

Appeal of Wayne A. Caruso

The sole issue is whether appellant has established error in respondent's proposed assessment.

Appellant filed a California personal income tax return form for 1979 which disclosed no information about his income, deductions, or credits. Appellant entered the word "object" in the spaces provided for that information on the return form. Respondent notified appellant that the return was not valid and demanded that he file a return containing the necessary information. When appellant then failed to so file in response, respondent issued a notice of proposed assessment of tax **estimated** by using income information reported on appellant's personal income tax returns for 1976 and 1977 plus a growth and inflation factor. Respondent included penalties for failure to file a return, failure to file a return after notice and demand, negligence, and failure to pay the estimated tax.

Appellant contends that the amount of the assessment is excessive and so **constitutes** a penalty for asserting his constitutional right against self-incrimination. He proposes that his tax be estimated by using the average amount of his taxes due for the **preceeding** 1.0 years plus an inflation factor.

It is well settled that respondent's determinations of tax and the penalties involved are presumptively correct, and the burden is on the taxpayer to prove 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.) Furthermore, where the taxpayer files no return or otherwise refuses to cooperate in the ascertainment of his income, respondent has great latitude in determining the **amount** of tax liability, and may use reasonable estimates to establish the **taxpayer's** income. (See, e.g., Joseph F. Giddio, 54 T.C. 1530 (1970); Norman Thomas, ¶ 80,359 P-H Memo. T.C. (1980); Floyd Douglas, ¶ 80,066 P-H Memo. T.C. (1980).)

Here, 'appellant has failed to carry his burden. Appellant's statement that the amount of his income estimated by respondent was excessive and his proposal that the amount of his income be estimated with the use of the different method do not demonstrate error in respondent's proposed assessment. In addition, he **certainly** has not established that the assessment amounts to a penalty for asserting the privelege against self-incrimination.

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Accordingly, we sustain respondent's assessment of tax and penalties.

