



Appeals of Chester J. Smigielski

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Based on information received from the Employment Development Department (EDD), respondent determined that appellant was required to file personal income tax returns for the years 1978 and 1979. Respondent advised appellant that it had no record of such returns being filed and demanded that he file any required returns. Appellant did not respond, and respondent issued notices of proposed assessment, including various penalties, based on income information from EDD. Appellant protested, but the assessments were affirmed, and these timely appeals followed.

Respondent's determinations of tax are presumptively correct, and the burden is on the taxpayer to prove that they are erroneous. (Appeal of Harold G. Jindrich, Cal. St. Bd. of Equal., April 6, 1977.) This rule is also applicable to the penalties assessed in this case. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980.) Appellant's allegations of improper computation of his taxable income are meritless. (See Appeal of Francis J. Pearson, Cal. St. Bd. of Equal., May 19, 1981.) His remaining contentions are based on a variety of frivolous "constitutional" objections to the proposed assessments. (See Appeal of Harry Sievert, Cal. St. Bd. of Equal., April 8, 1980; Appeal of Arthur W. Keech, Cal. St. Bd. of Equal., July 26, 1977.) Under the circumstances, we can only conclude that respondent correctly computed appellant's tax liability and that the imposition of penalties was fully justified. Respondent's actions, therefore, must be sustained.

