



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
DAN A. DANRICH)

For Appellant: Paul Bell
For Respondent: Daniel A. Borzoni
 Counsel

O P I N I O N

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 Dan A. Danrich against a proposed assessment of additional personal income tax and penalties in the total amount of \$346.50 for the year 1978.

Appeal of Dan A. Danrich

The sole issue for determination is whether appellant has established any error in respondent's determination of personal income tax and penalties for 1978.

Appellant did not file a California personal income tax return for 1978. Respondent determined that appellant was required to file a return for the appeal year and demanded that appellant file a return. Appellant failed to comply. Thereafter, respondent issued the notice of proposed assessment in issue. The assessment was based upon information obtained from the California Employment Development Department; The proposed assessment included penalties for failure to file a return (Rev. & Tax. Code, § 18681) and for failure to file a return upon notice and demand (Rev. & Tax. Code, § 18683). Appellant protested, but refused to file a return. In due course the proposed assessment was affirmed., and this appeal followed.

It is well settled that respondent's determinations of additional tax and penalties are presumptively correct, and the burden is upon the taxpayer to prove them erroneous. (Todd v. McColgan, 89 Cal.App.2d 509 [201 P.2d 414] (1949); Appeal of Donald W. Cook, Cal. St. Bd. of Equal., May 21, 1980; Appeal of Arthur J. Porth, Cal. St. Bd. of Equal., Jan. 9, 1979; Appeal of Myron E. and Alice Z. Gire, Cal. St. Bd. of Equal., Sept. 10, 1969.) In support of his position that he is not subject to the tax, appellant has merely recited the familiar list of statutory and constitutional objections to respondent's action. Without exception, these contentions have been rejected as frivolous in previous decisions of the federal judiciary and this board. (See, e.g., United States v. Whitesel, 543 F.2d 1176 (6th Cir. 1976); United States v. Daly, 481 F.2d 28 (8th Cir.), cert. den., 414 U.S. 1064 [38 L.Ed.2d 469] (1973); United States v. Porth, 426 F.2d 519 (10th Cir. 1970); Appeal of Arthur J. Porth, supra; Appeal of Armen Abdou, Cal. St. Bd. of Equal., July 26, 1977.) We see no reason to depart from these decisions in this appeal.

Appellant also contends that, since he is a member of a religious order, he is not subject to taxation. However, the record contains no information to even suggest that appellant received his earnings as an agent of any religious order rather than in his individual capacity. In similar appeals involving "vow of poverty" claims, this board has found such claim's to be without merit and has uniformly ruled against the taxpayer.

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(Appeal of Jack V. and Allehe J. Offord, Cal. St. Bd. of Equal., June 23, 1981; Appeal of James R. Sutherlin, Cal. St. Bd. of Equal., June 23, 1981; see also Carl V. McGahen, 76 T.C. No. 41 (March 26, 1981).)

For the reasons set out above, we conclude that respondent's action must be sustained.

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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 Dan A. Danrich against a proposed assessment of additional personal income tax and penalties in the total amount of \$346.50 for the year **1978**, be and the same is hereby sustained.

Done at Sacramento, California, this 31st day of March , 1982, by the State Board of Equalization, with Board Members Mr. Reilly, Mr. Dronenburg and Mr. Nevins present.

....., Chairman
George R. Reilly....., Member
Ernest J. Dronenburg, Jr....., Member
Richard Nevins....., Member
....., Member