OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **G. WYATT**	OTA Case No. 240315684

OPINION

Representing the Parties:

For Appellant: G. Wyatt

For Respondent: Leoangelo C. Cristobal, Attorney

K. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, G. Wyatt (appellant) appeals an action by respondent Franchise Tax Board (FTB) proposing additional tax of $2,761 and applicable interest for the 2017 tax year.

Appellant 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).) 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

Whether appellant has shown error in FTB's proposed assessment, which is based on a federal adjustment.

FACTUAL FINDINGS

1. Appellant filed a timely 2017 California Resident Income Tax Return (Form 540). On the return, appellant reported total tax of $8,365. After applying withholding credits of $9,217, appellant claimed a refund of $852. FTB accepted appellant's return as filed and transferred the refund of $852 to the IRS.[1]

[1] On May 3, 2018, FTB issued appellant an Intercepted Funds Notice, informing appellant that it transferred appellant's refund of $852 to the IRS.

2. On April 8, 2021, appellant filed an amended return claiming a refund of $852, which states that the reason for amending the original 2017 California return was a federal audit and/or adjustments and a Form 1099 Misc., which was issued with the wrong social security number, had been omitted from his original 2017 California return. However, the amended return does not reflect any changes to the reported income amounts.
3. Subsequently, FTB received information that the IRS revised appellant's 2017 federal tax return. FTB made corresponding changes, which increased appellant's California taxable income by $29,695 for unreported rental income.
4. On July 13, 2021, FTB issued a Notice of Proposed Assessment (NPA) to appellant based on the federal adjustments. The NPA proposed to assess additional tax of $2,761 plus applicable interest.
5. Appellant protested the NPA indicating that he had filed an amended return. After additional correspondence acknowledging the amended return and deferring proceedings pending changes to the federal determination, FTB issued a February 22, 2024 Notice of Action affirming the NPA.
6. This timely appeal followed.

DISCUSSION

If the IRS changes or corrects an item reported by a taxpayer on their federal income tax return, the taxpayer shall report the change or correction to FTB within six months of the final federal determination, either conceding the accuracy of that determination, or stating where the determination is erroneous. (R&TC, § 18622(a).) It is well settled that a proposed assessment based on federal adjustments is presumed correct, and the taxpayer has the burden of proving that FTB's determination is erroneous. (*Appeal of Valenti*, 2021-OTA-0930P.) In the absence of credible, competent and relevant evidence showing that FTB's determination is incorrect, it must be upheld. (*Ibid.*)

Here, FTB issued its NPA based on a federal determination and it is presumptively correct. (*Appeal of Gorin*, 2020-OTA-018P.) FTB also provided a copy of appellant's federal account transcript, which shows that the IRS examined appellant's federal return, made an assessment of tax, and made no further adjustments as of April 8, 2024. On appeal, appellant asserts that the federal determination results from the misattribution of rental income. Appellant contends that the rental property in question is owned by his parents and that the IRS is reviewing their determination. However, appellant has not provided any credible, competent and relevant evidence showing that the federal determination or FTB's determination is incorrect. For example, appellant has not provided any document indicating that he did not own the rental property in question, that he did not receive the relevant rent income, or that the rent income is misattributed to him. Appellant also has not provided any evidence that there is an ongoing federal appeal or that the IRS has reduced its assessment. Appellant's unsupported assertions are insufficient to meet his burden of proof. (*Ibid.*) Accordingly, OTA finds that no reductions to FTB's proposed assessment are warranted.

HOLDING

Appellant has not shown error in FTB's proposed assessment, which is based on a federal adjustment.

DISPOSITION

FTB's action is sustained.

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Keith T. Long
Administrative Law Judge

Date Issued: 2/26/2026