



NPA increased appellants' taxable income by \$36,920 and proposed additional tax of \$3,875.14, plus interest.

4. Appellants protested the NPA.
5. FTB issued a position letter requesting that appellants provide evidence that the IRS assessment had been reduced or canceled, or any other information to support their position. Appellants did not respond, and FTB issued a Notice of Action affirming the NPA.
6. Appellants timely filed this appeal.
7. On appeal, FTB submits appellants' 2018 IRS Account Transcript (Transcript), dated February 15, 2024, which shows a tax per return of \$3,862, a miscellaneous penalty under transaction code 240 (accuracy-related penalty) of \$2,191, and additional tax assessed by examination of \$11,176. The Transcript reflects that the IRS did not reduce or cancel its assessment.

#### DISCUSSION

Taxpayers shall either concede the accuracy of a federal determination or state how it is erroneous. (R&TC, § 18622(a).) 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 taxpayers must report the federal change to FTB within six months after the date it becomes final. (*Ibid.*) A deficiency assessment based on a federal audit report is presumptively correct, and the taxpayers bear the burden of proving that the determination is erroneous. (*Appeal of Gorin*, 2020-OTA-018P.) Unsupported assertions are insufficient to satisfy the taxpayers' burden of proof with respect to an assessment based on a federal action. (*Ibid.*)

Appellants' appeal does not state the specific grounds for their appeal, and appellants' letter protesting the NPA, provided by FTB on appeal, does not show error in FTB's proposed assessment or the federal determination upon which FTB's assessment was based. FTB requested appellants provide evidence that the IRS assessment has been reduced or canceled, or to provide any other information to support their position. Appellants have not provided any such evidence. Accordingly, appellants have not demonstrated error in FTB's proposed assessment.

HOLDING

Appellants have not demonstrated error in FTB’s proposed assessment, which is based on a federal determination.

DISPOSITION

FTB’s action is sustained.

Signed by:

*Veronica I. Long*

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Veronica I. Long  
Administrative Law Judge

We concur:

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*Steven Kim*

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Steven Kim  
Administrative Law Judge

Signed by:

*Josh Lambert*

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Josh Lambert  
Administrative Law Judge

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