

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
T. ZIMMERMAN) OTA Case No. 231014626
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OPINION

Representing the Parties:

For Appellant: T. Zimmerman

For Respondent: Caitlin S. Russo, Legal Assistant

For Office of Tax Appeals: John Yusin, Attorney

A. VASSIGH, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, T. Zimmerman (appellant) appeals an action by respondent Franchise Tax Board (FTB) proposing additional tax of \$4,142 and applicable interest for the 2019 tax year.

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

ISSUE

Whether appellant has shown error in FTB’s proposed assessment for the 2019 tax year.

FACTUAL FINDINGS

1. On February 26, 2020, appellant filed a 2019 California Resident Income Tax Return. Appellant reported federal adjusted gross income (AGI) of \$80,814. On the Schedule CA (540), appellant subtracted \$73,600 of W-2 income.¹ Appellant reported California AGI of \$7,214. After applying a standard deduction of \$4,537, appellant reported taxable income of \$2,677, and a tax of \$27. After applying an exemption credit of \$122

¹ Appellant attached a copy of a 2019 Form W-2 to his 2019 return that shows appellant earned wages of \$73,600 and had income tax withholdings of \$4,042. The W-2 shows appellant’s address in San Jose, California.

- and a renter's credit of \$60, appellant reported a tax liability of \$0. Appellant claimed California income tax withholdings of \$4,042, and a refund of \$4,042.
2. FTB processed the return, accepted it as filed, and issued the claimed refund of \$4,042.
 3. Subsequently, FTB determined that appellant incorrectly excluded the W-2 income of \$73,600 from his taxable income on his 2019 return.
 4. FTB issued a Notice of Proposed Assessment (NPA) dated April 14, 2023, which increased appellant's taxable income by \$73,600 and proposed additional tax of \$4,142, plus applicable interest.
 5. Appellant protested the NPA.
 6. FTB sent appellant a letter dated August 14, 2023, which states that the NPA is correct because appellant incorrectly subtracted his wages of \$73,600 on Schedule CA (540) which appellant's employer reported to the Employment Development Department.
 7. After appellant did not respond to FTB's August 14, 2023 letter, FTB issued a Notice of Action affirming the NPA.
 8. Appellant filed this timely appeal.

DISCUSSION

FTB's determination is presumed correct, and a taxpayer has the burden of proving error. (*Appeal of Head and Feliciano*, 2020-OTA-127P.) Unsupported assertions are insufficient to satisfy a taxpayer's burden of proof. (*Appeal of GEF Operating Inc.*, 2020-OTA-057P.) Ignorance or a misunderstanding of the law generally does not excuse a taxpayer's noncompliance with California tax laws. (*Appeal of Wright Capital Holdings LLC*, 2019-OTA-219P.)

Pursuant to R&TC section 17041(a)(1), a tax is imposed on the entire taxable income of every resident of California for each tax year. Pursuant to R&TC section 17071, California generally conforms to the definition of "gross income" contained in Internal Revenue Code (IRC) section 61, which defines gross income as "all income from whatever source derived," including compensation for services, e.g. wages. (IRC, § 61(a)(1).) Where California does not conform to items includible in gross income under federal law, Column B of Schedule CA (540) is used to report the difference. For the 2019 tax year, there were no differences in the reportable amount of wage income for California and federal purposes. (R&TC, § 17071.)

Appellant asserts that his total Form W-2 wages were \$73,599.57, and that he used Turbo Tax preparation software to prepare his 2019 federal and California returns, and the tax preparation software checked the tax forms before he filed them. Appellant states that because

“all of the other numbers and math seem to check out on the Form 540,” he does not understand why the NPA was issued three years later.² He also states that the NPA fails to explain why the amount he reported from his Form W-2 is incorrect. Appellant does not acknowledge that he subtracted the W-2 income of \$73,600 on Column B of Schedule CA (540) of his 2019 return.

Appellant filed a 2019 California Resident Income Tax Return and does not dispute that he was a resident of California for the 2019 tax year. As a California resident, appellant was required to report his entire taxable income. (R&TC, § 17041(a)(1).) Column B of Schedule CA (540) is used to enter subtractions to federal amounts that are necessary due to differences in California and federal tax law. (2019 Instructions for Schedule CA (540), p. 2.) As stated above, there is no difference between federal and California tax law with respect to the amount of service income (e.g., wages) reportable in gross income. (IRC, § 61; R&TC, § 17071.) Appellant’s claimed reliance on tax preparation software does not entitle him to exclude W-2 income of \$73,600 from his federal AGI on the Schedule CA (540). Accordingly, FTB properly determined that appellant was required to include his W-2 income of \$73,600 in his California taxable income.

² To the extent that appellant may suggest that the proposed assessment was not timely issued, the Office of Tax Appeals finds that FTB timely issued the NPA within four years after appellant filed his 2019 return pursuant to R&TC section 19057(a).

HOLDING

Appellant has not shown error in FTB’s proposed tax assessment for the 2019 tax year.

DISPOSITION

FTB’s action is sustained.

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Amanda Vassigh
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Amanda Vassigh
Administrative Law Judge

We concur:

Signed by:
Seth Elsom
604CD423E2254FD...
Seth Elsom
Hearing Officer

Signed by:
Greg Turner
1B8F50433F1D4D5...
Greg Turner
Administrative Law Judge

Date Issued: 1/6/2025