

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

In the Matter of the Appeal of: )  
M. GREY ) OTA Case No. 230814007  
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**OPINION**

Representing the Parties:

For Appellant: M. Grey

For Respondent: Kristin Yeager, Program Specialist

For Office of Tax Appeals: Louis Ambrose, Attorney

T. LEUNG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, M. Grey (appellant) appeals an action by the Franchise Tax Board (respondent) proposing additional tax of \$1,860, plus interest, for the 2018 taxable year.

Appellant waived his right to an oral hearing; therefore, this matter is being decided based on the written record.

**ISSUE**

Whether appellant has shown that respondent’s proposed assessment, which is based on an IRS examination, is erroneous.

**FACTUAL FINDINGS**

1. Appellant’s 2018 federal income tax return was examined by the IRS, which resulted in a final adjustment for underreported wage income of \$19,998. Subsequently, respondent issued a Notice of Proposed assessment (NPA), making a comparable adjustment to the amount of adjusted gross income reported on appellant’s 2018 California personal income tax return (Form 540).

2. Appellant reported W-2 income on his Form 540 that was \$19,998 less than the amount shown on his Wage and Income Transcript.
3. Appellant protested, but respondent affirmed its NPA.

### DISCUSSION

When the IRS makes changes to a taxpayer's federal tax return, the taxpayer must report those changes to respondent, and concede the accuracy of the federal changes or state why the changes are erroneous. (R&TC, § 18622(a).) A deficiency assessment based on a federal audit report is presumptively correct, and a taxpayer bears the burden of proving that the determination is erroneous. (*Appeal of Gorin*, 2020-OTA-018P.) Unsupported assertions by taxpayers are insufficient to satisfy their burden of proof with respect to a proposed assessment based on a federal action. (*Ibid.*)

Appellant argues that he used commercial software to prepare his tax return, following the calculations provided, but did not submit evidence showing that the IRS's determination that he underreported his wages was wrong or that the IRS revised its federal determination. Moreover, appellant's assertions are contradicted by wage income information reported by appellant's employers to the IRS. Thus, while appellant's contention explains why he miscalculated his income, it does not demonstrate how respondent's action is wrong; hence, appellant has not met his burden of showing error in respondent's NPA, which is based on a federal adjustment for underreported wages.

HOLDING

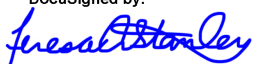
Appellant has failed to show that respondent’s proposed assessment was erroneous.

DISPOSITION

Respondent’s action is sustained.

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Tommy Leung  
Administrative Law Judge

We concur:

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Teresa A. Stanley  
Administrative Law Judge

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Seth Elsom  
Hearing Officer

Date Issued: 12/17/2024