



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
DONALD L. DEAN)

For Appellant: Donald L. Dean,
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 Donald L. Dean against a proposed assessrment of additional personal income tax and penalty in the total amount of \$1,339.50 for the year 1979.

Appeal of Donald L. Dean

The question presented by this appeal is whether appellant has established that respondent's proposed assessment is in error.

Respondent received information from the Employment Development Department indicating that appellant was required to file a California personal income tax return for 1979. Having no record of such a return being filed,, respondent demanded that he file one. After appellant failed to respond to that demand, respondent issued a notice of proposed assessment of tax based upon that information. The assessment included a 25 percent penalty for failure to file a return (Rev. & Tax. Code, § 18681), and a 25 percent penalty for failure to file a return after notice and demand (Rev. & Tax. Code, § 18683).

Appellant protested the proposed assessment. At the protest hearing held by respondent on April 6, 1982, appellant reportedly contended that he had not received enough income in lawful United States dollars since March 18, 1968, to be required to file a return. After consideration, respondent affirmed its proposed assessment. This appeal followed. In his appeal letter, appellant simply stated that he did not agree with the Franchise Tax Board, that its assessment was in error, and that he was not a taxpayer and owed no tax.

It is well settled that respondent's determinations of tax and penalties are presumptively Correct, and the taxpayer bears the burden of proving them erroneous. (Appeal of Ronald W. Matheson, Cal. St. Bd. of Equal., Feb. 6, 1980; Appeal of Myron E. and Alice Z. Gire, Cal. St. Bd. of Equal., Sept. 10, 1969.) Appellant's unsupported statements that the assessment was in error and that he owes no tax do not shift the burden of proof to respondent. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980.)

We understand that appellant argued at the protest hearing before respondent that Federal Reserve notes are not legal tender or lawful U.S. dollars and therefore do not provide an accurate measure of taxable income. His appeal and the contentions expressed therein are consistent with a continued belief by appellant about the invalidity and value of Federal Reserve notes.. For the record, we note that similar arguments have been repeatedly rejected as being totally without merit. (Appeal of Francis J. Pearson, Cal. St. Bd. of Equal., May 19, 1981; Appeal of David M. Albrecht, Cal. St. Bd. of Equal., Feb. 1, 1982; Appeals of Fred R. Dauberger, et al., Cal. St. Bd. of Equal., March 31, 1982.)

Appeal of Donald L. Dean

Accordingly, we must reject appellant's position that he is not subject to California's personal income tax, and we will sustain respondent's action.

Appeal of Donald L. Dean

ORD' 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 Donald L. Dean against a proposed assessment of additional personal income tax and penalty in the total amount of \$1,339.50 for the year 1979, be and the same is hereby sustained.

Done at Sacramento, California, this 28th day of July, 1983, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Collis, Mr. Dronenburg, Mr. Nevins and Mr. Harvey present.

William M. Bennett, Chairman
Conway H. Collis, Member
Ernest J. Dronenburg, Jr., Member
Richard Nevins, Member
Walter Harvey*, Member

*For Kenneth Cory, per Government Code section 7.9