

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 240115066
J. TATOM AND)
R. MINETTO)
_____)

OPINION

Representing the Parties:

For Appellants: Michael Watson, Enrolled Agent

For Respondent: Tristen Thalhuber, Attorney

For Office of Tax Appeals: Westley Marcelo, Attorney

J. LAMBERT, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, J. Tatom and R. Minetto (appellants) appeal an action by respondent Franchise Tax Board (FTB) proposing additional tax of \$17,596.56 and applicable interest for the 2018 tax year.

Appellants 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, (Regulation) section 30209(a).

ISSUE

Whether appellants have shown error in FTB’s deficiency assessment, which is based on a federal adjustment.

FACTUAL FINDINGS

1. Appellants timely filed a 2018 California Resident Tax Return.
2. Subsequently, FTB received information that the IRS revised appellants’ 2018 federal tax return by increasing their reported federal adjusted gross income and decreasing their claimed medical deduction.
3. FTB followed the federal adjustments and issued appellants a Notice of Proposed Assessment (NPA) which increased appellants’ taxable income by \$140,746 in unreported pension/annuity income, \$12 in taxable wages, and \$77 in interest income,

and increased their taxable income by \$10,562 for the disallowed claimed medical deduction. Based on these adjustments, the NPA proposed additional tax of \$17,596.56, plus interest.

4. Appellants timely protested the NPA, and FTB affirmed the NPA in a Notice of Action issued to appellants.
5. This timely appeal followed.

DISCUSSION

R&TC section 18622(a) provides that a taxpayer shall either concede the accuracy of a federal determination or state where 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.*)


Appellants contend that they are working with the IRS to appeal the federal adjustments. Appellants explain that they made a non-taxable rollover into a retirement account that the IRS deemed taxable, and that they are communicating with the IRS to resolve the matter. However, appellants provide no evidence of a pending IRS action or that the IRS reduced or cancelled its adjustments to appellants' income or deductions. And appellants' 2018 federal account transcript shows that the federal adjustments have not been reduced or cancelled. Appellants have also not shown that, regardless of the federal action, they are entitled to the originally reported income and deduction amounts. Accordingly, appellants provide no evidence to demonstrate that FTB's proposed assessment is erroneous.

HOLDING

Appellants have not shown error in FTB’s deficiency assessment, which is based on a federal adjustment.


DISPOSITION

FTB’s action is sustained.

Signed by:

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Josh Lambert
Administrative Law Judge

We concur:

Signed by:

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Seth Elsom
Hearing Officer

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Huy, "Mike" Le
Administrative Law Judge

Date Issued: 6/11/2025