82-SBE-304

BEFORE THE STATE BOARD OF EQUALIZATION

OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
DONALD R. LEONARD, JR.)

Appearances:

For Appellant: Donald R. Leonard, Jr., in pro. per.

For Respondent: Kendall E. Kinyon Counsel

OPINION

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Donald R. Leonard, Jr. against a proposed assessment of additional personal income tax in the amount of $531.05 for the year 1978.

Appeal of Donald R. Leonard, Jr.

The sole issue presented by this appeal is whether appellant has established error in respondent's proposed assessment of additional personal income tax assessed for the year in issue.

Appellant claimed a credit for taxes paid to the State of Missouri in the amount of $879.64 on his 1978 California personal income tax return; appellant's 1978 Missouri return reveals that appellant paid only $348.59 in taxes to that state during the year in issue. Upon examination of his return, and in accordance with Revenue and Taxation Code section 18001, respondent allowed appellant a credit for the taxes paid to Missouri in 1978; the subject notice of proposed assessment was subsequently issued reflecting appellant's additional tax liability. Instead of addressing the reduction of his claimed credit, appellant's protest of respondent's action was based entirely upon constitutional objections to the Personal Income Tax Law.

It is well settled that respondent's determinations of tax are presumptively correct, and appellant bears the burden of proving them erroneous. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980; Appeal of Harold G. Jindrich, Cal. St. Bd. of Equal., April 6, 1977.) In support of his position, appellant has advanced a host of familiar contentions, including, inter alia, that Federal Reserve notes do not constitute lawful money or legal tender. The "arguments" raised by appellant were rejected as being without merit in the Appeals of Fred R. Dauberger, et al., decided by this board on March 31, 1982. We see no reason to depart from that decision in this appeal.

On the basis of the evidence before us, we can only conclude that respondent correctly computed appellant's tax liability. Respondent's action in this matter will, therefore, be sustained.

Appeal of Donald R. Leonard, Jr.

O R D E R

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

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 Donald R. Leonard, Jr. against a proposed assessment of additional personal income tax in the amount of $531.05 for the year 1978, be and the same is hereby sustained.

Done at Sacramento, California this 7th day of December, 1982, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Collis, Mr. Dronenburg and Mr. Nevins present.

William M. Bennett, Chairman

Ernest J. Dronenburg, Jr., Member

Richard Nevins, Member

_____, Member

_____, Member