OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 250522189

R. GREEN AND
J. GREEN

OPINION

Representing the Parties:

For Appellants: R. Green
J. Green

For Respondent: David C. Cortez, Associate Governmental Program Analyst

S. KIM, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, R. Green and J. Green (appellants) appeal an action by respondent Franchise Tax Board (FTB) proposing additional tax of $2,672.77 and applicable interest for the 2020 tax year.

Appellants elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single panel member. (Cal. Code Regs., tit. 18, § 30209.05(b).)

Appellants initially requested an oral hearing. However, appellants failed to respond to the notice of oral hearing and thus waived the right to an oral hearing. (Cal. Code Regs., tit. 18, § 30404(a).) 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

Whether appellants have demonstrated error in FTB's proposed assessment, which is based on a federal determination.

FACTUAL FINDINGS

1. Appellants timely filed a California Resident Income Tax Return for the 2020 tax year. Appellants later remitted the total amount reported due on their 2020 return. FTB accepted appellants' 2020 return as filed.[1]
2. Subsequently, FTB obtained information that the IRS audited appellants' 2020 federal income tax return and increased appellants' federal adjusted gross income (AGI) by $66,656.[2] The IRS assessed additional federal tax based on its adjustments for the 2020 tax year. Appellants did not notify FTB of the federal determination.
3. To the extent allowable by California law, FTB made comparable adjustments to appellants' 2020 return, resulting in an increase of their reported California taxable income by $41,902.[3] Accordingly, FTB issued appellants a Notice of Proposed Assessment (NPA) proposing additional tax of $2,672.77 and applicable interest.
4. Appellants protested the NPA.
5. FTB and appellants exchanged correspondence concerning the proposed assessment of additional tax.
6. FTB issued appellants a Notice of Action affirming the NPA.
7. Appellants timely filed this appeal.
8. On appeal, appellants submit copies of canceled checks that appellant-husband wrote payable to the United States Treasury and FTB.
9. On appeal, FTB produced copies of appellants' 2020 CP2000 Data Sheet and 2020 federal account transcript.

DISCUSSION

A taxpayer 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 taxpayer must report the federal change to FTB within six months after the date it becomes final. (*Ibid*.) A deficiency assessment based on a federal determination is

[1] FTB determined that appellants' withholding credits did not satisfy their required estimated tax payments. FTB thus imposed an underpayment of estimated tax penalty (estimated tax penalty) and issued appellants a Notice of Tax Return Change – Revised Balance showing a balance due, which appellants paid. Appellants do not dispute the imposition of the estimated tax penalty.

[2] The IRS increased appellants' federal AGI based on unreported taxable income, including interest, pensions and annuities, dividends, capital gains, wages, and Social Security income.

[3] FTB did not include unreported Social Security income of $24,754 as California taxable income.

presumed to be correct and a taxpayer bears the burden of proving 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 insufficient to satisfy a taxpayer's burden of proof with respect to an assessment based on a federal action. (*Appeal of Gorin*, 2020-OTA-018P.)

Here, the IRS increased appellants' federal AGI because it determined that appellants had unreported taxable income. FTB made corresponding adjustments to appellants' California taxable income, except for appellants' unreported Social Security income, which is excluded from California gross income. (See R&TC, § 17087(a).) Appellants' 2020 federal account transcript shows that the federal determination was not adjusted or cancelled, and appellants have not otherwise provided any evidence showing that the IRS reduced or canceled the federal assessment. FTB's proposed assessment is presumed to be correct, and appellants must provide evidence to prove the determination is erroneous.

Appellants have not provided any evidence or argument that the proposed assessment or the federal determination is incorrect, and the record does not support such a finding. Instead, appellants argue that they paid the tax owed and made an additional payment after receiving a notice of balance due. However, the payments that appellants remitted to FTB were for the tax due amount reported on their 2020 return and the estimated tax penalty.[4] FTB's records show that appellants did not pay the additional tax proposed in the NPA, which is based on the federal determination. Therefore, appellants have not met their burden of proof, and no adjustment of the proposed assessment is warranted.

[4] Appellants also provide copies of canceled checks payable to the United State Treasury. However, those checks were for payment of federal tax due to the IRS, and are not relevant to this appeal.

HOLDING

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

DISPOSITION

FTB's action is sustained.

DocuSigned by:
Steven Kim
5DD7EF644397430...

Steven Kim
Administrative Law Judge

Date Issued: 4/22/2026