

¹ Appellant's spouse did not join this appeal, and this Opinion will refer only to S. Ali as appellant.

- appellant. Respondent reduced appellant's overpayment accordingly and refunded appellant \$17. Appellant did not contest respondent's adjustments.
3. Respondent subsequently received information from the IRS indicating that it examined appellant's 2019 federal return and increased appellant's federal adjusted gross income (AGI) by \$23,239, to include Pension/Annuity income of \$23,220 and interest income of \$19.
 4. In accordance with the IRS's federal determination, respondent issued appellant a Notice of Proposed Assessment (NPA) proposing to increase appellant's taxable income by \$23,239 and to assess additional tax of \$2,742,² plus applicable interest.
 5. Appellant protested the NPA, asserting that respondent did not credit appellant with withholdings reported on Form 1099-R by Fidelity Investments (Fidelity) on pension and annuity income distributions. Appellant included a Form W-2 statement from Fidelity which reported gross and taxable distributions of \$23,220, and state tax withholdings of \$232.20.
 6. Respondent subsequently issued a Notice of Action (NOA), reducing the additional tax proposed in the NPA by \$232.20, described in the NOA as "Other CR: Additional Withholding Credit," and thus reduced the additional tax from \$2,742 to \$2,509.80. The NOA otherwise affirmed the NPA.
 7. This timely appeal followed. On appeal, respondent states that the NPA's \$24,851 in withholdings included the \$232.20 withholdings from Fidelity, and the NOA applied the \$232.20 withholdings from Fidelity a second time.³
 8. On appeal, respondent provides the following documents dated January 27, 2025: (1) a Federal Wage and Income Transcript which reports a Form 1099-R Distributions Pension, Annuities, etc. from National Financial Services LLC, showing that appellant received taxable distributions of \$23,220, and a Form 1099-INT from Citibank, N.A., showing that appellant received interest income of \$19; (2) a CP 2000 Data Sheet showing that the IRS made adjustments to increase appellant's AGI by pension/annuity income of \$23,220 and interest income of \$19; and (3) a federal account transcript for the 2019 taxable year, showing that the IRS assessed additional tax for that taxable year

² Respondent's NPA proposed total tax of \$27,239, and a premature distribution tax of \$581, due to appellant's early withdrawals of pension and annuity income.

³ Respondent agrees that it will not increase its proposed assessment to account for this error. This error is to the benefit of appellant and OTA does not further address it.

on February 28, 2022. The account transcript did not indicate that the IRS changed or modified appellant's federal AGI or the amount of the assessment.

DISCUSSION

R&TC section 18622(a) requires a taxpayer to concede the accuracy of federal changes to a taxpayer's income or state where determination is erroneous. It is well settled that a deficiency assessment based on a federal adjustment to income is presumed to be correct and a taxpayer bears the burden of proving that respondent's determination is erroneous. (*Todd v. McColgan* (1949) 89 Cal.App.2d 509, 514; *Appeal of Brockett* (86-SBE-109) 1986 WL 22731.) In the absence of credible, competent, and relevant evidence showing that respondent's determination is incorrect, it must be upheld. (*Appeal of Seltzer* (80-SBE-154) 1980 WL 5068.)

Here, respondent received information from the IRS, showing that the IRS examined appellant's 2019 federal return and increased pension and annuity income by \$23,220 and interest income by \$19. Furthermore, appellant's 2019 federal account transcript does not report that the IRS subsequently modified appellant's federal AGI. Thus, it does not appear that the IRS modified or cancelled its determination, as of January 27, 2025.

Appellant does not dispute that he received the income asserted by respondent, but argues that he has already paid the total tax due on the assessment. Specifically, appellant points to the W-2 statement issued by Fidelity, which reports that Fidelity made a \$23,220 taxable distribution to appellant and withheld \$232.20 for California taxes. On appeal, appellant argues that he has paid the entire amount of tax due for the 2019 tax year.

The record shows that for the 2019 tax year, appellant's only payments were income tax withholdings. Respondent's Revised Balance Notice revised appellant's income tax withholdings to \$24,851, and respondent subsequently sent appellant an NOA which applied additional withholdings of \$232.20 by Fidelity. Thus, respondent applied all payments made by appellant for the 2019 tax year. Appellant provides no additional information or argument to establish that he paid additional tax of \$2,509.80; therefore, he has not met his burden of proof to establish error in respondent's proposed assessment. (*Todd v. McColgan, supra*; *Appeal of Brockett, supra*.)

HOLDING

Appellant has not established error in respondent's proposed assessment, which is based upon a federal determination.

DISPOSITION

Respondent's action is sustained.

Signed by:



C04CD432E3254FD...

Seth Elsom
Hearing Officer

We concur:

Signed by:



47F45ABE89E34D0...

Suzanne B. Brown
Administrative Law Judge

DocuSigned by:



D17AFEDDCAAB045B

Asaf Kletter
Administrative Law Judge

Date Issued: 7/20/2026