



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
MICHAEL A. SCOTT)

For Appellant: Michael A. Scott,
in pro. per.

For Respondent: James T. Philbin
Supervising 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 Michael A. Scott against proposed assessments of personal income tax and penalties in the total amounts of \$241.50 and \$1,122.63 for the years 1978 and 1979, respectively.

Appeal of Michael A. Scott

Appellant did not file California personal income tax returns for the years 1978 and 1979. Respondent received information which showed that appellant had reportable income for those years and it demanded that he file. When no response was received, proposed assessments were issued which included various penalties.

Respondent's determinations, including the penalties involved, are presumptively correct, and appellant bears the burden of proving them erroneous. (Todd v. McColgan, 89 Cal.App.2d 509 [201 P.2d 414] (1949); Appeal of Marvin L. and Betty J. Robey, Cal. St. Bd. of Equal., Jan. 9, 1979.) Appellant has made no attempt to submit any evidence to show that the assessments in question are incorrect.

Appellant has instead raised issues of jurisdiction, the monetary system, the definition of income, "law merchant," procedure, and various constitutional rights. As we have so often stated, we are precluded from deciding constitutional issues in deficiency assessment appeals, both by our own long-standing policy and by section 3.5 of article III of the California Constitution. The other arguments made by appellant have been consistently rejected as frivolous. (See Appeals of Fred R. Dauberger, et al., Cal. St. Bd. of Equal., March 31, 1982.

Respondent's action, therefore, must be sustained.

