income from her employer
3 Sutter Bay Hospital. And my source for that is the
4 account transcript, the wage and income transcript, and
5 also the tax return transcript for that year. Since
6 we're -- since the tax return transcripts only go back to
7 four years, I don't have those for 2019, '18, or '17.

8 JUDGE LEUNG: Okay. So from what you see there,
9 she -- she did not file for 2018, 2019, 2020 for the Feds.
10 She did file 2017?

11 MR. BROWN: No, that's not correct. She did not
12 file a 2017 return, but she did file 2018, 2019, and 2020
13 returns.

14 JUDGE LEUNG: Okay. Okay.

15 MR. BROWN: I would just comment that the IRS and
16 FTB are two separate agencies, and whatever the IRS did is
17 not relevant to whatever the FTB did; unless there had
18 been some federal changes, and there were no federal
19 changes.

20 JUDGE LEUNG: Okay. Okay. So those are my
21 questions. My colleagues don't have any.

22 MS. WILLIAMS: Your Honor?

23 JUDGE LEUNG: Yes, Ms. Williams.

24 MS. WILLIAMS: I'd like to make a comment.

25 JUDGE LEUNG: Go ahead.

1 MS. WILLIAMS: I did file a tax year for IRS
2 federal 2017.

3 JUDGE LEUNG: Okay.

4 MS. WILLIAMS: And they did accept -- the IRS did
5 accept all of my tax years 2017 through 2020 --

6 JUDGE LEUNG: Okay.

7 MS. WILLIAMS: -- with no penalties imposed.

8 JUDGE LEUNG: Okay. And they granted your refund
9 claims, obviously?

10 MS. WILLIAMS: Yes. Yes, they did.

11 JUDGE LEUNG: Okay. Okay. Mr. Brown, go ahead.

12 MR. BROWN: It's not what the 2017 transcript
13 indicates.

14 JUDGE LEUNG: I understand. You're saying that
15 there was no return according to the transcript, and --

16 MR. BROWN: That's correct.

17 JUDGE LEUNG: -- Ms. Williams disagrees with
18 that. I understand the difference in testimonies. Okay.

19 Well, that's all we have for today. I thank
20 everybody for appearing for this hearing. We will close
21 the record and submit the case for a decision. We will
22 endeavor to issue a decision within 100 days of today.

23 And I thank everybody again, and everybody have a
24 great day. Thank you.

25 (Proceedings adjourned at 10:17 a.m.)

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HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for the State of California, do hereby certify:

That the foregoing transcript of proceedings was taken before me at the time and place set forth, that the testimony and proceedings were reported stenographically by me and later transcribed by computer-aided transcription under my direction and supervision, that the foregoing is a true record of the testimony and proceedings taken at that time.

I further certify that I am in no way interested in the outcome of said action.

I have hereunto subscribed my name this 14th day of October, 2024.

ERNALYN M. ALONZO
HEARING REPORTER