

Appeal of Guerin M. Lyons

Respondent received information which indicated that appellant was required to file a personal income tax return for 1979. Since respondent had no record of a return having been filed, it requested that appellant file. When appellant failed to respond to this request, respondent issued a proposed assessment based upon wage information supplied by the California Employment Development Department. Respondent also imposed 25 percent penalties for failure to file a return and failure to file a return after notice and demand. After considering appellant's protest, respondent reaffirmed the proposed assessment and this timely appeal followed.

Respondent's determinations of tax and penalties are presumed correct, and the taxpayer bears the burden of proving them to be erroneous. (Appeal of K. L. -Durham, Cal. St. Bd. of Equal., March 4, 1980). Rather than attempting to **prove that** respondent's determination is incorrect, appellant raises various constitutional objections and contends that this board has no jurisdiction over him. These arguments have previously been held to be without merit. (Appeals of Fred R. Dauberger, et al., Cal. St. Bd. of Equal., March 31, 1982.) Since appellant has not shown any error in the proposed assessment, respondent's action must be sustained.

