

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
A. CALLISON) OTA Case No. 231114827
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OPINION

Representing the Parties:

For Appellant: A. Callison
For Respondent: AnaMarija Antic-Jezildzic,
Specialist

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, A. Callison (appellant) appeals an action by respondent Franchise Tax Board (FTB) proposing additional tax of \$3,536¹ and applicable interest for the 2018 taxable year.

Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Has appellant established error in FTB’s proposed assessment of tax for the 2018 taxable year?

FACTUAL FINDINGS

1. Appellant filed a timely 2018 California Resident Income Tax Return reporting total tax of \$3,934, income tax withheld of \$1,295, and tax due of \$2,639. Appellant did not pay the tax due when she filed her tax return.

¹ The Notice of Proposed Assessment proposed additional tax of \$3,623. In the Notice of Action, FTB subsequently made a revision to include an additional withholding credit of \$87, resulting in revised additional tax of \$3,536.

2. Appellant applied for and was granted an installment payment plan. Appellant paid the reported tax due in full plus a late-payment penalty, an installment agreement fee, and applicable interest through installment payments with a final payment made on September 9, 2020, which satisfied the balance due.
3. Subsequently, the IRS increased appellant's adjusted gross income based on information reported by South Bay Area Fitness (wages of \$36,002) and U.S. Bank, NA (cancellation of debt (COD) income of \$2,954). Appellant did not report those wages or the COD income on her tax return. Based on these adjustments, the IRS assessed additional federal tax on October 11, 2021.
4. Appellant did not notify FTB of the federal adjustments. Instead, the IRS reported the federal adjustments to FTB, and FTB issued a Notice of Proposed Assessment (NPA) proposing to increase appellant's taxable income by \$38,956 (wages of \$36,002 + COD income of \$2,954). FTB proposed additional tax of \$3,623 plus applicable interest.
5. Appellant protested the NPA, and FTB issued a Notice of Action revising the NPA. FTB credited additional withholdings of \$87 and reduced the proposed assessment to \$3,536.
6. Appellant filed this timely appeal.

DISCUSSION

A taxpayer must either concede the accuracy of a federal determination or show how it is erroneous. (R&TC, § 18622(a), *Appeal of Dillahunty*, 2024-OTA-024P.) If the IRS makes a change or correction to "any item required to be shown on a federal tax return, including any gross income, deduction, penalty, credit, or tax for any year," the taxpayer must report the federal change to FTB within six months after the date it becomes final. (*Appeal of Dillahunty*, *supra*.) A deficiency assessment based on a federal audit report is presumptively correct, and the taxpayer bears the burden of proving that the determination is erroneous. (*Appeal of Gorin*, 2020-OTA-018P.) Unsupported assertions are insufficient to satisfy a taxpayer's burden of proof with respect to an assessment based on a federal action. (*Ibid.*)

Appellant argues that she paid her 2018 California tax.² Appellant does not understand how her tax bill could go from zero to approximately \$4,000 two years later. In her protest with

² In her appeal, appellant also states that OTA did not receive the documents she sent showing that her income was less than \$80,000 in 2018. OTA's record reflects that appellant initially provided her tax documents and payment vouchers to FTB when appellant protested the NPA. OTA is an independent and impartial appeals body which is separate and distinct from and independent of the state's tax agencies such as FTB. OTA's record only contains what the parties have provided to OTA after appellant filed this appeal. With its opening brief, FTB provided copies of the documents appellant sent to FTB during her protest, and OTA has reviewed appellant's evidence.

FTB, appellant alleged that FTB must have made an error since her tax balance was zero as of September 9, 2020.

FTB's records reflect that appellant had a zero tax balance as of September 9, 2020, when she made her last payment under an installment agreement. However, a year later, in October 2021, the IRS increased appellant's income to add: (1) wages of \$36,002 reported by South Bay Area Fitness; and (2) COD income of \$2,954 reported by U.S. Bank, NA. Appellant failed to include both items of income on her 2018 federal and California tax returns. Appellant did not report the federal adjustments to FTB. The IRS notified FTB of the adjustments, and FTB added the unreported income totaling \$38,956 to appellant's California taxable income and proposed to assess additional tax of \$3,536 (as revised per the NOA).

Because appellant did not report the income from South Bay Area Fitness and U.S. Bank, NA on her 2018 tax return, she did not pay California tax on that income. Appellant has not shown that FTB made an error in assessing tax on the income she failed to include on her tax return. Appellant therefore owes the additional tax of \$3,536 as proposed by FTB.

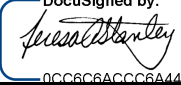
OTA finds FTB correctly proposed to assess additional tax for appellant's 2018 taxable year based on the income of \$38,956 that appellant failed to include on her tax return.

HOLDING

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

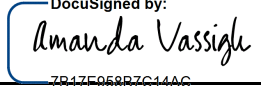
DISPOSITION

FTB’s action is sustained.

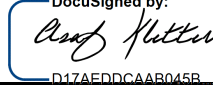
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Teresa A. Stanley
Administrative Law Judge

We concur:

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Amanda Vassigh
Administrative Law Judge

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Asaf Kletter
Administrative Law Judge

Date Issued: 12/16/2024