

Appeal of J. Morris Forbes and Estate
of Leila I. Forbes, Deceased

Respondent Franchise Tax Board concedes at the outset that the penalties for the years in question were mistakenly imposed and should be withdrawn. Thus, the sole issue for our consideration is whether respondent's proposed assessments of additional personal income tax, based upon a federal audit report, were proper.

Appellant J. Morris Forbes and his late wife, Leila J. Forbes, filed federal income tax returns for the years 1966, 1967, and 1968. The Internal Revenue Service audited those returns and disallowed certain claimed deductions for taxes, depreciation, and medical expenses. Based upon that federal action, respondent determined that appellants had similarly understated their California taxable income for 1966, 1967, and 1968 and, accordingly, assessed the deficiencies now in issue.

Appellants contend that respondent should not have based its assessments upon the Internal Revenue Service determination, since that determination was erroneous and was made simply to harass the appellants.

If appellants were harassed by the Internal Revenue Service, we sympathize with them; however, whether or not such harassment occurred is not controlling with respect to a determination of the **issue before us. What is important here is that respondent's assessments, based upon a federal audit report, are presumptively correct and the burden is upon the taxpayers to establish that they are erroneous.** (Appeal of Harry and Tessie Somers, Cal. St. Bd. of Equal. , March 25, 1968.) After careful consideration of all the facts and circumstances of this case, it is our opinion that appellants were unable to prove respondent's determinations, erroneous. Accordingly, we have no alternative but to sustain respondent's assessments of additional personal income tax against appellants.

ORDER

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

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IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of J. Morris Forbes and Estate of Leila J. Forbes, Deceased, against proposed assessments of additional personal income tax 'in the amounts of \$86.48, \$61.01, and \$198.57 for the years 1966, 1967, and 1968, respectively, and penalties for those years in the amounts of \$4.33, \$3.05, and \$9. 93, respectively, be and the same is hereby modified to reflect respondent's withdrawal of the penalties. In all other respects the action of the Franchise Tax Board is sustained.

Done at Sacramento, California, this 19 day of August 1975, by the State Board of Equalization.

John W. Lynch, Chairman
William B. Bennett, Member
George P. Bevels, Member
Paul L. Hill, Member
_____, Member

ATTEST: W. W. Dunlap, Executive Secretary