

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
L. LINDSEY) OTA Case No. 240416020
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OPINION

Representing the Parties:

For Appellant: L. Lindsey
For Respondent: Tristen Thalhuber, Attorney
For Office of Tax Appeals: Justin Kaley, Graduate Student Assistant

J. LAMBERT, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, L. Lindsey (appellant) appeals an action by respondent Franchise Tax Board (FTB) proposing additional tax of \$3,348 and applicable interest for the 2018 tax year.

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

ISSUE

Whether appellant has established error in FTB’s proposed assessment based on a final federal determination.

FACTUAL FINDINGS

1. Appellant timely filed a 2018 California Resident Income Tax Return.
2. FTB received information that the IRS adjusted appellant’s 2018 federal tax return to include unreported income and increased appellant’s federal taxable income by \$36,040. Based on this information, FTB issued appellant a Notice of Proposed Assessment (NPA) for the 2018 tax year. The NPA followed the federal adjustments and increased

appellant's California taxable income by \$36,040, and proposed to assess additional tax of \$3,348, plus applicable interest, for the 2018 tax year.¹

3. Appellant submitted a protest letter to FTB, which asserted that a mistake on appellant's original 2018 federal tax return was resolved with the IRS when appellant filed an amended federal Schedule C, Profit or Loss from Business, and that, consequently, appellant had no outstanding federal tax liability.
4. FTB obtained a copy of appellant's 2018 federal account transcript, indicating that the federal determination on appellant's 2018 federal account had not been modified.
5. FTB issued a Notice of Action, which affirmed the NPA.
6. This timely appeal followed. On appeal, appellant provides a copy of her 2018 federal account transcript.

DISCUSSION

R&TC section 18622(a) requires a taxpayer to concede the accuracy of federal changes to a taxpayer's income or state where the determination is erroneous. It is well settled that a deficiency assessment based on a federal adjustment is presumptively correct and that the taxpayer bears the burden of proving that FTB's determination is erroneous. (*Appeal of Valenti*, 2021-OTA-093P.) In the absence of credible, competent, and relevant evidence showing that FTB's determination is incorrect, it must be upheld. (*Ibid.*) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof with respect to an assessment based on a federal action. (*Appeal of Gorin*, 2020-OTA-018P.)

California imposes a tax on every California resident's entire taxable income. (R&TC, § 17041(a)(1).) R&TC section 17071 incorporates Internal Revenue Code (IRC) section 61, which defines "gross income" as "all income from whatever source derived." (IRC, § 61(a).) Here, FTB received information that the IRS increased appellant's 2018 federal taxable income to include unreported income and made conforming adjustments to appellant's 2018 California taxable income, which resulted in the \$3,348 proposed tax liability, plus applicable interest. Because FTB's proposed assessment was based on a federal adjustment, it is presumed correct, and appellant has the burden to show that FTB's proposed assessment is erroneous. (See *Appeal of Valenti*, *supra*.)

Appellant asserts that she provided the IRS with an amended Schedule C that included previously unreported expenses and supporting documentation that reduced her federal taxable

¹ The NPA added unreported income of \$38,606 and allowed a self-employment tax deduction of \$2,566 for this additional income. The deduction adjustment is not in dispute.

income and reversed the federal tax assessment. Appellant contends that her 2018 federal account transcript indicates that she does not have an outstanding federal tax liability and, therefore, FTB's proposed assessment of additional tax is in error.

Appellant's federal account transcript for the 2018 tax year shows that there is no balance due, but it does not show that the federal assessment was reduced or cancelled, or that there are any claims currently pending. Appellant's federal account transcript states: "Balance due account currently not collectible," but does not indicate that the federal tax assessment was revised.² According to the Internal Revenue Manual, section 5.16.1.2 (11-14-2023), accounts may be reported as currently not collectible for a variety of reasons, but not because the federal assessment was reversed or shown to be erroneous. Therefore, appellant has not shown that the federal determination, on which the California proposed assessment is based, was assessed in error or that it has been revised.

While the California proposed assessment is based on the federal assessment, it is separate from the federal assessment, and the fact that the federal liability has been deemed uncollectable does not affect the validity of the California proposed assessment. Appellant provides an amended Schedule C claiming more business expenses than originally reported and spreadsheets listing business expenses. However, appellant does not provide source documentation showing that further deductions for expenses are warranted. Therefore, appellant has not shown that the California proposed assessment is in error.

² Appellant's account transcript indicates transaction code 530 and Internal Revenue Manual, section 5.16.1.2 states: "Accounts may be reported CNC (currently not collectible) for a variety of reasons using transaction code (TC) 530."

HOLDING

Appellant has not established error in FTB’s proposed assessment based on a final federal determination.

DISPOSITION

FTB’s action is sustained.

Signed by:

Josh Lambert

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Josh Lambert
Administrative Law Judge

We concur:

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Asaf Kletter

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Asaf Kletter
Administrative Law Judge

DocuSigned by:

Eddy Y. H. Lam

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Eddy Y.H. Lam
Administrative Law Judge

Date Issued: 3/10/2025