

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 240917412
T. RICHARDS)
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OPINION

Representing the Parties:

For Appellant: T. Richards

For Respondent: Amelia Breen, Attorney

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, T. Richards (appellant) appeals actions by respondent Franchise Tax Board (FTB) proposing additional tax of \$5,201, plus applicable interest for taxable year 2018 and \$2,884, plus applicable interest for taxable year 2019.

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 assessments, which are based on final federal determinations?

FACTUAL FINDINGS

Taxable Year 2018

1. Appellant filed a 2018 California Resident Income Tax Return (tax return) reporting total tax of \$137.

2. FTB received information that the IRS made adjustments that increased appellant's federal adjusted gross income by \$71,191.¹
3. Based on the federal determination, FTB issued a Notice of Proposed Assessment (NPA) disallowing federal Schedule C-1 deductions, a capital loss, and Schedule E-1 repairs. FTB increased appellant's taxable income by \$71,191, from \$17,036 to \$88,227, and proposed additional tax of \$5,201 plus applicable interest.
4. Appellant protested the NPA, and FTB issued a Notice of Action affirming the NPA.
5. Appellant timely appealed.

Taxable Year 2019

6. Appellant filed a 2019 tax return reporting total tax of \$2,030.
7. FTB received information that the IRS made adjustments that increased appellant's federal adjusted gross income by \$31,639.
8. Based on the federal determination, FTB issued an NPA disallowing federal Schedule C-1 deductions and a capital loss. FTB increased appellant's taxable income by \$31,639, from \$52,948 to \$84,587, and proposed additional tax of \$2,884 plus applicable interest.
9. Appellant protested the NPA, and FTB issued a Notice of Action affirming the NPA.
10. Appellant timely appealed.

DISCUSSION

R&TC section 18622(a) provides that a taxpayer shall either concede the accuracy of a federal determination or state why it is erroneous. It is well settled that a deficiency assessment based on a federal adjustment is presumptively correct, and the taxpayer bears the burden of proving that FTB's 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.*)

Income tax deductions are a matter of legislative grace, and a taxpayer bears the burden of establishing entitlement to the deductions claimed. (*Appeal of Dillahunt*, 2024-OTA-024P.) To meet this burden, a taxpayer must point to an applicable statute authorizing the deduction

¹ FTB did not submit a Fedstar Data Sheet or other document showing the specific adjustments the IRS made for the 2018 or 2019 taxable years. However, that information is included in FTB's Notices of Proposed Assessment (NPAs), and appellant does not allege that the NPAs contain incorrect information.

and show by credible evidence that the deduction claimed falls within the scope of the statute.
(*Ibid.*)

Here, appellant provides no specific arguments with respect to the disallowed deductions. Appellant does not present any evidence that shows error in FTB's determination and submitted no evidence to OTA in support of her appeal. Appellant contends only that she filed an appeal with the IRS and that her IRS case remains open with the Tax Advocate.

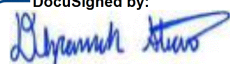
FTB, in its correspondence and in its opening brief, invited appellant to provide evidence showing that the IRS was reviewing or reconsidering its determination. Appellant did not file a reply brief or submit any letter from the IRS confirming that it is reviewing its determination for either taxable year 2018 or 2019. Moreover, appellant's federal Account Transcripts for 2018 and 2019 reflect that the IRS closed its examination of appellant's 2018 and 2019 tax returns and assessed additional tax on February 28, 2022. The federal Account Transcripts also show that as of October 14, 2024, the IRS had not reopened its examination. Without evidence supporting appellant's contention that the IRS is reviewing its determination or evidence that FTB erred in following that determination, appellant has not carried her burden of proof.

HOLDING

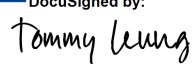
Appellant has not established error in FTB's proposed assessments, which are based on final federal determinations.

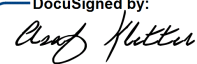
DISPOSITION

FTB's actions proposing additional tax for taxable years 2018 and 2019 are sustained.

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For
Teresa A. Stanley
Administrative Law Judge

We concur:

DocuSigned by:

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Tommy Leung
Administrative Law Judge

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Asaf Kletter
Administrative Law Judge

Date Issued: 7/30/2025